

Vulnerability to Forced Labour and Trafficking: The case of Romanian women in the agricultural sector in Sicily

Letizia Palumbo and Alessandra Sciarba

Abstract

This paper focuses on labour and sexual exploitation faced by Romanian female workers employed in the agricultural sector in Ragusa, Sicily, Italy. Drawing on fieldwork conducted in 2013 and 2014 with Romanian female farm workers in Ragusa, the paper identifies factors that contribute towards their vulnerability to exploitation. By paying specific attention to the experiences of women who are mothers with dependent children, we look at structural factors that increase their vulnerability and consider how this vulnerability 'forces' women into situations whereby they effectively accept and/or submit to abuse. We also highlight how European Union (EU) citizenship does not automatically protect migrants from such abuse. This is important because, as we argue, the mistreatment experienced by participants in this study can be regarded as cases of forced labour and trafficking, based on International Labour Organization (ILO) indicators¹ and the definition of trafficking provided by the Directive 2011/36/EU. For a long time, these cases have mostly been neglected by incompetent authorities or addressed using only repressive and assistentialist approaches. Thus, this paper also investigates the limits and potentialities of the Italian legal framework on trafficking, and the ways local institutions and organisations confront the rights violations occurring in the agricultural sector. We contend that in order to effectively counter these phenomena, labour rights measures and anti-trafficking interventions have to be combined based on a comprehensive approach aimed not only at assisting victims, but also at tackling the structural factors that create their vulnerability.

Keywords: labour exploitation, sexual exploitation, European Union citizen migrants, female migrants, farm workers, human trafficking, forced labour, vulnerability, Italy, Romania

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Vulnerabilidad frente al trabajo forzoso y la trata: el caso de mujeres rumanas en el sector agrícola en Sicilia.

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Resumen

Este trabajo se centra en la explotación laboral y sexual de las mujeres rumanas empleadas en el sector agrícola de Ragusa, Sicilia, Italia. El artículo se fundamenta en el trabajo de campo llevado a cabo en 2013 y 2014 con mujeres rumanas trabajadoras del campo en Ragusa e identifica los factores que han contribuido a la vulnerabilidad de éstas a la explotación. Prestando especial atención a la experiencia de mujeres que tienen hijas/os dependientes, el artículo examina los factores estructurales que aumentan su vulnerabilidad y reflexiona sobre cómo esta vulnerabilidad "obliga" a las mujeres a aceptar situaciones de abuso y/o someterse al mismo. También se resalta cómo la ciudadanía de la Unión Europea (UE) no protege de manera automática a las personas migrantes de este abuso. Esto es importante porque, siguiendo nuestra discusión, el maltrato que han sufrido las protagonistas de este estudio puede ser visto como casos de trabajo forzoso y trata de seres humanos, según los indicadores de la Organización Internacional del Trabajo (OIT) y la definición de la trata de seres humanos prevista en la Directiva 2011/36/EU. Durante mucho tiempo estos casos han sido desatendidos por autoridades incompetentes o abordados utilizando enfoques exclusivamente represivos y asistencialistas. Por lo tanto, este trabajo también investiga los límites y potencialidades del marco legal italiano relativo a la trata de personas y a las formas en que las instituciones locales y las organizaciones responden a las violaciones de derechos que ocurren en el sector agrícola. Nosotras

¹ ILO, 'ILO Indicators of Forced Labour', International Labour Office, 2012, retrieved 11 August 2015, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf

mantenemos que para abordar este fenómeno de forma efectiva, las medidas de derechos laborales e intervenciones contra la trata deben complementarse con un enfoque comprensivo que aspire no sólo a asistir a las víctimas, sino también a abordar los factores estructurales que originan su vulnerabilidad.

Palabras clave: explotación laboral, explotación sexual, migrantes ciudadanos de la Unión Europea, migración femenina, trabajadores agrícolas, trata de personas, trabajos forzados, vulnerabilidad, Italia, Rumanía

Introduction

This paper examines the serious labour and sexual exploitation suffered by Romanian female workers employed in the agricultural sector in the area of Ragusa, Sicily, Italy. This article draws on analysis from a qualitative research project involving female migrant labourers in order to examine the links between feminisation of migration² and current forms of labour abuse, which coexist with sexual exploitation.³ We identify the structural factors that make Romanian female farmworkers in Ragusa vulnerable to exploitation, revealing also how European Union (EU) citizenship does not automatically protect migrants from being victims of serious abuse.

Special attention is dedicated to the stories of those migrant women who are mothers with dependent children and constantly negotiate, as several studies have stressed,⁴ new implications of motherhood, struggling with power relations and dynamics. These women face a combination of fundamental rights violations, including labour rights violations, which is based on the abuse of their particular position of vulnerability. Their vulnerability, as we argue taking into account the paradigm of ‘Sophie’s choice’ introduced by Eva Foeder Kittay,⁵ ‘forces’ them to make an ‘impossible’ choice between incomparable goods, leaving them with no viable alternative but to submit to the abuse.

In our view, from this perspective, the experiences of exploitation of these women can be regarded as cases of forced labour on the basis of the indicators provided by the International Labour Organization (ILO)⁶ and as cases of trafficking, according to the Directive 2011/36/EU on *Preventing and Combating Trafficking in Human Beings and Protecting its Victims*, which has adopted the definition of trafficking in the United Nations (UN) Trafficking Protocol.⁷ The latter is a broad definition, which, far from being limited to sexual exploitation, entails a wide range of forms of abuse.⁸

Though strongly related, trafficking and forced labour are not identical phenomena. Indeed, ‘not all forced labour involves trafficking and not all trafficking for labour exploitation amounts to forced labour.’⁹ However, defining a clear distinction between forced labour and trafficking is highly controversial because they often overlap.¹⁰

² N Piper (ed.) *New Perspectives on Gender and Migration: Livelihood, rights and entitlements*, Routledge, Oxon, 2007; S Sassen, ‘The Feminization of Survival: Alternative global circuits’ in M Morokvasic, U Erel, K Shinozaki (eds.), *Crossing Borders and Shifting Boundaries. Gender on the move* (vol. I), VS Verlag für Sozialwissenschaften, Wiesbaden, 2003, pp. 59–77.

³ Human Rights Watch (HRW), ‘Cultivating Fear. The vulnerability of immigrant farmworkers in the US to sexual violence and sexual harassment’, HRW, 2012, retrieved 25 March 2015, <http://www.hrw.org/reports/2012/05/15/cultivating-fear>; HRW, ‘Claiming Rights. Domestic workers’ movements and global advances for labor reform’, HRW, 2013, retrieved 25 March 2015, http://www.hrw.org/sites/default/files/reports/globaldw1013_brochure_LOWRES_SPREADS.pdf; Anti-Trafficking Monitoring Group (ATMG), ‘Hidden in Plain Sight: Three years on: Updated analysis of UK measures to protect trafficked persons report’, ATMG 2013, retrieved on 23 March 2015, http://www.antislavery.org/includes/documents/cm_docs/2013/h/hidden_in_plain_sight.pdf; Amnesty International, ‘My Sleep is My Fear. Exploitation of migrant domestic workers in Qatar’, Amnesty International, 2014, retrieved 23 March 2015, <https://www.amnesty.org/en/documents/MDE22/004/2014/en/>

⁴ G Herrera, ‘Stratified Workers/Stratified Mothers: Migration policies and citizenship among Ecuadorian immigrant women’ in W Chavkin and J M Maher (eds.), *The Globalization of Motherhood. Deconstructions and reconstructions of biology and care*, Routledge, New York, 2010, pp. 55–76; U Beck and E Beck-Gernsheim, *Lebensformen im globalen Zeitalter*, Suhrkamp Verlag, Berlin, 2011; F A Vianello, ‘A Transnational Double Presence: Circular migration between Ukraine and Italy’ in A Triandafyllidou (ed.) *Irregular Migrant Domestic Workers in Europe. Who Cares?*, Ashgate, Farnham 2013, pp. 187–211; L Benéria, ‘The Crisis of Care, International Migration and Public Policy’, *Feminist Economics*, vol. 14, 2008, pp. 1–21.

⁵ E F Kittay, ‘The Global Heart Transplant and Caring across National Boundaries’, *The Southern Journal of Philosophy*, vol. XLVI, 2008.

⁶ ILO.

⁷ In full: UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000.

⁸ M G Giammarinaro, ‘La direttiva 2011/36/UE sulla prevenzione e la repressione della tratta di esseri umani e la protezione delle vittime’, *Diritto, immigrazione e cittadinanza*, XIV, 1, 2012, pp. 15–33.

⁹ Inter-Agency Coordination Group Against Trafficking in Persons [ICAT], ‘Preventing Trafficking in Persons by Addressing Demand’, ICAT, 2014, p. 2, retrieved 31 March 2015 http://www.ungift.org/doc/knowledgehub/events/ICAT_Demand_paper_-_FINAL.pdf

¹⁰ ILO, for instance, highlights in its 2012 ‘Global Estimate of Forced Labour’ that ‘human trafficking can also be regarded as forced labour, and so this estimate captures the full realm of human trafficking for labour and sexual exploitation.’

Italian legislation does not regard forced labour as a specific offence.¹¹ For this reason, from a legal perspective, the concept of forced labour is not relevant in addressing the cases investigated in this article. Nevertheless, the ILO indicators can be useful for interpreting the level of exploitation involved.

Trafficking, instead, is defined as an offence under Article 601 of the Italian Penal Code (recently amended in order to adopt the definition of human trafficking contained in the Directive 2011/36/EU). At the same time, the Italian legal framework on trafficking, especially through Article 18 of the ‘Consolidated Act of Migration’ (Legislative Decree n. 286/1998), is, as explained below, particularly innovative regarding the assistance and the protection of victims.¹²

On the basis of these considerations, the paper also examines the limits and potentialities of Italian anti-trafficking legislation, and the ways local institutions and organisations in Ragusa and the surrounding area deal with the maltreatment occurring in the agricultural sector. We contend that in order to effectively counter these phenomena, labour rights measures and anti-trafficking interventions have to be combined based on a comprehensive approach, as promoted by the Directive 2011/36/EU,¹³ aimed not only at assisting victims, but also tackling the structural factors that lead to abuses. This comprehensive approach relies on the assumption that trafficking is a complex phenomenon in which several different issues are in play (including migration policies, labour measures and practice, gender discrimination and violence). Therefore, far from being limited only to the use of criminal law instruments or to assisting victims, anti-trafficking measures also require the development and implementation of concerted measures aimed at addressing the root causes of migrant workers’ vulnerability.

This article draws upon the analysis of interview data collected in 2013 and 2014 over two one-month periods in Ragusa. This study sought to investigate forms of exploitation suffered by female migrant workers in the agricultural sector and the factors that produce their vulnerability to abuse. The study was designed as a qualitative project drawing on both participant observation and in-depth interviews with twenty people in total.¹⁴ We conducted participant observation of the programmes implemented by the Proxima Association, such as the Proxima bus transport service, called Solidal Transfert, for migrant farm workers. The Proxima Association is based in Ragusa and offers various support services and assistance to victims of trafficking and labour exploitation with funding from Art. 13 of Act no. 228/2003¹⁵ and Art. 18 of Legislative Decree no. 286/98.¹⁶ Through the observation of the activities and initiatives carried out by Proxima we identified key actors and dynamics and capture major issues and challenges migrant women face in the area.¹⁷ The second part of the study involved in-depth qualitative interviews. We interviewed social workers, medics, nurses, local priests, members of the local council of Vittoria. We visited one of the farms to meet two female workers and met three Romanian women hosted in the Proxima Association shelter.¹⁸

Stories of Labour and Sexual Exploitation in the Agricultural Sector in Ragusa

¹¹ It is worth noting that in 1934, Italy ratified the Forced Labour Convention, 1930 (No. 29) Convention concerning Forced or Compulsory Labour, and in 1967 Abolition of Forced Labour Convention, 1957 (No. 105) Convention concerning the Abolition of Forced Labour.

¹² L Palumbo, ‘Protection of Trafficked People in Italy: Policies, limits and challenges’, *Journal of Money Laundering Control*, 2015 (forthcoming).

¹³ By adopting a holistic and human-rights-based approach, the Directive 2011/36/EU has challenged the EU interventions on trafficking and/or labour exploitation focusing on criminal justice responses (such as Directive 2004/81/EC *Residence Permit Issued to Third-Country Nationals Who Are Victims of Trafficking in Human Beings or Who Have Been the Subject of an Action to Facilitate Illegal Immigration, Who Cooperate with the Competent Authorities* and Directive 2009/52/EC *Providing for Minimum Standards on Sanctions and Measures Against Employers of Illegally Staying Third-Country Nationals*).

¹⁴ The authors are both Post-Doctoral Researchers at the University of Palermo, Italy, with research projects both on topics of female migration, labour exploitation and trafficking. Given the affinity of our research projects, we decided to conduct a part of the fieldwork together in the area of Ragusa. The fieldwork was self-financed.

¹⁵ In full: Article 13 of the National Law against Trafficking in Human Beings (Law No. 228 of 2003). This legislation aims at providing immediate assistance and support to European and non-EU victims of slavery and trafficking. It ensures adequate accommodation, social assistance and healthcare services.

¹⁶ In full: Article 18 of the National Law on Migration (Legislative Decree No 286 of 1998).

¹⁷ As for the method of participant observation, see H R Bernard and C C Gravlee (eds.), *Handbook of Methods in Cultural Anthropology, Second Edition*, Rowman and Littlefield, Lanham, 2014. During the participant observation, all people were informed about the purpose and methods of the research.

¹⁸ We identified and contacted informants interviewed both with the help of the Proxima Association and using the ‘snowball method’. We applied the principles of confidentiality and anonymity rigorously, and participants gave consent for the disclosure of the name of their organisations or institutions. The purpose, methods and possible uses of the research were made absolutely clear to all those involved in the research. The interviews were conducted and recorded by both authors, and transcribed and analysed jointly.

The agricultural sector in Sicily, as in many other Italian regions, especially in the south of the country, has been affected by the new agricultural regime characterised by corporate concentration upstream and downstream of farming.¹⁹ In this context, under the pressure and costs of large production and distribution systems, many local agricultural producers turn to employment of a low-paid migrant labour force.²⁰

According to official data, around 12,000 migrant workers are currently employed in the agriculture sector in the so-called ‘transformed area’²¹ of Ragusa.²² However, this data does not reflect widespread undeclared work. The lack of regulation is a structural component of the agricultural sector in this part of Sicily, which is characterised by the presence of small- and medium-sized farms that are difficult to monitor.

Working in the greenhouses is without doubt a ‘dirty, dangerous, demeaning, and demanding’²³ job and reserved for migrant workers. Migrant farm workers in the transformed area work 10–12 hours a day, breathing in toxic pesticides, and suffering the summer heat and the winter cold, for a pay that is EUR 15–20 (USD 17–22) per day. Many workers live on the farms, isolated in the countryside, in decrepit buildings with no heating or toilets.

Until the end of the 1970s, exploited workers in the transformed area of Ragusa were mostly Tunisian men. However since 2007, when Romania joined the EU, the number of Romanian migrants has increased, gradually reaching that of Tunisians.²⁴ There are two principal reasons for this. First, the employment of EU citizens allows employers to avoid the offences of exploitation and facilitation of illegal migration. Second, recently arrived Romanian workers are ‘cheaper’ than Tunisians who have been in this area for a long time, have developed solid relationships with the local people and are mostly unionised.

The growth in the number of Romanian workers in agriculture has led to an increase in the presence of female workers, as the general process of feminisation of migration is particularly represented within Romanian emigration. This is due to a complex overlapping of gender and familial dynamics and labour market processes. Since the 1990s, after the collapse of the socialist system, many Romanian women migrated to increase the wealth of their family, becoming the principal breadwinners, and in this way challenging traditional gender roles.²⁵

When these women move to southern European countries, in contexts of race- and gender-based labour market segmentation,²⁶ most of them are employed in domestic work, but many also work in agriculture, especially if they had previously worked as farm labourers in their country of origin.²⁷ Some have moved alone, and, in most cases, the money they earn is for supporting their parents and children in Romania. Others have migrated with their family and frequently ‘prefer’ to work as farm workers in order to be with their children.²⁸ As Ivana²⁹ told us:

I work here [on the farm] for my daughter, and she lives with me. If I worked [as a domestic worker] in a family, I could not bring her with me. In the house of an old person you cannot bring children...³⁰

The presence of thousands of Romanian female farm workers, exploitable and invisible, has immediately had significant psychological and social consequences with respect to local male employers in the Ragusa area. As a priest in Vittoria city told us:

After the arrival of the Romanian women, Sicilian men rediscovered the ‘pleasure’ of the countryside [...]. They began returning home later and later...They also organise sex parties in which each employer offers the migrant women employed in his greenhouses.³¹

¹⁹ H Bernstein, *Class Dynamics of Agrarian Change*, Pluto and University of Michigan Press, Fernwood, 2010.

²⁰ A Mangano, *Ghetto Economy. Dai festini agricoli alle baracopoli di Stato, l'orrore dietro l'etichetta del supermercato*, terrelibere.org, Praça da Alegria, 2014.

²¹ The so-called ‘transformed area’ is the territory around Marina di Acate, Vittoria and Santa Croce Camerina. The name derives from the fact that this area has been changed by the building of thousands of greenhouses, leading to the conversion of seasonal farming patterns to permanent, year round farming.

²² Flai-Cgil, Osservatorio Placido Rizzotto, Idos (ed.), *Immigrazione Dossier Statistico 2014—Rapporto UNAR. Dalle discriminazioni ai diritti*, Edizioni IDOS, Rome, 2014.

²³ J Carens, *The Ethics of Immigration*, Oxford University Press, Oxford and New York, 2013, p. 123.

²⁴ Idos, pp. 278–279.

²⁵ C Bezzi, ‘Romania: Lo stigma sulle madri migranti’, Osservatorio Balcani e Caucaso, 2014, retrieved 7 December 2014, <http://www.balcanicaucaso.org/arce/Romania/Romania-lo-stigma-sulle-madri-migranti-147542>

²⁶ F Anthias and G Lazardis (eds.), *Gender and Migration in Southern Europe: Women on the move*, Berg, Oxford-New York, 2000; ‘Special Issue: Gendered mobilities and work in Europe’, *Journal of Ethnic and Migration Studies*, vol. 39, issue 4, 2013.

²⁷ This explains why on the farms of Ragusa there are thousands of Romanian women, most of whom come from the countryside area of Botoshani.

²⁸ There is no clear data on the number of minors on the farms.

²⁹ All of the names of the women we interviewed are fictitious in order to protect their privacy.

³⁰ Interview with Ivana, Vittoria, 29 March 2014.

Labour exploitation, therefore, has been accompanied by sexual abuse. As shown below, there is a dynamic of blackmail: migrant women who work in the greenhouses know that, in order to keep their job, sooner or later, they will probably have to go along with sexual requests of the employer.

A relevant datum to help understand the extent of this phenomenon is the increase in the number of abortions in the area. Nurses at the Vittoria Hospital informed us that every week about eight have abortions, and usually about five or six of them are Romanians. Providing more detailed information, a female doctor from a clinic in Ispica, a town in the area of Ragusa, affirmed that:

Romanian women are often accompanied by men, who are most of the time Italians. Often [the women] are young girls [...] and the men speak in their stead. [These men] say that they are friends or acquaintances, and take care not to leave them alone with me.³²

It certainly does not follow that all Romanian women who have decided have an abortion in Vittoria have been victims of sexual exploitation. However, the high number of abortions in proportion of the few thousands of inhabitants of this city is an important fact that must be considered in order to grasp the problematic conditions faced by female workers on the farms in Ragusa.

Seeking to counter these labour and sexual abuses, the Proxima Association, in cooperation with the trade union Flai-Cgil, has developed a bus transport service called Solidal Transfert to provide migrant workers with the possibility to travel from the countryside to the towns, thus avoiding having to pay local people who take advantage of them and charge high fees for transportation. The bus service also serves as a venue for building relationships of trust and support with potential victims. For this reason, a psychologist, a social worker and a member of the Flai-Cgil are present on the bus.

Through this service, Proxima has met many Romanian women who have been subjected to double abuse: labour and sexual.

As the president of Proxima told us, most of the cases of concern involve women who live on area farms with their children. For example, Luana, one of the women helped by Proxima, used to work and live on a small farm near Vittoria with her young daughter and son. Every day, the employer took her children to the area school, which was far from the farm. In exchange for this 'favour', he asked Luana to have sex with him. In order to protect her children and keep her job and accommodation, she accepted this situation. The only reason she finally decided to escape was because she was worried for her children's safety:

This woman had an enormous capacity to endure suffering. She told me, 'I am obliged because I have my children [...]'. When he started to refuse to take her children to school, she began to refuse to have sex with him, and so he stopped giving drinking water to her and her children.³³

Everybody knows about the hard living and working conditions of migrant women in the greenhouses, but few people and institutions decide to act against them. Widespread *omertà*³⁴ and silence, because of fear or personal interests, characterise citizens' behaviour. And for some time the attitude of local political institutions has not been much different. As the former local councillor for social policies in Vittoria explained to us, politicians do not care about protecting migrants, as 'they do not vote, while the people who exploit them are citizens who vote...'³⁵

For many years, Proxima has tried to organise a meeting with the Prefecture (local governmental agency) of Ragusa. But it was only recently, in October 2014, that a meeting was scheduled, leading to the development of a working group that involves trade unions, trade associations, non-governmental organisations, institutions and the authors of this paper, as researchers. This working group was created after the publication in a national newspaper of a shocking article on cases of sexual abuse in the greenhouses,³⁶ an article that relied on our studies³⁷ and that reached over one million online views in one week.

³¹ Interview with a priest, Vittoria, 26 July 2013.

³² Interview with a doctor, Ispica, 25 July 2013.

³³ Interview with the President of Proxima, Ragusa, 29 March 2014.

³⁴ This term refers to a specific code of silence relating to unfair activities.

³⁵ Interview with the former local councillor for social policies, Vittoria, 29 March 2014.

³⁶ A Mangano, 'Violentate nel silenzio dei campi a Ragusa. Il nuovo orrore delle schiave rumene', *L'Espresso*, 14 October 2014, retrieved 10 November 2014, <http://espresso.repubblica.it/inchieste/2014/09/15/news/violentate-nel-silenzio-dei-campi-a-ragusa-il-nuovo-orrore-delle-schiave-rumene-1.180119>

³⁷ A Sciarba, 'Effetto serra. Le donne rumene nelle campagne del ragusano', *L'Altro Diritto. Centro di documentazione su carcere, devianza e marginalità*, 2013, retrieved 30 November 2014, <http://www.altrodiritto.unifi.it/ricerche/migranti/ragusa.htm>; L Palumbo and A Sciarba, 'Le donne delle serre. Storie di sfruttamento nelle campagne del ragusano', *Melting Pot*, 16 April 2014, retrieved 30 November 2014, <http://www.meltingpot.org/Le-donne-delle-serre.html#.VLqjHSx0y00>.

Lack of Alternatives, Vulnerability to Forced Labour and Trafficking

In our view, the stories of exploitation faced by female farm workers in Ragusa can be defined as cases of both forced labour and trafficking. They are in accordance with the forced labour indicators provided by the ILO,³⁸ as these stories are characterised by the interplay of ‘excessive overtime’; ‘abusive working and living conditions’; ‘withholding of wages’; ‘intimidation and threats’; ‘physical and sexual violence’; ‘isolation’; and, above all, ‘abuse of vulnerability’.³⁹ These stories of exploitation also fit within the Directive 2011/36/EU on human trafficking, as the ‘abuse of a position of vulnerability’ is articulated as one of the ‘means’ of trafficking. The Directive describes the position of vulnerability as ‘a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved’.⁴⁰

Although, in a context marked by a strong increase in poverty and precariousness, most of the workers experience exploitative conditions, especially the abuse of a position of vulnerability. However, not all the cases of labour exploitation can be viewed as forced labour and trafficking, and it is necessary to look at each on a case-by-case basis. In our view, it is possible to say that trafficking and forced labour occur when people are subjected to diverse human rights violations, including labour rights violations, and are unable to escape such a situation because they are threatened, segregated or isolated, or have a debt to pay or are obliged, due to diverse structural factors, to choose between some incomparable goods that are put in concurrence: for example, personal safety and the need to financially sustain themselves and their families.

This is exactly what many Romanian female workers experience in the greenhouses of Ragusa. As the president of Proxima highlights, many Romanian female workers in Ragusa are experiencing a specific position of ‘subjugation and subjection’, which matches the abuse of a position of vulnerability illustrated in the Directive 2011/36/EU, and this hence leads to redressing their exploitation through the framework of trafficking.⁴¹

It is worth noting that Romanian women’s condition of vulnerability is produced by an interaction of structural factors, which are primarily connected to the reasons that lead these women to emigrate. Over the last decade, Romania has become the first EU country of emigration—in 2010, 2.3 million Romanians lived in other EU member states⁴²—due to general impoverishment after the collapse of the socialist regime. The recent introduction of the capitalist system has led to a destruction of the existing economy, prompting an exponential increase in unemployment, and a rise in the cost of living, especially in cities. This rise has also been caused—in a vicious feedback loop—by new economic standards brought about by migrant remittances.⁴³ Since emigration has become the only possible solution for the country to face the social, political and economic transformations that have occurred, the need to send money home to family often leads migrant workers to persevere through the hard working conditions they suffer in the country of arrival. Many see Italy as a temporary place to work, and not as a country in which to build their lives.

On the other hand, in many countries of destination various labour market sectors, such as the agricultural industry,⁴⁴ have become increasingly dependent on a migrant labour force, considered exploitable and cheap.⁴⁵ This system, which has been consolidated in the current economic crisis, allows businesses to contain the cost of production and increase profit margins, undermining the protection of workers’ labour rights.

In this scenario, EU migrants often risk being involved in contexts of informality and invisibility even more than non-EU migrants. For example, the fact that they do not need a permit of stay linked to an employment contract and to residency renders them more likely to end up in informal and undeclared situations. In addition to these elements, the illegal recruitment of Romanian workers is less risky for the employers, because they avoid incurring the offences of facilitation and exploitation of irregular migration.

³⁸ ILO.

³⁹ According with the ILO, ‘the presence of a single indicator in a given situation may in some cases imply the existence of forced labour. However, in other cases you may need to look for several indicators which, taken together, point to a forced labour case’, Ibid.

⁴⁰ Directive 2011/36/EU, Art. 2(2).

⁴¹ Interview with the President of Proxima, Ragusa, 29 March 2014.

⁴² C Vargas-Silva, ‘EU Migrants in other EU Countries: An analysis of bilateral migrant stocks’, The Migration Observatory at the University of Oxford, 2012, retrieved on 26 November 2014, <http://www.migrationobservatory.ox.ac.uk/sites/files/migobs/EU%20migrant%20stocks.pdf>

⁴³ C Popescu and L Juverdeanu, ‘Are Remittances Important for the Romanian Economy?’, *Annals of the University of Oradea Economic Sciences*, vol. 2, 2008, pp. 392–396.

⁴⁴ Istituto Nazionale di Economia Agraria, *Indagine sull’Impiego degli Immigrati in Agricoltura in Italia*, Istituto Nazionale di Economia Agraria, 2012.

⁴⁵ C Colloca and A Corrado (eds.), *La Globalizzazione delle Campagne. Migranti e società rurali nel Sud Italia*, Franco Angeli, Milano, 2013.

Paradoxically, therefore, EU migrants can often be more exposed to labour abuse than non-EU irregular migrants. Their possibility of moving with no restrictions across EU boundaries, often developing circular paths, does not correspond to a real access to rights and social justice.

These underlying structural factors are compounded by gendered power relations. Migrant women's vulnerability derives from the interplay of gender discrimination and inequalities related to race, class, nationality, etc.⁴⁶ As Sassen argues, 'being an "immigrant woman" becomes the systemic equivalent of the offshore proletariat with its lack of power and lack of political visibility.'⁴⁷ Being a low-paid and suitable labour force, migrant women 'provide the flexibility that global capital needs.'⁴⁸ Thus, despite the financial crisis, female migration has been encouraged by the demands of the labour market much more than male migration in countries of destination.⁴⁹ This trend augments the risk of accentuating the segregation of female migrant workers in market niches⁵⁰ marked by dynamics of abuse within which labour and sexual exploitation often simultaneously occur.⁵¹

At the same time, their condition of vulnerability can be aggravated by family responsibilities, above all if they are mothers.⁵² When women move alone without their children, like the majority of those who do domestic work in the country of arrival, their priority is to make money to send home to the country of origin, even if this often involves being exploited. When women migrate with their children, they can often be used as an instrument of explicit blackmail by employers as the story of Luana, the Romanian woman helped by the Proxima Association, reveals. In these situations, vulnerability is also exacerbated by social isolation and geographical segregation as structural characteristics of migrants' exploitation in the Italian agricultural sector.⁵³

The lack of real alternative working contexts, which guarantee these women the protection of their labour rights, together with other fundamental human rights, and, at the same time, the possibility to economically support their family and stay close to their children, leads them to 'accept' working under conditions of abuse and sexual exploitation. These situations '*de facto* negate the principle of freedom of choice, the absence of which is one of the elements of forced labour'.⁵⁴ In such circumstances, as Directive 2011/36/EU affirms, the consent of the victim is irrelevant in legally defining cases of trafficking.⁵⁵

The issue of consent in the context of trafficking has been at the centre of an intense debate among feminist scholars and activists, mainly focused on the topic of trafficking for sexual exploitation. In particular, in contrast with neo-abolitionist feminists who argue that no women can ever consent to prostitution,⁵⁶ sex workers' rights feminists have challenged the idea that all women in the sex trade are powerless victims, stressing the agency of migrants involved in the sex industry, and the complexity of their choices and experiences.⁵⁷

In line with this standpoint, we argue that, far from being passive victims, Romanian women in the Italian greenhouses constantly respond to, grapple with or try to struggle against power relations, seeking to negotiate between personal needs and desires, external influences and contingent events. From a theoretical perspective, it is important to take into account the complex ways in which 'consent' takes shape. Significant in this regard is the work by philosopher Kittay on migrant female caregivers who have left their children behind in the country of origin. Kittay defines their options as 'Sophie's choices' in which 'either [is] disjunct is morally unsavory',⁵⁸ because some incomparable goods are put in concurrence. Kittay describes that, on the one hand, women need to migrate to ensure their children adequate standards of living; and on the other, due to restrictive labour mobility for women, most of the time they have to work as domestic workers in very

⁴⁶ K Crenshaw, 'Mapping the Margins: Intersectionality, identity politics, and violence against women of color', *Stanford Law Review*, vol. 43, 1991, pp. 1241–1299; J Nash, 'Re-thinking intersectionality', *Feminist Review*, vol. 89, 2008, pp. 1–15

⁴⁷ S Sassen, 'The Other Workers in the Advanced Corporate Economy', *The Scholar and Feminist Online*, vol. 8, issue 1, 2009.

⁴⁸ F Anthias, 'Metaphors of Home: Gendering new migrations to Southern Europe' in Anthias and Lazardis, p. 25.

⁴⁹ Organisation for Economic Co-operation and Development (OECD), 'Closing the Gender Gap: Act now', OECD, 2012.

⁵⁰ N Piper, *International Migration and Gendered Axes of Stratification— Introduction*, in Piper.

⁵¹ See footnote 1.

⁵² U Beck and E Beck-Gernsheim; F A Vianello; L Benéria.

⁵³ D Perrotta and D Sacchetto, 'Il Ghetto e lo Sciopero: Braccianti stranieri nell' Italia meridionale', *Sociologia del Lavoro*, vol. 128, 2012, pp. 152–166.

⁵⁴ K Skrivankova, 'Between Decent Work and Forced Labour: Examining the continuum of exploitation', Joseph Rowntree Foundation, 2010, p. 19, retrieved 18 November 2014, http://www.prostitutionresearch.info/pdfs_all/trafficking%20all/forced-labour-exploitation-full.pdf

⁵⁵ Directive 2011/36/EU, Art. 2(4)

⁵⁶ C A MacKinnon, *Toward a Feminist Theory of the State*, Harvard University Press, Cambridge, 1989; K Barry, *The Prostitution of Sexuality: The global exploitation of women*, University Press, New York, 1995.

⁵⁷ J Doezema, 'Who Gets to Choose? Coercion, consent, and the UN Trafficking Protocol', *Gender and Development*, vol. 10, issue 1, 2002, pp. 20–27; L Agustín, *Sex at the Margins: Migration, labour markets and the rescue industry*, Zed Books, London, 2007.

⁵⁸ Kittay, p. 148.

severe conditions, in violation of many labour rights. Further, they cannot bring their children with them, in breach of the right to family union.⁵⁹ In the case of the Romanian women working in the greenhouses in Ragusa, as we mentioned, we find the same kind of choice made in an opposite situation: most of these women do not leave the family in Romania, because many employers allow them to live with their children on the farms. But in order to stay with them, and due to the lack of other employment alternatives, the women have to ‘accept’ the dynamics of exploitation.

The lack of real and concrete alternatives, together with the fear of repercussion and isolation, leads many women not to report the abuses to the police. Moreover, this often pushes those who have been able to free themselves from exploitation to go back to work on the farms, and risk getting involved again in situations of violence and isolation. For example, as the president of Proxima told us, Luana, after escaping from the farm through the help of the association:

...decided to go back to work in another greenhouse instead of staying in our shelter and participating in our path of social protection... These women are right when they think that we are not able to find any alternatives for them ... In the last two years it has been extremely difficult to find an alternative and decent job for them.⁶⁰

The Italian Legal Framework and Inadequacies

As many studies point out, Italian legal instruments developed to protect workers from labour exploitation have proven inadequate.⁶¹ In particular, in 2011, the government adopted Legislative Decree no. 148/2011, which defines the crime of ‘unlawful gangmastering and labour exploitation’ through new Art. 603-bis of the Penal Code. Though this constitutes an important provision, doubts have been expressed about its efficacy in combating labour exploitation because it seems to primarily address abusive intermediaries and not abusive employers,⁶² who often control the former. Doubts also exist over the efficacy of Legislative Decree no. 109/2012, which transposes the Directive 2009/52/EU on sanctions for employers of irregular migrants. It offers a very restrictive definition of ‘particularly exploitative working conditions’, which does not conform to that offered by the Directive. Furthermore, the main aim of this Decree is to address and combat irregular immigration, and not to protect the rights of victims.⁶³

In Italy the crime of trafficking is outlined under Art. 601 of the Penal Code, which is related to Art. 600 of the Penal Code on ‘Placing or Holding a Person in Conditions of Slavery or Servitude’. However, the number of convictions is very low, because investigations are long and expensive, and because ‘the victim’s initial statement is often not admissible in court. The prosecution therefore has to gather substantial evidence prior to the court hearing’.⁶⁴

With regard to the assistance and protection of victims, the Italian legal framework on trafficking is however particularly innovative in the international scene. Italian legislation, especially through Art. 18 of the Legislative Decree no. 286/1998, provides victims of trafficking and serious exploitation (both EU and non-EU citizens) with two paths through which assistance, protection, and, in the case of irregular migrants, a residence permit can be granted. The first is a ‘judicial path’ that is dependent on the victim’s report, and the second is a ‘social path’ that is not contingent on any kind of victim participation in the proceedings against the exploiters.⁶⁵ Moreover, Art. 18 is applied irrespective of the outcome of proceedings or of the juridical qualification of the crime.

Despite this progressive approach, there are important problems with its implementation.⁶⁶ In particular, the so-called ‘social path’ is rarely applied, especially for irregular non-EU migrants who, in order to obtain assistance and a residence permit, are frequently ‘forced’ to report the abuse to the police and to cooperate with law enforcement authorities.⁶⁷ In the case of EU citizen migrants, as the experience of Proxima demonstrates, the social path is frequently implemented, as the victims do not need a residence permit.

⁵⁹ A Scurba, *La Cura Servile, La Cura Che Serve*, Pacini Editore, Pisa, 2015, pp. 153–161.

⁶⁰ Interview with the President of Proxima, Ragusa, 29 March 2014.

⁶¹ Amnesty International; V Castelli (ed.), *Punto e a Capo Sulla Tratta. Uno studio sulle forme di sfruttamento di esseri umani in Italia e sul sistema di interventi a tutela delle vittime*, FrancoAngeli, Milano, 2014.

⁶² Amnesty International; Group of Experts on Action against Trafficking in Human Beings (GRETA), ‘Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, GRETA, 2014.

⁶³ Palumbo, ‘Labour Exploitation’.

⁶⁴ GRETA, p. 70.

⁶⁵ In this respect, it is worth mentioning that the residence permit granted by Article 18 can be converted into a work or study permit.

⁶⁶ GRETA; Castelli; L. Palumbo, ‘Protection of Trafficked People in Italy: Policies, limits and challenges’, *Journal of Money Laundering Control*, 2015 (forthcoming).

⁶⁷ GRETA; OSCE, Report by Maria Grazia Giammarinaro, OSCE Special Representative and Coordinator for Combating Trafficking in Human Beings, following her visit to Italy from 17–18 June and 15–19 July 2013, OSCE, 2014.

However, as in the case of Luana, the activation of the social path does not prevent women with strong economic responsibilities from taking work again in situations that are potentially exploitative. Though the social assistance programme under Art. 18 provides victims with long-term accommodation, training courses, access to social services, legal advice and psychological follow-up, the inclusion of victims in a non-exploitative labour context is difficult to achieve, especially in the south of Italy, which is characterised by a very weak economy. This often forces victims to go back to work in exploitative conditions.

The recent Legislative Decree 2014 no. 24, adopted in March 2014 to implement the Directive 2011/36/EU, also presents important limitations. It has amended the provisions for anti-trafficking without developing a holistic approach. Indeed, it overlooks the need for the adoption of a gender perspective capable of addressing differences, and of adequately taking into account diverse needs, in the trafficking experiences of men and women. In addition, it has not adopted some key provisions introduced by the Directive, including those on the irrelevance of the consent of the victims; non-prosecution of, or non-application of penalties to, the victim (Art. 8); and adequate and unconditional assistance (Art. 11). Finally, Article 1 of the Decree identifies specific groups of people vulnerable to trafficking, and in this way appears not to take into account the systemic character of current forms of exploitation. But above all, by choosing not to adopt the definition of the position of vulnerability offered by the Directive, the Decree seems to ignore the contemporary structural factors that create vulnerability to exploitation. This inadequate institutional approach to trafficking is also reflected in the lack of a national plan against trafficking (at the time of this writing), as well as of a solid and homogeneous system of identification of victims.

Far from developing a comprehensive approach, Italian interventions against labour exploitation and trafficking risk anchoring themselves in a mainly repressive approach and assistentialist vision, aimed at ‘rescuing’ victims, leaving intact those factors that make serious exploitation and trafficking a structural component of the contemporary labour market.⁶⁸

Conclusion: The need for a comprehensive approach

The case of Romanian female farm workers shows how the combination of some structural factors can generate a situation in which people, even EU citizens, in positions of vulnerability, have no feasible alternatives but to be subjected to forms of trafficking and forced labour. The absence of alternatives can be due to the fact that people find themselves ‘forced’ to choose between fundamental goods that never should be put in concurrence.

In order to address the sources of this kind vulnerability and, accordingly, to challenge a system of black markets, labour exploitation and sexual abuse, the adoption of a comprehensive perspective built on human rights standards, including labour rights, is indispensable.

A comprehensive approach inevitably implies long- and medium-term aims. 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, as Hochschild writes, 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’,⁶⁹ which can lead to the ‘Sophie’s choice’.

On the other hand, medium- and short-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 to help them in upholding labour rights standards and bearing costs of production. In this regard, the provisions offered by the 2014 ILO Forced Labour Protocol, which makes clear the need to adopt effective strategies of prevention and protection, can be extremely useful. Furthermore, changes should also encompass the creation of more legal and viable migratory channels; the disentanglement—also for EU citizen migrants—of a long-term residence permit from the person’s income; the development of a transnational welfare system, based on new forms of interdependence between social systems of countries of emigration and immigration;⁷⁰ and the implementation of effective measures against gender discrimination and violence.

The work started by the local institutions, associations and experts in Ragusa to address the abuses occurring in the greenhouses seems to move towards addressing some of these points. The working group has proposed various forms of interventions to tackle the structural factors that render migrant workers vulnerable. More specifically, one initiative is creating a centre to provide social and legal support to farm workers, mainly those with children. Furthermore, in order to facilitate the recruitment of victims of trafficking in ethically correct businesses, the working group aims to define a sort of ‘white list’ of farms, a list that also has an important symbolic role in a context affected by illegality. Grounded in the

⁶⁸ H Shamir, ‘A Labor Paradigm for Human Trafficking’, *UCLA Law Review*, vol. 60, no. 1, 2012, pp. 76–136.

⁶⁹ A R Hochschild, ‘Love and Gold’, *Sand F Online*, issue 8.1, 2009.

⁷⁰ F Piperno and M Tognetti Bordogna (eds.), *Welfare Transnazionale. La frontiera esterna delle politiche sociali*, Ediesse, Roma, 2012.

experiments carried out in other Italian regions,⁷¹ the working group also seeks to alter the local agricultural industry through the use of legal and economic incentives for employers who, for example, demonstrate that they have legally hired a number of workers commensurate with the crops produced. The implementation of such measures would constitute a significant and scaled-down example of a comprehensive approach to forced labour and trafficking.

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⁷¹ See for example law 28/2006 of the Region of Apulia, which allows access to regional and EU funding to local firms that have legally hired a number of workers commensurate with the crops produced.