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## **On the severe labour exploitation of migrant women in Italy: a human rights and multi-level policy perspective<sup>1</sup>**

*Elena Crippa\**

**Abstract:** In recent years, women have become the main protagonists of migratory flow and the percentage of migrant women is growing at a global, European, and Italian scale. In Italy, migrant women take up professions that are considered 'female' work and during the migratory path they must face challenges related to them being women, workers, and migrants. Women migrant workers in Italy, especially those with irregular status, are often exposed to severe labour exploitation, a phenomenon that is not isolated or marginal, but which often lacks exposure. This article aims to provide food for thought on the reasons why this complex phenomenon remains invisible, highlighting the causes related to the Italian political, economic, and social system and those linked to migrant women subjected to severe labour exploitation. Despite the absence of a uniform supranational legal framework regulating severe labour exploitation, the author identifies several international, Council of Europe and European law instruments that relate to this issue. What emerges is that there is a difficulty in applying these rules and that there is inadequate or partial transposition from supranational levels to the Italian national and local levels. Therefore, many treaties, conventions and laws lack application and effectiveness. Lastly, the article proposes new perspectives to counter the phenomenon of severe labour exploitation of migrant women in Italy through the implementation of concerted actions including the strengthening of the legal framework to protect the rights of migrant workers, the adoption of a comprehensive approach with long, medium and short term objectives and the intensification of the multi-agency approach already in force. A reflection on the possible impacts of the Covid-19 pandemic on the severe exploitation of migrant women workers is offered.

**Keywords:** *women, migration, severe labour exploitation, invisibility, Italy*

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<sup>1</sup> The article is based on a research conducted as a final Master Thesis from the M.A. in 'Human Rights and multi-level Governance', University of Padua. It had been redacted before and during the Covid-19 pandemic.

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## Introduction

‘Harvesting was a labour-intensive job, before the harvesters. The farmhands spent long hours of work, bent on the ground, under the scorching sun, in very harsh conditions, for an insignificant pay. Once the men went to cut the fields, and the women and children collected the harvest. At certain times, the women were isolated from their men and the supervisors took advantage of them without women being able to oppose them’ (Rinaldi 2004, 47).

These words of the anthropologist Rinaldi, referring to the conditions of agricultural work in the first half of the 20th century in Puglia, show how the severe labour exploitation and the abuses intertwined with it are structural and have historical roots. Even today out of ten employers around the Foggia area, seven are still flirting hard with foreign women workers because they consider it an *ius primae noctis* today (Palumbo 2018, 69). The agricultural sector is just one of the many labour sectors, probably the most visible today along with forced prostitution, in which migrant women work and in which they are exposed to severe labour exploitation and violence.

Severe labour exploitation means a work situation that deviates significantly from standard working conditions as defined by legislation. It includes as a minimum coercive form of exploitation such as slavery, servitude, forced or compulsory labour and trafficking (FRA 2019, 10). This article aims to investigate the reasons why the severe labour exploitation of migrant women in Italy has remained invisible and to give to the scientific community further points for its investigation.

It is important to highlight that there is a lack of consolidation of the literature on the matter. A possible reason is that the anti-trafficking operational system has always focused on the labour exploitation of women for sexual purposes and the labour exploitation of men in all the other economic sectors. In addition, the political debate has only now helped this specific issue to emerge. In this regard, it is important to recall two crucial European studies: ‘*Sexual exploitation and prostitution and its impact on gender equality*’ (2018) done by the European Parliament<sup>2</sup>, and ‘*Gender-specific measures in anti-trafficking actions: report*’ (2018) done by EIGE. These studies show how there is a relevant literature on trafficking in women, their sexual exploitation and prostitution, but few studies have been conducted on severe forms of female labour exploitation other than for sexual purposes. The same scholars who have dealt with severe labour exploitation of

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<sup>2</sup> European Parliament, Directorate General for Internal Policies Policy, Department C: Citizens Rights and Constitutional Affairs.

women highlight a lack of solid and consistent data about migrant women workers in Italy and in Europe (Sciurba and Palumbo 2018, 7). Even the latest European Union Agency for fundamental rights (FRA) study (2019) on '*Protecting migrant workers from exploitation in the EU: workers' perspectives*' which tackles in detail the topic of severe labour exploitation and abuse does not provide separate data on the status of men and women but keeps them aggregated. The lack of readily available statistics on women's migration in Italy, especially irregular migration, makes it difficult to analyse the phenomenon.

The aim of this work is to bring severe labour exploitation to light following a gender-based approach and a human rights perspective. The severe labour exploitation phenomenon exists, so it must be unmasked and countered without perpetuating its current implicit acceptance. Being aware that not all important issues have been covered and that further research on severe labour exploitation of migrant women in Italy is needed, I hope that this paper is able to provide an impetus for strengthening the whole area of gender and migration studies facilitating the emergence of severe labour exploitation.

In developing this research, a literature review has been carried out on material published from 2010 to 2020 (October), specifically focusing on the last five years. The academic articles and books were found using Galileo Discovery<sup>3</sup> of the University of Padua and Google scholar database as well as open access sources especially for Research, Reports and Studies elaborated by EU institutions, UN bodies, OSCE and the Italian Government. The 'keywords' entered to find previous studies had been 'migrant women in Italy', 'multiple-discrimination of migrant women', 'exploitation of migrant women workers in Italy', 'severe labour exploitation of migrant women', 'invisibility of migrant women workers in Italy'. The author did not focus on a specific academic journal even though key sources consulted have been published in *Journal of International migration and integration*, *Journal of Ethnic and Migration Studies* and *Peace Human rights Governance Review*. Three main bodies of literature were identified: the features of migrant women in Italy, the reasons for the invisibility of severe labour exploitation and its gender dimension, the shortcomings of the Italian law framework in protecting migrant women workers severely exploited in labour sectors. Female migration in Italy has been investigated mainly with reference to Italian literature. Indeed, key academic studies are elaborated by Tognetti Bordogna (2012 and 2016), Barbiano di Belgiojoso and Ortensi (2019), Marchetti and Garofalo Geymonant (2020), Anthias and Lazardis

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<sup>3</sup> <https://bibliotecadigitale.cab.unipd.it/bd/galileodiscovery>

(2020). These authors identify female migration waves towards Italy and the difficulties that migrant women must face once in the host country. They specifically highlight the multiple discrimination, violence, and the segregation in low-skilled labour market that migrant women experience in Italy. Palumbo's (2017) article on *Trafficking and Abuse in Domestic work in Italy* was crucial in identifying the elements that make migrant women vulnerable exposing them to exploitation while Giammarinaro (2019) highlights the strict correlation between violence against women, trafficking and severe labour exploitation and the fact that they are highly gendered. A number of studies developed by Sciorba and Palumbo (2018), Zonca (2018), Degani and Perini (2019), Boiano and Cecchini (2020) and Prandi (2019) were crucial in finding some of the reasons for the invisibility of severe labour exploitation of migrant women in Italy. They considered both the political, legal, economic and social system from which migrant women come and that they enter once in the host country as well as the personal sphere of women who are driven not to come forward about the exploitation to which they are subjected.

Very few studies have been conducted to give possible solutions to facilitate the emergence of severe labour exploitation and to try to overcome it. The reference is given to Sciorba and Palumbo's academic article (2015) and to the FRA research (2015 and 2019). This last FRA research was crucial in developing this work because it is an empirical study on the exploitation of migrant workers in the EU. It also highlights the urgent need for European governments to do more to tackle severe labour exploitation in firms, factories, and farms across the EU.

Moreover, conventions, treaties, directives, laws at international, European, and Italian levels regarding the labour exploitation phenomenon has been identified. Specifically, in establishing the Italian law framework the main reference is given to the Art. 18, 18bis, 22 of the Italian Consolidate Act on Immigration, law 199/2016 and Decree 2014/24. Articles by Palumbo (2016), Staiano (2017), Sciorba and Palumbo (2018) and Boiano and Cecchini (2020) were important in developing a critical approach to the implementation of European and Italian regulations. Statistical databases were used to highlight the high percentage of migrant women in Europe (Eurostat 2019) and in Italy (Istat<sup>4</sup> and IDOS). The fact that recent reports (UN WOMEN 2020 and OSCE 2020) on the firsts effects of the pandemic on migrant women workers show that they have been even more exposed to severe labour exploitation, an intensification of this phenomenon is expected, also in Italy. Therefore,

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<sup>4</sup> <https://www.istat.it/it/>

further studies and research are needed to better identify it, to make it emerge from invisibility and to propose concrete solutions to counter it.

In answering the research question, a document analysis was conducted following the methodology proposed by Spencer L., Ritchie J., O'Connor W., Morrel G., and Ormston R. (Ritchie et al. 2014, 295-345). Qualitative research based on the identification and re-elaboration of secondary sources of literature, legislature and statistical sites were crucial in carrying out the paper. First, it was necessary to identify different bodies of literature review on female migration in Italy, the elements that make migrant women workers in 'hyper precarity' conditions exposing them to severe labour exploitation and the reasons of invisibility. Second, data had to be collected and it was noticeable that there was a lack of it on severe labour exploitation of migrant women in Italy disaggregated from men and/or not related only to exploitation for sexual purposes. Third, the multi-level policy level is established, focusing more on the Italian law framework and its shortcomings in implementing the legislative framework already in force.

The article is divided into four sections. The first section aims to describe the phenomenon of migrant women in their journey to Italy in the current era, including their peculiarities and challenges, highlighting how this is tackled and analysed in the literature. The second section will present an analysis of gender-specificities of severe labour exploitation and the reasons for its invisibility. The third section will provide the human rights law perspective which protects women migrant workers at different levels of governance (International, European, and Italian levels). The last section will highlight the possible perspectives to be adopted to facilitate the visibility of the severe labour exploitation phenomenon and proposing feasible solutions to it. A reflection on the possible consequences of the Covid-19 pandemic on migrant workers will also be presented.

## **1. Literature Framework in Describing Migrant Women in Italy**

### **1.1 Migrant Women: between Challenges and Potentials**

Although less visible than men, women have always played an active and central role in migration processes, particularly in the Italian context. The first significant female migration flow to Italy dates back to the 1970s (Tognetti Bordogna 2012). Since then, many more migration flows have followed, each one with its peculiar social, economic, and political characteristics (Marchetti and Garofalo Geymonat 2019, 115-117). Migrant

women have always been silent protagonists because of the main field of work in which they were placed, domestic work, and the little attention received by scholars and media (Tognetti Bordogna 2016). Moreover, Italian legislation and migration policies have historically neglected the gender dimension of migration flows. For a long time, women in migration were seen as subordinate to men while they should be considered protagonists of their migration routes (Marchetti and Garofalo Geymonat 2019, 116).

At an international level, migrant women constitute 48% of the migration flows; they account for 51.6% of the migrants in developed countries and 43% of migrants in developing countries (Wihtol de Wenden, 2016). On January 1<sup>st</sup> 2019, according to Eurostat, the female shares of foreigners living in European countries accounted for 49.9% of the total number (Eurostat 2019). Specifically, in the same period women in Italy represent 51,7% of the foreign resident population (Istat 2019). They come mainly from Romania (693.649), Morocco (197.675) and China (149.034); but also, from the Philippines (95.346), Poland (69.560) and India (65.561).

According to Rigo (2020), gender influences the degree of autonomy in the decision to move. Women's motivations to migrate are usually linked to the private sphere - to their family; while men's reasons are mostly related to the public sphere (autonomy, labour emancipation, personal recognition, etc). However, women's reasons are often multiple, thus intertwining the search for freedom with economic needs, the desire to know a new world with a way of escaping from cultural references and oppressive family ties (Tognetti Bordogna 2012). Once in Italy, migrant women are faced with several obstacles and difficulties linked to them being women. They are subjected to triple discrimination: on the grounds of their race (some nationalities are preferred to others), their gender, and their social class (Barbiano di Belgiojoso and Ortensi 2019). Furthermore, they must adapt to a new female role within a new culture and a different society, usually feeling alone and isolated without the support from the 'extended family'. This is also combined with difficulties in language communication, cultural shocks, and post-traumatic effects (Moro 2011). Migrant women could be exposed to many situations of violence, severe exploitation, and torture: both during the migration path and once in the country of destination, including domestic violence and in the workplace (Marchetti and Garofalo Geymonat 2019, 119). Many of them who left children in their country of origin, must deal with transnational motherhood, which involves strong feelings of guilt, fear, sorrow, and concern (Bonizzoni 2015).

Together with these personal and individual barriers, they must face the obstacles and tensions related to job hunting and within the working context. Immigrant labour market in Italy is characterized by segregation

into limited sectors and the lowest levels of employment structure (Anthias and Lazaridis 2020). The receiving societies ask migrant women to pursue professions that reflect the 'traditional' female identity, segregating them into low-skilled jobs with little chance of professional growth. For them, it is hard to access higher positions and their native work is de-qualified and not considered as important (Fullin 2011). This questions their identity and creates stress and frustration. Women are particularly penalised because of the multiple discrimination they are subjected to (Anthias and Lazaridis 2020). Gender acts as an organizing principle of international migration, often leading women in poorer countries to take on (paid) reproductive work (domestic, care and sexual) that many women in richer countries do not want or can no longer do (Staiano 2018, 126). This is due to inadequate welfare systems and a lack of men's responsibility when women enter the labour market. Therefore, the emancipation of women in the Western countries often has, as counterparts, the working and social subordination of migrants' women who take their place in the tasks of care and social reproduction (Farris, 2019). Moreover, the jobs they land often involve extremely heavy work for more than ten hours a day, without days off, with very low wages and no regular contract protection. In addition to these practices of severe labour exploitation, women are frequently exposed to violence (Palumbo, 2016).

## **1.2 The main labour sectors of migrant women in Italy**

The main labour sectors occupied by migrant women are domestic work, prostitution, and agriculture. In Italy, domestic labour for women - regardless of their legal status - is the most important source of employment opportunities throughout the country. The 43,2% of foreign women are employed in household or family care services (IDOS Immigration Reports on Italy 2018). Domestic and care work are often characterised by irregularity, non-application, or partial application of contractual rules (Tognetti Bordogna 2012). It can be considered a new form of patronage in which a sort of protectorate is established between the employer and the worker, whereby the employer takes care of all matters concerning the working woman. In this context, migrant women are often exposed to various forms of violence (Palumbo, 2016).

Another labour sector in which immigrant women find a source of income is the sex business. In particular, the prostitution sector, in which while some women deliberately offer sexual services, many others are in severe conditions of exploitation. Psychological, physical, and sexual violence are frequent for those who are forced into prostitution (Savona et al. 2013). The



growth of this phenomenon along with the hard conditions of work and exploitation and the slavery and trafficking practices to which women are exposed, have strongly encouraged extensive media attention to the issue of prostitution, frequently presenting a too general representation of women. This has led to stereotyping of migrant women. In Italy, prostitution is very differentiated and pluralised and the presence of women in this type of market is constant (Tognetti Bordogna 2012).

The agricultural sector also employs a substantial number of women (26.9%), although the male percentage remains higher (73.1%). In 2018, compared to previous years, there was a decrease in the number of Italian female agricultural workers (-25%) as well as Polish (-35%), while the presence of Pakistani (+175%), Indian (+78%) and Senegalese workers increased significantly (+67%). Interestingly, from 2008 to 2018 the number of foreign workers in agriculture doubled (from 3% to 6.4%)<sup>5</sup>. Women are often preferred in agricultural labour because they are more sensitive, patient and cost less than men (Prandi 2018). This sector is experiencing great exploitation of the labour force of both sexes, which goes beyond the simple breach of contract and illicit intermediation to the point of being reduced to slavery (Leogrande 2016). Migrant women who work in the agricultural sector are strongly exposed to psychological, sexual violence and severe labour exploitation. They know that to keep their jobs, sooner or later, they will probably have to comply with the sexual demands of employers (Sciurba and Palumbo 2015). Gender-based violence, bullying and abuse, are some of the greatest difficulties that migrant women have to face during their migration path (Waagenar and Jahnsen 2018). The fact that they live often isolated, without strong relationships, makes it even more difficult to bring up the violence to which they could be subject, perpetuating its invisibility. Moreover, there is a huge component of undeclared and irregular work in which women, as well as men, foreign and not, have to put up with. Here is where they are most exposed to labour risks, exploitation, and violence, without any rights or protection. Thus, for women, the migration path can be a great opportunity to become more independent from an economic and individual point of view, but it always brings high costs and challenges that have to be overcome (Marchetti and Garofalo Geymonat 2019, 119).

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<sup>5</sup> Ministero del Lavoro e delle Politiche Sociali, 'Piano triennale di contrasto allo sfruttamento lavorativo in agricoltura e al caporalato 2020 - 2022', retrieved from: <https://www.lavoro.gov.it/priorita/Pagine/Approvato-il-Piano-nazionale-contro-lo-sfruttamento-e-il-caporalato-in-agricoltura.aspx>

## 2. Severe Labour Exploitation of Migrant Women in Italy

### 2.1 The Gender Dimension and Vulnerabilities Linked to Severe Labour Exploitation

Gender-based violence<sup>6</sup> is mostly perpetrated by males against women, it is considered as one of the root causes of women's vulnerability because it directly contributes to it, which explains some of its specific features. It is a system of oppression that affects women worldwide and it is a creation of dominance that has resulted from historically unequal power relations between men and women (Giammarinaro 2019). Also, male violence is an essential mechanism by which women's subjugation is maintained, reproduced, and reinforced. Moreover, women's vulnerability and women's exploitation are inextricably linked phenomena. Taking into consideration worldwide violence and exploitation involves tackling occurrences of violence and exploitation that affect women. Vulnerability means '*abuse of any situation in which the person involved has no real and acceptable alternative to submitting to the abuse*'<sup>7</sup>. It is a socio-economic construct: these migrant women are not vulnerable *per sé* nor do they live in a condition of vulnerability. The migrant's vulnerability to abuse and exploitation is fostered by the interplay of diverse factors. Certainly, the first factor concerns the reasons that lead people to migrate: the increasing number of contemporary conflicts and wars, unemployment, and poverty back home, and the need to send money home for the family's survival (Palumbo 2017). Then they become vulnerable during the journey and once they arrive in the host country. This is due to the migration policies that govern migration processes, the lack of freedom to move, the difficult journey that migrants must experience and the hard-life conditions - specifically the hard-working conditions - they must endure once in the country of destination (Degani 2019). The situation of isolation and dependency from their employers in which many migrant workers find themselves, especially in domestic work and the agricultural sector, is another element that exacerbates vulnerability (Palumbo 2017). All these structural and situational factors, together with the rigid linkage between a residence permit and the existence of a contract of employment, create a condition of 'hyper precarity' in the work context

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<sup>6</sup> Gender-based violence (GBV) is an umbrella term for any harm that is perpetrated against a person's will and that results from power inequalities based on gender roles (Wirtz et al. 2018). For the purpose of this article it will be used to refer only to violence against women.

<sup>7</sup> *Travaux Préparatoires* to the Palermo Protocol

which exposes them to exploitation, trafficking and forced labour experiences (Lewis and Waite 2015).

In addition to this, the situation of women is very delicate because they often have dependent children. Therefore, they feel the family responsibility of not being able to leave work since it is necessary to ensure not only their survival but also that of their children. It is these precarious situations that make migrants, especially migrant women, more vulnerable and more willing to accept any working conditions, including abuses and severe labour exploitation. It becomes more difficult, in the absence of viable working alternatives, to decide to report these kinds of multiple violence. Therefore, these exploitative situations remain hidden and struggle to emerge (Sciurba and Palumbo 2018).

Today, the correlation between gender-based violence, migration and women's labour exploitation is widely reported by agencies that work with victims of trafficking in human beings. In the recent European Commission Study on *Data collection on trafficking in human beings in the EU*, it is highlighted that the forms of exploitation are gendered. In 2015 and 2016, women were 95% of registered victims of trafficking for sexual exploitation; and that women represented 20% of victims of labour exploitation. However, between 2010 and 2016, the number of migrant women exploited for labour in the European Union increased from 71% to 80%. The harm inflicted on victims is also gender-specific, with, for example, victims of sexual exploitation suffering from specific gynaecological and psychological damage (Dinu 2020, 37). Both European and non-European women, with regular and irregular status, can be exposed to the abuse of their condition of vulnerability. This condition exposes them to violence against women, trafficking, and severe labour exploitation, which, as stated above, are three complex and correlated phenomena, as they all involve violence and exploitation<sup>8</sup>. Their strict correlation makes it often difficult to clearly distinguish between them, because their individual boundaries are not clearly defined but often overlap. Thus, the difficulty to address them constantly and correctly implies an

<sup>8</sup> The fact that they all involve violence is evident considering the definition of each term. Indeed, violence against women, as defined by the Declaration on the Elimination of Violence Against Women, also includes '*trafficking in women and forced prostitution; and physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs*' (Art.2(c)). Then, the Article 3 of the Palermo Protocol provides that '*trafficking in persons means the recruitment, transportation, receipt of persons, by use of force or other forms of coercion (...) for the purpose of exploitation. Exploitation includes (...) sexual exploitation, forced labour or services, slavery, servitude or the removal of organs*'. Severe labour exploitation, according to FRA, '*includes as a minimum coercive form of exploitation, such as slavery, servitude, forced or compulsory labour and trafficking*'.

added obstacle to intercepting their occurrence, which, in turn, perpetuates their invisibility and exposure.

Violence, trafficking, and severe labour exploitation are always interrelated in the same context of highly gendered relationships. Indeed, both male perpetrators of violence against women and exploiters use similar power control tactics to dominate their victims (Giammarinaro 2019). It is specifically male violence against women that contributes to the maintenance of their condition of subservience.

## **2.2 Severe Labour Exploitation: What are the Reasons for its Invisibility?**

Gender-based violence in the workplace has always occurred, yet it has always been a struggle for it to come to light and be reported. In the case of migrant women, due to their condition of vulnerability, it remains further hidden. The severe labour exploitation of foreigners, which is a widespread phenomenon both in Italy and in other European countries, often remains submerged (FRA 2015). The difficulty of this emerging phenomenon is determined by multiple factors, including structural and personal dynamics. However, the severe labour exploitation of migrant women often remains much more invisible than that of men. The reasons for invisibility are multiple, intertwined and concern both the macro and the individual levels. The former involves the political, legal, economic, and social system from which migrant women come and in which they enter once in the host country. The second concerns the personal sphere of women who, consciously or unconsciously, are driven not to bring out the severe labour exploitation to which they are subjected.

For a long-time, intellectuals, society itself and the political class have not been interested in female migration, which still today requires more study and attention (Tognetti Bordogna 2012). Indeed, there is a lack of consistent data on migrant women workers in the different work sectors in the EU. The same applies to the phenomenon of severe labour exploitation of both male and female migrants, which due to the lack of interest from society, remains invisible. The development of gendered and more analytic instruments aimed at addressing the specific conditions faced by women workers in specific sectors such as agriculture, manufacturing, domestic labour, and the packaging industry are needed (Sciurba and Palumbo 2018). If there are studies on the issue, they are on male labour exploitation, rather than female. This is because the latter is even more hidden, correlated, and intertwined with gender-based violence which makes it more difficult to detect. When female labour exploitation is tackled, only labour exploitation for sexual

purposes and/or forced prostitution is usually considered. This marked focus on prostitution and trafficking for sexual exploitation purposes overlooks the phenomenon of severe labour exploitation of migrant women (Degani and Perini 2019, 49).

According to the scholar Zonca, the invisibility of labour exploitation is also legal. The author addresses the issue of invisibility with reference to the right and duty to work, besides its recognition as a subjective position for migrants (Zonca 2018). Migrant workers are ‘invisible’<sup>9</sup> workers whose condition revokes the quality of the work as a guarantee of full access to rights and integration since it is subject to situations of precariousness and exploitation (Zonca 2018, 490). Precisely because of their condition of being in situations of ‘invisibility’, such as those of *sans papiers* or foreigners who, although legally resident, have precarious jobs in the domestic sector or agriculture, they are often exposed to further severe forms of labour exploitation. These individuals are therefore granted formal rights, but the precarious nature of their legal status ‘empties’ the effective protection of these rights and places them in a condition of legal invisibility (Zonca 2018, 511). Additionally, there are situations in which precarious work can ‘slide’ towards conditions of ‘invisibility’ and exploitation of varying degrees of severity. This includes violations of labour law rules (e.g. in the case of undeclared work) to situations of severe violation of fundamental rights, such as those of female domestic workers and labourers who are victims of the *caporalate*<sup>10</sup> and are deprived of essential documents and services. In this perspective, the increasing stratification of the legal statuses of migrant workers, and the widespread irregular work contribute to determining a situation that is difficult to be framed through the instruments provided by the legal system, to the point that ad hoc institutional responses often seem to prevail (Rigo 2015, 11). A further structural element that determines invisibility is the fact that severe labour exploitation in itself is illegal and, therefore, those who organise and feed it both in the country of origin and in the country of destination take care to remain hidden and make themselves invisible. This applies to both male and female exploitation. Moreover, migrant women work in a context marked by isolation, segregation, and

<sup>9</sup> Here, in the category ‘invisible’ foreigners are considered foreigners with heterogeneous legal conditions: they can be irregular foreigners, legally residing foreigners with a weak legal status (e.g. holders of temporary residence permits who carry out flexible and low-cost occupations) or foreigners - legal or irregular - victims of labour exploitation.

<sup>10</sup> Illegal form of recruitment and organisation of labour, especially in agriculture, through intermediaries (corporals) who hire, on behalf of the contractor and receiving a bribe, daily workers, outside the normal employment channels and without respecting the contractual minimum wage rates (Rigo 2015).

dependency on the employer in which anything can remain hidden (Sciurba and Palumbo 2018). The feeling of isolation is very common in domestic, agricultural and manufacturing workers and results from certain specific economic sectors, such as working in remote areas (e.g. agriculture) or not having any co-workers (e.g. domestic work) (FRA 2019, 60). However, rather than physical isolation, the feeling of isolation most often results from exploitative working conditions, such as employers trying to prohibit or restrict the worker's social contacts (e.g. with clients, customers, visitors, members of national communities) by monitoring, controlling and limiting the workers' lives and movements inside the workplace (FRA 2019, 61).

Alongside these macro-motives, which hinder severe exploitation exposure, there are also individual motivations affecting women who are victims of labour exploitation. These personal motivations are multiple and linked to the individual's personal circumstances, however, there are some common elements shared between women migrant workers. Female migrant workers find it difficult to come forward and report severe labour exploitation because it requires high levels of self-esteem which is undermined by the various forms of gender-based violence that they experience during their migration path (Boiano and Cecchini 2020, 667). Also, in order to report their exploitation, it would be necessary to be aware of working conditions and to know the host country's language as well as workers' rights and relevant legislation<sup>11</sup> (Prandi 2018). Furthermore, women are hardly able to express their uneasiness, either out of fear of retaliation or because of economic issues, as without work they cannot support their children and survive. These factors represent a limitation to their complaints (Prandi 2018, 45). Women are often afraid that the community will know that they have denounced, and they fear being recognized and stigmatized (Prandi 2018, 64). They are afraid of being arrested, being returned to their country of origin or, more generally, getting into trouble (especially when in an irregular situation) (FRA 2019, 83). Also, many of them do not believe that the police would or could help them escape from their situation of exploitation and violence. The lack of trust in police services is sometimes related to previous experiences in third countries or in their country of origin where the police and other government institutions can be violent and corrupt, but the lack of trust is also related to the attitude of the police towards foreign workers in the host country (FRA 2019, 83). Migrant workers are afraid of losing their job, they are often scared of the employer or they have not collected enough evidence to make a complaint. Moreover, the latter can be perceived as a failure of

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<sup>11</sup> These last obstacles to report the exploitation can also affect men.

the woman's migration path, as it leads to the suspension and loss of work, which is a source of income as well as personal and family survival.

If the phenomenon does emerge to the surface, the report always comes later and almost always as a last option. Very often it is a late complaint, perhaps after they have left their jobs, and sometimes it is more of a request for psychological support for the uneasiness that women are unable to cope with (Prandi 2018, 101). Usually it only comes to a complaint or action when there are more women joining and when there is an economic security concern - two difficult conditions for precarious women, who often find themselves struggling alone and are hanging on to the constant renewal of the contract (Prandi 2018, 102).

Violence and severe labour exploitation can be considered both a cause and consequence of invisibility. They are the cause because the subjugation in which some migrant women find themselves makes them fragile, vulnerable and hinders any possibility to make the exploitation practices visible. Moreover, they are a consequence of this, since the non-emergence of it leads migrant women who are subject to it to continue to accept these practices and, therefore, to feed and perpetuate their occurrence. This is also taken advantage of by employers who use violence (psychological, physical, and even sexual) to reduce the self-esteem of these women and make them too weak to rebel and expose what they go through. The acceptance of the conditions of exploitation is also due to the fact that there is a high demand of work and migrant workers who would accept low working conditions, which makes it very easy for employers to find someone willing to be seriously exploited (Sciurba and Palumbo 2018). It is a sort of vicious circle that is self-perpetuating and proves very difficult to detect, intercept and interrupt.

### **3. Human Rights Perspective**

#### **3.1 International Human Rights Law Framework**

It seems paradoxical that the severe labour exploitation of migrant women in Italy and the violence related to it remain so hidden and perpetual in spite of the fact that Italy has been at the forefront of the protection of migrant victims of multiple forms of violence. For instance, Article 18 of legislative decree No. 286/1998 provides victims of violence or severe exploitation with long-term programmes of assistance and social integration, as well

as with a residence permit for humanitarian reasons<sup>12</sup>. This norm has been the starting point for the creation of the Council of Europe Convention on domestic violence ('Istanbul Convention', 2011-2014). However, there is no uniform supranational legal framework regulating severe labour exploitation, meaning those forms of labour exploitation which are criminal or could be criminalised under EU law (FRA 2019). In any case, it is possible to identify several international, Council of Europe and EU law in the areas of social policy, freedom of movement, migration policy, criminal justice and the rights of victims of crime that relate to issues which are used to condemn severe labour exploitation (FRA 2019, 11). At the same time, in recent years, a growing United Nations interest has been registered on migrant women workers, alongside an increased focus by the International Labour Law Organisation (ILO) (Ham 2011; Mattson 2016). What emerges is the fact that there is a difficulty in applying these rules and that there is inadequate and/or partial transposition from international levels to the Italian national and local level. Therefore, many treaties, conventions and/or laws lack application and effectiveness.

There is an international, European, and Italian legislative framework that protects migrant women. As far as the international level is concerned, reference should be made to the United Nations human rights treaties. The most significant human right treaty that protects and promotes women's human rights is the CEDAW (entered into force in 1981). It defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. The Declaration on the Elimination of Violence against Women (1993) affirms that violence against women is an obstacle to the achievement of equality, development, peace, and the full enjoyment of human rights thus, it must be eliminated. Also, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPMW, entered into force in 2003) fosters respect for migrants' human rights affirming that migrants are not only workers but, first, they are human beings. There are three crucial CEDAW General Recommendations that focus even more on migrant women's protection. General Recommendation No. 26 on women migrant workers highlights that female migrant workers have specific needs related to them being women and the migration path may place their rights and security at risk. Therefore, States Parties are committed to guarantee the fulfilment of migrant women rights. Furthermore, General Recommendation No. 35 on

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<sup>12</sup> Legislative Decree 25 July 1998, No. 286, *Testo Unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero*, Gazzetta Ufficiale No. 191, 18 August 1999



gender-based violence, unequivocally recognises that gender-based violence constitutes discrimination. There is another General Recommendation, still in a drafted form, on the trafficking of women and girls in the context of global migration which aims to uncover the roots causes of women's and girls' risk of being trafficked and remaining as trafficked victims. Moreover, the Palermo Protocol on human trafficking (adopted in 2000, entered into force in 2003) is fundamental to prevent, suppress and punish trafficking in persons, especially women and children. It establishes that States Parties must cooperate to eliminate factors that make people vulnerable to trafficking.

At the international level, women migrant workers are also protected by several ILO's Conventions that safeguard workers from forced and compulsory labour, including trafficking in persons and slavery-like practices<sup>13</sup>, while promoting equality (Equal Remuneration Convention, No. 100) and non-discrimination in the workplace (Discrimination (Employment and Occupation) Convention No. 111). There are two central ILO Conventions which regulate and protect migrant workers' rights such as Migration for Employment Convention (Revised), 1949 together with Migrant Workers (Supplementary Provisions) Convention, 1975. The first is mainly focused on the protection of the rights of migrants who move for employment reasons. The latter protects migrant workers who are in abusive conditions, and it promotes equality of opportunity and treatment. The ILO Convention on Decent Work for domestic workers (No. 201), adopted in 2011, together with its Recommendation (No. 189), is crucial because for the first time 'domestic labour' had been recognised as 'real work' and no longer as a natural part of a woman's unpaid work in the home. This kind of work is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and who are particularly vulnerable to discrimination in relation to employment conditions and to other abuses of human rights (ILO Convention on Decent Work for domestic workers, Preamble). Another important step towards an enhanced protection of migrant women workers is certainly the last ILO Convention on Violence and Harassment (No. 190) together with its Recommendation (No. 206) which entered into force in 2019. The Convention is specifically focused on combating violence and harassment in the workplace (against both men and women) and protecting workers who could be exposed and/or subjected to it. This Convention is the first international treaty in which the right of everyone to a world of work

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<sup>13</sup> ILO 2014, *Protocol of 2014 to the Forced Labour Convention, 1930*. Adopted by the General Conference of the ILO at its 103rd session, Geneva, 11 June 31 and ILO 2014, *Forced Labour (Supplementary Measures) Recommendation (No.203), Recommendation on Supplementary measures for the effective suppression of forced labour*. Adopted by the General Conference of the ILO at its 103rd session, Geneva, 11 June.

free from violence and harassment is very well articulated (Olney 2019). It provides a clear framework for action and opportunity to shape work based on dignity and respect, free from violence and molestation. Thus, underlining that violence and molestation can constitute human rights violations and abuse, they are a threat to equal opportunities and incompatible with decent work.

The conventions and recommendations described above are the most significant international ILO documents protecting migrant women workers from severe labour exploitation. These, together with the UN human rights treaties, represent the international human rights legislative framework that seeks to protect these populations.

### 3.2 European Human Rights Instruments

At the European level migrant women workers are protected primarily through anti-discrimination laws and directives that promote gender and race equality. First, the Council of Europe Convention for Protection of Human Rights and Fundamental Freedoms entered into force in 1953 (known as ECHR) affirms in its Art. 4 the prohibition of slavery, compulsory labour, and labour exploitation. This provision is also enshrined in Art. 5 of the Charter of Fundamental Rights of the European Union<sup>14</sup> that prohibits trafficking in human beings. The principle of non-discrimination is established within both the Council of Europe and the European Union. Within the first, Article 14 ECHR and Article 21 of the Charter of Fundamental Rights set a general obligation for States Parties to ensure the rights and freedoms without discrimination on any ground (that includes sex, race, colour, nationality and social origin). In the European Union context, general obligations for the Union to eliminate inequality and discrimination are envisaged by Articles 8 and 10 of the Treaty on the Functioning of the European Union (TFEU)<sup>15</sup>, in relation to sex equality and to ‘*discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation*’, respectively, in the definition and implementation of its policies. Article 19(1) allows the Council to adopt legislation to combat such forms of discrimination. This mandate led to the creation of a corpus of secondary legislation which includes, among other sources, Race Equality Directive 2000/43 against

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<sup>14</sup> It was drafted by the European Convention and solemnly proclaimed on 7 December 2000 by the European Parliament, the Council of Ministers, and the European Commission. However, it did not have full legal effect until the entry into force of the Treaty of Lisbon on 1 December 2009.

<sup>15</sup> Originating as the Treaty of Rome, the TFEU forms the detailed basis of European Union law, by setting out the scope of the EU’s authority to legislate and the principles of law in those areas where EU law operates.

discrimination on grounds of race and ethnic origin; Employment Equality Framework Directive 2000/78 against discrimination at work on grounds of religion or belief, disability, age or sexual orientation and the Recast Directive or Sex Equality Directive 2006/54 for equal treatment for men and women in employment and occupation, including social security schemes.

The European law framework specifically prohibits and condemns all forms of trafficking in human beings in the Warsaw Convention (2005-2008) and forms of violence against women and domestic violence in the Istanbul Convention (2011-2014). The Council of Europe Convention on Action against Trafficking in Human Beings aims to prevent and combat all forms of human trafficking, to protect and assist victims of trafficking, to ensure effective investigation and prosecution, and to promote international co-operation against trafficking. It also establishes a monitoring mechanism (GRETA) to supervise its implementation by Member States. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence is the first legally binding instrument in Europe which defines and criminalises various forms of violence against women. It is focused on preventing domestic violence, protecting victims and prosecuting accused offenders. The Convention set up a monitoring system (GREVIO) to supervise the implementation of its obligations. This legal instrument is a great step forward in the protection of women's rights and in the recognition of violence against women as a widespread phenomenon that must be combated by cooperation among countries.

Together with these two crucial Conventions, the European level protects migrant women exposed to severe exploitation in multiple Council Directives (FRA 2019). In this specific context it is essential to highlight Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking who cooperate with the competent authorities. Combating irregular migration is also the main objective of Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals. The EU Anti-Trafficking Directive 2011/36 contains several provisions for the protection of victims of trafficking in human beings. Related to it, there is the Victims' Directive, which seeks to ensure that victims of crime receive adequate information, assistance, and protection and can participate in criminal proceedings. It has a gender-based violence approach. Particularly relevant to economic sectors at risk of exploitation is the Seasonal Workers Directive 2014/36/EU which grants seasonal workers equal treatment with nationals of the host Member State in relation to terms of employment, working conditions, health, and safety requirements in the workplace. This analysis highlights the presence of European regulations that aim to protect

migrant women workers; however, the real difference is made in their correct implementation at national and local levels.

### 3.3 Italian Law Framework and its Shortcomings

Although the international and European legislative levels are fundamental in the protection of women's rights, particularly in this case of migrant women exposed to severe labour exploitation, the difference is made at the national level. The transposition of supranational regulations takes place within the national legislature and it is this, together with the local level, that determines their concrete and full application. First, the Italian Constitution embodies the principle of equality in its Art. 3 and protects female workers in Art. 37 which establishes equality at work between women and men. In particular, Legislative Decree 11/04/2006 No. 198 known as the 'Code of equal opportunities between men and women' establishes, *inter alia*: equality in access to employment (Art.27), in remuneration (Art. 28), in access to social security benefits (Art.30) and it provides the protection of workers in the workplace from harassment, sexual harassment and violence (Art. 26).

The Italian Immigration Consolidated Act<sup>16</sup> is the legislative instrument that regulates the protection, rights, and duties of foreigners in Italy. This Act is essential for the protection of women victims of trafficking, violence, and labour exploitation. Specifically, Article 18 is considered to be a European vanguard for the protection of these women. Indeed, this norm entitles foreign citizens who are victims of violence or severe exploitation to a residence permit as well as those who are endangered as a consequence of statements made in the course of the court proceedings triggered against their exploiters, or as a consequence of their decision to escape exploitation (Degani and De Stefani 2020). It foresees two paths through which the residence permit can be issued: the 'judicial path', which requires victims to cooperate with competent authorities and the 'social path', which is not dependent on victims' reports or participation in the criminal proceedings (Art. 18). The innovation of Article 18 is that it introduced the principle of unconditional assistance for the victims which gives great importance to the safeguarding of the victim's rights (Sciurba and Palumbo 2018). However, according to GRETA, the implementation of Article 18 has been often inadequate and arbitrary throughout Italy (GRETA 2014). In particular, the 'social path' is rarely applied, especially in the case of labour exploitation. Also, the issuance of the residence permits often takes a long time and there are problems

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<sup>16</sup> Legislative Decree 25/07/1998, n. 286 '*Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero*' published in *Gazzetta Ufficiale* n. 191 of 18/08/1998 - Supplemento Ordinario n. 139

with their renewal (Sciurba and Palumbo 2018). This long waiting period is often perceived as a frustrating time for migrants which can increase their condition of vulnerability. Moreover, there is a lack of adequate compensation for victims (Sciurba and Palumbo 2018).

The effective implementation of measures of assistance and protection provided by Art. 18 has also been hampered by the inadequate transposition into national legislation (through the Legislative Decree 2014 No. 24) of the EU Anti-Trafficking Directive 2011/36, particularly concerning the preservation of the rights of the victims (*Ibidem*). Decree 2014 No.24 does not adopt a gender perspective capable of addressing differences and diverse needs in the trafficking experiences of men and women. Also, it does not adopt some important provisions such as non-prosecution of, or non-application of penalties to, the victim (Art. 8), and adequate and unconditional assistance (Art. 11). Particularly, the Decree ignores the structural factors that create vulnerability to exploitation (Sciurba and Palumbo 2018). However, an important step taken by this Decree is the adoption of the National Action Plan (2016-2018). It is an instrument capable of identifying multi-annual intervention strategies to prevent and combat trafficking and the severe exploitation and to protect victims also in collaboration with the Territorial Commissions for the recognition of international protection in case of trafficked subjects who have applied for asylum (Degani and Perini 2019).

There is another crucial norm that protects immigrant women exposed to violence, article 18*bis* of Legislative Decree 286/1999 provides for residence permits to be issued to victims of domestic violence that testify to their condition. Its limit lies in the fact that to have access to the residence permit it is necessary to make a report to the police. This ignores the fact that migrants would be worried to turn to the authorities because they are strongly afraid of being expelled in case they are undocumented<sup>17</sup>. Article 22 (Art. 22.12-quarter to 12-sexies) of the Italian Immigration Consolidated Act, entitles migrant victims of labour exploitation, irrespective of their previous status of irregular stayers, to a specific protection treatment, that also includes a renewable permit for a stay of 6 months. The situation of *caporalate* does not constitute a prerequisite for the application of the 'permit for humanitarian reasons' referred to Article 22, nor for the application of Article 18. The crime of '*caporalate*' is regulated by Law 199/2016, which entered into force on 4 November 2016, to combat labour exploitation. With the entry into force of the rules contained therein, the penalties for those who commit this type of crime are increased, even stricter if violence or threats are recorded. The right

<sup>17</sup> <http://www.direcontrolaviolenza.it/permesso-di-soggiorno-per-le-vittime-di-violenzadomestica/>

to international protection should also be guaranteed to victims of severe labour exploitation by the *caporalate*, regardless of whether they must report their employers.

It is evident that the multi-level regulatory framework is punctuated by conventions, treaties and laws that protect these migrant women exposed to severe exploitation, but the full and real application is still complex and difficult (Staiano 2017). The challenges facing the Italian social, economic and political system are many and the actions taken are still inadequate.

First, the legislative framework of reference that protects migrant women workers is not adequately or uniformly and comprehensively applied throughout the Italian national territory (FRA 2019). This factor has negative consequences for the protection of victims (access to justice, adequate compensation, escape routes from violence and exploitation) and the full protection of their rights. In Italy, there is a difficulty among competent authorities in identifying the seriousness of the crimes committed in cases of labour exploitation (especially in domestic work as it is performed within a family household) as there is a tendency to normalise some forms of exploitation, especially when they involve migrants, and not to perceive these as a violation of fundamental rights (Palumbo 2016, 38).

Second, the Italian government has neglected the protection of victims of trafficking and severe exploitation, focusing instead on the repression of irregular immigration and the persecution of so-called 'corporals' (Palumbo 2016, 21). Indeed, a comprehensive regulation of severe labour exploitation is still pending and effective protection measures for migrant victims of labour abuse are yet to be put in place (Palumbo 2016, 32). One example is the dramatic condition of migrant women workers exploited in agriculture. In the ghettos where the labourers live, migrant women are forced into double exploitation: as labour providers and as forced prostitutes for corporals and labourers (Rapporto Ombra 2016-2017, 48). Despite the law 199/2016 which includes *inter alia* an intervention plan containing measures for the logistical accommodation and support of migrant workers, the intervention of the authorities is overall inadequate. Also, the law lacks in explicitly addressing the protection of migrant women workers. The absence of an explicit reference to sex and gender is indicative of resistance to framing discrimination and gender-based violence in labour exploitation (Rigo 2020). A lack of a programme assistant and protection in the case of migrant workers subjected to particularly exploitative working conditions according to Art.22 of Legislative Decree No. 286/1998 has also been registered<sup>18</sup>.

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<sup>18</sup> Article 22 on Italian Immigration Consolidated Act is about fixed term and open-ended subordinate work

Third, in recent years, the international protection within the Italian legal system, has been committed to offering protection to migrant women victims of trafficking but has not moved adequately in protecting migrant women victims of violence during the migration path. This consolidates an approach that ignores the connection between trafficking and exploitation and the context of discrimination and gender-based violence that forms its substratum (Boiano and Cecchini 2020, 682). By definition trafficking is always a violent phenomenon because it involves '*the abuse of power or of a position of vulnerability to achieve the consent of a person having control over another person, for the purpose of exploitation*' (Art.3(a))<sup>19</sup> but in this case reference is made to violence itself: what is missing is the protection due to violence. Violence against women in the migration project is not only linked to the abuse to which women are subjected during their movement or in the country of destination. Severe forms of discrimination in the country of origin that convey and/or force the woman out of her country must be considered as forms of violence forming part of the migration project (e.g. Female genital mutilation or intimate partner violence and lack of support by the family, family persecution and so on). On the migratory path, women often consider the possibility of severe exploitation as part of the project, what they do not contemplate is the violence to which they are often subjected. It is precisely this violence that makes severe exploitation unmanageable, because, for example, the repayment of a debt can be considered as more or less declared at the start. What migrant women are not aware of is the fact that they will be subjected to verbal, physical and sexual violence daily. Here lies the weakness of the system, because the international protection that could be relevant within this context, from an application point of view, has not found a full configuration. There is therefore a need to use the institution of international protection in a way that is more oriented to the protection of women's human rights during the migration process by developing and adopting concrete and lasting measures to prevent all forms of gender-related persecution or those disproportionately affecting women (Boiano and Cecchini 2020, 684).

Fourth, the fact that in Italy there is a general tendency to close the channels of entry for regular economic migration, the circuits of undeclared work and labour exploitation will continue to represent one of the (very few) employment alternatives for invisible foreigners which, in turn, determines its perpetuation (Nicodemi 2017).

Moreover, there is the lack of structured awareness campaigns against trafficking and severe labour exploitation and an absence of effective

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<sup>19</sup> UN Protocol to Prevent, Suppress, Punish Trafficking in Persons, entered into force 29/09/2003

mechanisms to inform migrant workers about their rights and lack of effective monitoring and inspection activities (Palumbo 2016, 32). The existence of these failures from the Italian economic, social, and political system further obstruct the possibility of identification and contrast of the phenomenon of severe labour exploitation, thus not favouring its visibility and elimination.

## **4. New Perspectives to Overcome Severe Forms of Exploitation of Migrant Women Workers**

### **4.1 Potential Solutions to a Complex Phenomenon**

The exploitation of migrant workers is not an isolated or marginal phenomenon. However, despite its pervasiveness in daily life, severe labour exploitation and its negative impact on third-country nationals and EU citizens continues to be fuelled and perpetuated (FRA 2015). Faced with such a complex phenomenon, it is difficult to find a concrete solution to counter it. Certainly, in phenomena of great complexity like this, it is not the definitive solutions that must be sought. It is essential to find continuous alternative solutions and develop potential improvements.

First, there is an impellent and imperative need to exhaustively apply the international, European, and Italian regulations already in force and to strengthen the legal framework to protect workers' rights under fair and just working conditions. Specific laws that protect migrant women workers and their needs are also required. For example, migrant women should have access to an autonomous residence permit independent from family reunification. This would be the first tool for the prevention of their potential socio-economic marginality and of gender-based violence related to it, also in labour relations (Rapporto Ombra 2017). Migrant women should be able to rely on laws that conciliate work and family activities such as greater access to nurseries, medical care, and protection of maternity, regardless of legal status, is needed. Foreign female workers have greater family and care responsibilities than their male counterparts (Staiano 2017, 84).

Second, to prevent and combat severe labour exploitation, it is necessary to implement concerted measures, from a gendered and human rights perspective, based on an integrated and comprehensive approach, as promoted by Directive 2011/36/EU (Giammarinaro 2014). Certainly, the first systemic factors that should be tackled in the long term are the deep economic disparities among countries. In a context of global injustice women choose to migrate to work abroad, 'but they choose it because economic pressures all but coerce them to. The yawning gap between rich and poor countries is



itself a form of coercion' (Hochschild 2009, 42). This forced migration leads migrant women to accept heavy working conditions in the destination country without being able to escape situations of exploitation and dependence on the employer. Then, medium-term objectives should include actions aimed at strengthening and monitoring the respect of labour rights standards by promoting, for example, economic and legal incentives for non-exploitative business (Sciurba and Palumbo 2015). Furthermore, it is crucial to create legal migratory channels to reach Italy and to implement effective measures against gender discrimination and violence (*Ibidem*). Policy makers should be bolder and more forward-looking, not let themselves be influenced by public opinion and introduce these new rules. In the immediate future, the existing legal framework should be enforced, and women workers should be informed about their rights and the existence of labour exploitation (FRA 2019, 91). It is necessary to improve monitoring systems, workplace inspections and investigations by creating an environment of trust between institutions and victims. In this way migrant women can feel safe to report their exploitation and receive help. In the specific case of women, protection and refuge, psychological support, and the possibility of reintegration must be guaranteed into work without discrimination. In general, it is mandatory to create a climate of zero tolerance towards the severe exploitation of labour activity in our society, as it would be the first step to defend the social rights and human dignity of all workers, specifically migrant women workers.

Adopting a multi-agency and multi-level governance approach, as set out in the National Action Plan against trafficking and severe exploitation 2016-2018, is a winning solution to unmask labour exploitation, which must be encouraged. This approach is based on the cooperation between the Italian institutional level<sup>20</sup> and international organisations, trade unions and stakeholders equally involved in the protection and fight against trafficking in human beings. It is only through the cooperation of all these actors, each one with its own role, competencies, and tools, that it becomes possible to better identify severe labour exploitation, increase its awareness in society and facilitate its emergence.

## **4.2 The First Effects of the Covid-19 Pandemic on Migrant Women Workers in Italy**

The Covid-19 pandemic is taking its toll on the global economy, public health, and people's way of life. The crisis has a transformative effect on

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<sup>20</sup> The main Institutional actors involved in Multi-agency approach are the Department for Civil Liberties and Immigration of the Ministry of the Interior, the Ministry of Labour and Social Policy, the Ministry of Health and the Department for Equal Opportunities.

labour markets and may exacerbate the socioeconomic situation of vulnerable groups who in turn may increasingly fuel labour exploitation activities (UNODC 2020). The impacts and implications of the pandemic exacerbated the gender inequalities worldwide (Coveri and Montesano 2020). In the case of migrant women, already affected by multiple forms of discrimination and inequalities, the effects are even stronger. Migrant women mostly work in essential but low-paid and vulnerable jobs and they are likely to work in the informal economy, with insecure contracts and no paid leave or ability to work from home (UN Women 2020). Health crisis risks of intensifying the care work for them and to exclude them from contributory social insurance schemes as they generally work without a contract. Due to the economic downturn, women migrant workers are sending less remittance, increasing the vulnerabilities of families that depend on this income (access to children education, healthcare, services). Moreover, the pandemic exacerbates women migrant workers' increased risk of sexual and gender-based violence at all stages of migration. An example is the fact that trafficking in human beings, already highly gendered, continued and increased during the pandemic shifting from the traditional forms of exploitation to new forms of trafficking online.

The emergency measures during the pandemic in many countries led to an increased risk for victims of trafficking, due to the intensification of control, violence and isolation by their exploiters and less access to assistance (medical, psychological, legal) (OSCE 2020, 8). Poverty and the inability to gain access to decent work may push women to seek risky economic opportunities where they are at risk of coercion, exploitation, abuse, and trafficking (OSCE 2020, 6).

It is evident that the most vulnerable and invisible people are those who are the most affected by the crisis. In this regard, in Italy, during the pandemic, many stakeholders and trade unions asked for the regularisation of foreign citizens in the country with the aim of pursuing two essential objectives. First, the need for the emergence from invisibility for thousands of people living and/or working in Italy and a consequent better protection of personal and public health. However, this request has been only partially heard. In fact, in the 'Relaunch Decree'<sup>21</sup> there is a measure to regularize a part of the irregular migrants living in Italy.

Covid-19 in this direction could have represented a window of opportunity for policy makers who intend to rule this critical matter but according to many stakeholders dealing with immigration, this measure failed because it allowed only a limited number of people to regularise their condition. Indeed,

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<sup>21</sup> Law Decree 19 May 2020, n.34 (GU n.129 del 20/05/2020).

the regularisation demands had been only 207,000 of the approximately 600,000 people living in the country without a regular residence permit, of which 85% related to the emergence of domestic work and 15% to employed work in agriculture<sup>22</sup>. The high number of applications from the care and caring sector was unexpected as the law had been promoted to regulate the influx of seasonal migrant workers into Italian agriculture. If the law has failed in this area, it has instead favoured the emergence from invisibility of many foreign women employed in the care sectors. Unfortunately, the law did not provide for the emergence of sexual and severe labour exploitation where many migrant women are employed.

Past epidemics have demonstrated that women, including migrant women, were at heightened risk of gender-based violence, intimate partner violence and sexual exploitation and abuse. Covid-19 is likely driving similar trends at present and will particularly affect migrant women given their vulnerable situations. While even before the pandemic it was difficult to protect the most fragile and marginalised groups in society, it is now even more complex. Specifically, migrant women workers already affected by violations of fundamental rights; excessively long hours, no guaranteed days off, lack of social protection (i.e., maternity leave, sick leave and employment injury benefit), sexual and gender-based violence and restrictions on freedom of movement – they see their condition worsening and finding it even more difficult to access these rights

## Conclusions

This paper has tried to bring to light the severe labour exploitation of migrant women in Italy exploring the reasons for its invisibility and lack of exposure. Considering our findings, three are the main reasons: ‘the vicious circle’, ‘the gender-unfriendly’ legislative framework and the structural characteristics of severe labour exploitation.

First, the lack of studies and data do not favour the visibility and emergence of the phenomenon. Could this be a vicious circle? The evidence exposed in this paper shows that it could. Little literature creates little awareness, little awareness determines and is determined by little advocacy. If there is little advocacy, it means that the phenomenon receives little attention and therefore is still not talked about, perpetuating its invisibility. Available studies generally concern the severe labour exploitation of immigrants. If there is data on the exploitation of female labour, they are aggregated with

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<sup>22</sup> <https://www.interno.gov.it/it/notizie/emersione-dei-rapporti-lavoro-presentate-piu-207mila-domande>

data on men. Moreover, when dealing with the exploitation of female labour, usually only the exploitation of labour for sexual purposes is considered.

Second, the prevailing legal culture considers the law as a neutral instrument with respect to the difference between men and women both when it is understood on a biological level, as sexual difference, and when it is linked to cultural and social roles with gender differences (Rigo 2020). When the law does not adopt a gender perspective it denies the differences and different needs of men and women making them even more invisible. This is because it does not capture the peculiarity of the severe exploitation of women. In this way migrant women are exposed to re-victimisation.

Third, migrant women who are victims of severe labour exploitation often work in a context marked by isolation, segregation, and strong dependence on their employer, where everything can (and must) remain hidden. It is precisely the fragile and vulnerable situation in which they live and work that makes it difficult for them to report their exploiters. Reporting requires courage, great self-esteem and a good knowledge of the Italian language and legislation. The reporting often involves the loss of their job and therefore of their personal livelihood and of their family and dependent children. Therefore, migrant women subjected to severe labour exploitation increase its perpetuation as they can hardly find the strength to denounce their condition, their exploiter and to have access to society's help and support.

For the severe labour exploitation of immigrant women in Italy to come out of invisibility it is necessary that policy makers and civil society become aware of it and further research by the academic community will be conducted. Specifically, there is the need to identify the number of migrant women that are victims of severe labour exploitation, beyond sexual exploitation, in the various labour sectors. Further studies need to be conducted to better identify the phenomenon and to identify possible solutions and to combat it. On the other hand, in a global pandemic situation where conditions of isolation and fragility have increased and exploiters have intensified the recruitment and labour exploitation of migrant women, the problem is bound to worsen. It will certainly be interesting to investigate in depth the effects of the pandemic on the phenomenon of severe exploitation from a gender perspective.

Policies should not forget the most fragile and vulnerable people: adopting punitive rules is necessary but not sufficient. In fact, it is mainly through the recognition of the socio-economic rights of foreign working women that it is possible to adopt effective prevention of exploitation and coercion. Failing this, any policy to counter severe labour exploitation offers a partial and delayed response in already exacerbated situations, without intervening

on their root causes and without considering the right of immigration and labour in generating vulnerability for foreign workers.

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