

Trapped at the Periphery? Interdisciplinary Perspectives on African Migrant Women in Malta

What are the key concerns facing migrant women in Malta? To what extent are they able to integrate into Maltese society? Is the labour market accessible or inaccessible to women migrants? How are migrant women challenged by multiple discrimination? This article is concerned with women who migrate from African countries,² many of whom are rescued at sea, hopeful of a better life in Europe.

The central point of this study is to highlight a few specific themes that appear to capture the lived reality of migrant women in Malta, within the broad context of poverty and social exclusion, and God's plan for the human person and for the world. What is the message which these African women in Malta are conveying to Catholic theology? What do their stories narrate about God? How can theology be of concrete support to these women in their quest for emancipation? In his message for the World Day of Migrants and Refugees, Pope Francis says: "From the Christian standpoint, the reality of migration, like other human realities, points to the tension between the beauty of creation, marked by Grace and the Redemption, and the mystery of sin. Solidarity, acceptance, and signs of fraternity and understanding exist side by side with rejection, discrimination, trafficking and exploitation, suffering and death."³

¹ Frances Camilleri-Cassar is an associate professor in the Faculty of Laws at the University of Malta, with research interests in social policy and equality law.

² The majority of women migrants relevant to this study come from Somalia, Eritrea and the Sudan (personal communication with the Agency for the Welfare of Asylum Seekers [AWAS], Malta).

³ Pope Francis, *Message for the World Day of Migrants and Refugees 2014*, August 5, 2013, no. 3.

The main argument of this article is that African women migrants in Malta are often trapped at the periphery of society, and at risk of the most extreme forms of poverty and social exclusion. For instance, they have little access to information about the legal framework regulating asylum procedure, and legal assistance to them is generally inadequate. Moreover, while Malta's reception policy was amended in 2016, the current procedure only offers a dead end result because the integration policy process percolates through the pipeline for many years. Economic activity and financial independence are rarely possible for women migrants due to the exploitative nature of the labour market. Despite their vulnerability, however, little is known about the existing reality of women migrants' lives, the disadvantages which they encounter in a tightly knit Maltese society, and their specific needs as women, and very often as women with dependent children.

The objective of this study is to address some of the difficulties faced by migrant women in Malta. Is contemporary theology ready to be liberated from its "precisions" and "categorizations" in the face of these trapped women's experiences? Is theology ready to move away from its "comfort zones" in its quest for more relevance? Different areas of concern will be discussed: reception legislation, the asylum procedure and judicial process, the integration policy, economic activity, and the prevalence of multiple discrimination.⁴ The study adds depth and nuance to the discussion by demonstrating the implications for evidence-based decision making, and the role of the State towards the inclusion of marginalized women in Maltese society. The discussion will commence with a brief overview of the reception legislation, followed by a discussion of the asylum procedure and the judicial process. The section on Malta's integration policy will provide evidence of a structure that for many years has remained at a stage of "near" comprehensiveness. This will be followed by a debate on women's employability and their place in the labour market. The penultimate section will discuss multiple discrimination among Malta's forcibly displaced women, and will conclude with a critical analysis of the study findings, and their implications for the legal and social rights of African migrant women, insofar as they bear directly on relevant policy responses.

⁴ The term "multiple discrimination" refers to any discrimination against a woman which does not only involve gender. See European Commission, *Multiple Discrimination in the EU in 2009*, Special Eurobarometer, no.317, EMPL/G/2 (Brussels: Directorate-General for Employment & Social Affairs, 2009).

Reception Legislation

The reception of asylum seekers is regulated by the Reception Conditions Directive, which has been signed into law Maltese legislation by the amended Reception of Asylum Seekers (Minimum Standards) Regulations, SL 420.06.⁵ The Directive has been re-cast as Council Directive 2013/33 and lays down standards for the reception of applicants for international protection. For instance, standards include - but not only - an adequate standard of living, a clear definition of “minor” status for persons under eighteen years, as required by international standards, and conditions of detention for immigration related purposes.⁶

The legislative measures which still need further development include an amendment of Article 25A (10) of the Immigration Act (Cap 217). For example, the amended Reception of Asylum Seekers (Minimum Standards) Regulations, SL 420.06, needs to include an obligation to inform detainees and enable them to challenge not only the duration but also the reasons and alternatives for their detention. While acknowledging the challenges of migration faced by the State and society, Pope Francis enjoins to reflect on mutual enrichment:

The presence of migrants and refugees seriously challenges the various societies which accept them. Those societies are faced with new situations which could create serious hardship unless they are suitably motivated, managed and regulated. How can we ensure that integration will become mutual enrichment, open up positive perspectives to communities, and prevent the danger of discrimination, racism, extreme nationalism or xenophobia?⁷

The Asylum Procedure

For refugees and women asylum seekers in particular, their right to stay in Malta is determined by the outcome of the asylum procedure, which is evidence-based and regulated by strict procedural rules. The outcome of this procedure determines not only the right to stay in Malta, but also the quantity and quality of rights, as these are essentially linked to the legal status granted to the migrant woman. The different types of protection envisaged by law and policy include:

⁵ <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=10662&1=1>, accessed January 26, 2016.

⁶ <https://www.easo.europa.eu/sites/default/files/public/Dve-2013-32-Asylum-Procedures.pdf>, accessed May 15, 2017.

⁷ Pope Francis, *Message for the World Day of Migrants and Refugees 2016*, September 12, 2015, no. 6.

refugee status, subsidiary protection, and temporary humanitarian protection. Each status comes with a different set of legal rights, ranging from comprehensive legal ones in the case of a refugee status, to little or no rights at all in the case of temporary humanitarian protection (THP) for failed asylum seekers. In November 2016, THP was repealed.

There are, however, certain issues which tend to influence the outcome of the asylum procedure. For instance, a migrant woman may lack access to accurate information about the legal framework regulating asylum procedure. This is particularly true of asylum seekers in detention, but it may also be on the increase among asylum seekers living in the community, especially those not living in an open centre. Lack of information often leads women to take the wrong decisions and mess up their chances of getting protection. One women respondent in a study undertaken by the Jesuit Refugee Service in Malta claims that:

I said the truth about many things in my interview but I also hid a lot of things from my life - intentionally. I was new and I didn't know that what happened to me could make a difference to my future. When I arrived, I meant to say everything but people inside [in detention] told me not to say certain things because I will get a "reject." There was a lot of fear around me and I was terrified. The interpreter was a Somali man and I was not brave enough to tell him everything.⁸

There are a number of reasons why a woman would not disclose all information details.⁹ For example, she may be suffering from the impact of past experiences, such as torture or trauma, which often lead to post traumatic stress disorder or other psychological problems that lead to fear and lack of trust. Alternatively, she may have been advised by other detainees, relatives or friends who mean well but who are as lost as the migrant woman herself. A migrant woman may lack access to adequate and effective legal assistance. This is essential throughout the asylum procedure but especially following the outcome of a negative administrative decision at first instance.

In the case of a negative administrative decision at judicial level and request for a second appeal, the challenge to find a committed legal-aid person becomes more pronounced, especially for migrant women trapped at the periphery as a result of little financial means and no social capital. Malta's legal-aid system, that is state funded, has been frequently and severely criticised for its lack of quality service and reliability. Nevertheless, information divulged during later

⁸ Jesuit Refugee Service, Malta, *No Giving Up: Story of Unfinished Journeys* (Malta: Jesuit Refugee Service, 2015), 24.

⁹ Data compiled in 2016 through personal communication with the Jesuit Refugee Service, Malta.

stages of the asylum procedure, inevitably raises questions regarding the woman's credibility.

Other factors that influence the outcome of a decision are not only based on the woman's performance at an interview, but depends also on her age, educational background, and her other life experiences as well as on the level of trust and understanding by the system, all of which have an impact on how much migrant women could effectively benefit from a judicial process that is ultimately designed to protect them. Other concerns that tend to influence the outcome of the asylum procedure arise from the competence and quality of interpretation services, confidentiality and trustworthiness.

Another concern for migrant women is the residence permit. Women become economically and emotionally dependent on their male spouse when the resident permit is issued in the husband's name. There are instances when a woman living in a violent relationship fears reporting the abuse to the police because "once she reports, they deport" especially if the country of origin is relatively safe.¹⁰

Integration Policy

The social integration of migrants is given precedence in the basic objectives of the Common Fundamental Principles for the EU Immigrant Integration Policy which assumes a holistic approach that focuses on the educational, social, health, cultural, political, and residential legislation and policies. However, Malta still lacks a policy for the integration of migrants. In 2015, a public consultation was launched with the aim of formulating a national framework for an integration strategy 2015-2020,¹¹ with the intent of significantly improving Malta's track record. One targeted improvement that links with the focus of this study is migrant participation in key organizations, such as, trade unions, women's organizations, political parties, and national pressure groups, as well as policies that target discrimination in employment, housing, health and education. However, to date, all this still remains on paper.

In tandem with this, there is a scarcity of key information and reliable statistical data regarding African migrant women in Malta. For example, "there is a considerable difference between the total number of migrant workers (3,965), as

¹⁰ Personal communication with the Jesuit Refugee Service, Malta in 2016.

¹¹ Malta. Ministry for Social Dialogue, Consumer Affairs and Civil Liberties, *Towards A National Migrant Integration Strategy, 2015-2020* (Malta: Ministry for Social Dialogue, Consumer Affairs and Civil Liberties, 2015), http://socialdialogue.gov.mt/en/Public_Consultations/MSDC/Documents/2015%20%20Integration/MSD_Report%20booklet_JF_rev4.pdf.

reported by the National Statistics Office, and the total number of foreign work-permit holders (7,635) reported by the Employment and Training Corporation [ETC].¹² Among the reasons for this difference is that national statistical data relies on collective households - not individuals - with the result that hundreds of refugees, persons on temporary humanitarian protection, and asylum seekers in Malta are automatically left out of the picture.¹³ In comparison to other European countries, Malta's generally underdeveloped integration policy, has for some years been highlighted by the Migration Integration Policy Index which analyses and compares social integration policies in EU and non-EU countries. The Index shows that while Malta's strongest policy areas concern family reunion and permanent residence, it ranks particularly poorly in integration measures, especially in employment and the labour market.¹⁴

Labour Market

In Malta, job quality and working conditions are regulated by the Employment Law, and migrants are eligible to similar work conditions as Maltese citizens. However, although migrants are bound to pay taxes and national insurance contributions, Malta provides no regular targeted support for labour market integration, and eligibility to social assistance and social security is critically weak.¹⁵ Moreover, the State does little to facilitate the recognition of migrants' skills obtained outside the EU.¹⁶

To compound the issue, trade unions in Malta are reluctant to support the integration of migrant workers, and collective agreements fail to include them, or address their specific needs.¹⁷ Although on paper, employers' associations appear supportive of migrants' integration into the labour market, Malta's Employment and Training Corporation¹⁸ signals that employers maintain a negative attitude towards the employment of migrants with the potential risk of

¹² Manuel Debono, *Malta: The Occupational Promotion of Migrant Workers* (Malta: University of Malta Centre for Labour Studies, for the European Foundation for the Improvement of Living and Working Conditions), no. 1, accessed March 12, 2016, <http://www.eurofound.europa.eu/ewco/studies/tn0807038s/mt0807039q.htm>.

¹³ *Ibid.*

¹⁴ "Malta: Key Findings," in *Migrant Integration Policy Index (MIPEX) 2015*, <http://www.mipex.eu>.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ Debono, *The Occupational Promotion of Migrant Workers*, no. 3.2.

¹⁸ Malta's ETC is a national public employment agency which provides training programmes and employment services.

migrant exploitation.¹⁹ Under these circumstances, migrants in Malta, especially women, continue to face discrimination when accessing jobs, in the level and quality of work, and in payment.²⁰

Stereotypes such as the most widely use of the veiled woman and “otherness” not just visually but also in terms of their religion and customs, make it hard for African migrants to find employment and integrate themselves within Maltese society. Often, migrant women are employed in the informal economy without entitlement to social benefits in case of sickness or injury at work. Discrimination at work can also find expression in blatant exploitation by unscrupulous employers who pay migrant women (and men) little or nothing for their often undeclared work.²¹ Malta’s Employment and Training Corporation claims that “irregular migrants are at great risk of exploitation.”²² For instance, the fact that people on humanitarian protection in Malta need their employer to apply for their work permits, leads to a very clear temptation to cut corners, not apply for such permits, and employ migrants at a much lower rate than they would have been expected to pay had such permits been acquired.²³

Notwithstanding these facts, there is little effort by the State towards the integration of migrant women into Malta’s labour market largely as a result of the ambivalent approach adopted by trade unions, and xenophobic attitudes emerging among the Maltese population. For example, trade unions in Malta strongly voice disquiet about the undercutting of wages as a result of the lower pay given to migrant workers, and “have over the years been reluctant to help with the integration of migrants.”²⁴

Another issue which NGOs in Malta signal as problematic is that there is little enforcement by the State to ensure that migrant women are employed legally, and that the minimum conditions set out by law are being respected. Migrant women usually take up jobs in the informal economy, with low pay and bad working conditions. Most migrant women living in open centres in Malta seek economic activity in temporary jobs in the low wage sector, largely segregated, and female dominated such as housekeeping and cleaning in hotels.²⁵ Overall it is possible

¹⁹ Debono, *The Occupational Promotion of Migrant Workers*, no. 3.2.

²⁰ European Network Against Racism (ENAR), *Shadow Report on Racism in Malta, 2006*, no.1, accessed February 20, 2016, cms.horus.be/files/99935/MediaArchive/pdf/Malta_2006.pdf.

²¹ Frances Camilleri-Cassar, “Living on the Edge: Migrant Women in Malta,” *International Journal of Comparative and Applied Criminal Justice* 35, no.3 (2011): 200.

²² Debono, *The Occupational Promotion of Migrant Workers*, no. 3.2.

²³ ENAR, *Shadow Report*, 2006, no. 4.1.

²⁴ Debono, *The Occupational Promotion of Migrant Workers*, no. 3.2.

²⁵ Personal communication with the Agency for the Welfare of Asylum Seekers, Malta.

to argue that the often weak socioeconomic or insecure legal situation renders migrant women vulnerable to exploitation and unfair treatment, with little possibility of defending themselves at law. The peripheral labour market position of migrant women derives mainly from poor education and language skills, racial discrimination, lack of recognition of their skills and educational attainment, a vulnerable legal status (work or resident permit), sparse information and social networks, and the cultural and religious norms prevailing in the “receiving” country.²⁶ All these factors increase the risk of poverty among migrant women.²⁷ In his message to the world on the day of migrants and refugees, Pope Francis enjoins us to reflect on the phenomenon of migration which is not unrelated to salvation history, but is part of that process: “Each person is precious; persons are more important than things, and the worth of an institution is measured by the way it treats the life and dignity of human beings, particularly when they are vulnerable, as in the case of child migrants.”²⁸

Multiple Discrimination

Malta’s Equal Treatment of Persons Order (Legal Notice 85 of 2007 subsidiary legislation to the European Union Act) prohibits discrimination on the basis of racial and/or ethnic origin in the provision of social security, health care, social advantages, education, and in the access and supply of goods and services. The National Commission for the Promotion of Equality is designated as the national authority for promoting equality of treatment without discrimination for all persons, and for reviewing the working of the provisions of this Legal Notice.

Women migrants are likely to face discrimination and exclusion for more reasons, and in more spheres of their lives, than migrant men. Besides sex discrimination within and outside their communities, women migrants often face social prejudice due to cultural and religious differences.²⁹ Access to education, to employment, and to social and health services are significant areas where migrant women are in a more disadvantageous position than ethnic minority men and the women and men in the host society. “This creates multiple

²⁶ European Commission, *Ethnic Minorities in the Labour Market: An Urgent Call for Better Social Inclusion; Report of the High Level Advisory Group of Experts on the Social Integration of Ethnic Minorities and their Full Participation in the Labour Market* (Brussels: Directorate-General for Employment Social Affairs and Equal Opportunities, 2007).

²⁷ Ibid.

²⁸ Pope Francis, *Message for the World Day of Migrants and Refugees 2017*, September 8, 2016, no. 7.

²⁹ Camilleri-Cassar, “Living on the Edge,” 202.

barriers to their full integration in society, hampering the freedom to choose how to live their lives, and also affecting their children's access to social protection, education, and healthcare.”³⁰

The differing levels between policy on paper and policy in practice seem to suggest that discrimination and racism have been inadequately addressed in Malta. Victims of race or religious discrimination in Malta fail to seek justice in various circumstances of their life, as enforcement of the law against discrimination is weak, and only a narrow range of sanctions is available. Moreover, legal procedures are lengthy, and although complainants may receive legal aid, they are often not informed of their rights as victims, nor protected against resultant victimization.

There is now substantial evidence to show that women are particularly vulnerable to multiple discrimination in the labour market, and other areas of life.³¹ However, legal expertise on multiple discrimination of migrant women is missing in Maltese law. Another flaw in current legal provisions for the equal treatment of persons is the failure to acknowledge the complexity in the lives of migrant women. There is no distinction between the voices, needs, and interests of women, men, and children which tend to be multi-layered, complex, and diverse. More specifically, the law does not protect against discrimination on many levels, and there is no special provision for women who are susceptible to several disadvantages when compared to other women and migrant men. Although women migrants in Malta are not a homogeneous group, they share similar experiences of stereotypes, stigmatization, inequality, and peripheral existence. In a spirit of agonism, one would here ask to what extent does the Christian understanding of the omnipotence of God and the presence of evil in this world, match with the tragic concrete reality of African women migrants? “Doubly poor are those women who endure situations of exclusion, mistreatment and violence, since they are frequently less able to defend their rights. Even so, we constantly witness among them impressive examples of daily heroism in defending and protecting their vulnerable families.”³²

³⁰ Expert Group on Gender Equality, Social Inclusion, Health and Long Term Care, *Ethnic Minority and Roma Women in Europe: A Case for Gender Equality?*, final report (Brussels: European Commission, 2010),

³¹ ENAR, *Response of the European Network Against Racism. Consultation on Modernising Social Protection for Greater Social Justice and Economic Cohesion: Taking Forward the Active Inclusion of People Furthest from the Labour Market*, (COM [2007] 620 final), accessed January 26, 2016, http://cms.horus.be/files/99935/MediaArchive/pdf/FEB08_consultation%20Active%20Inclusion.pdf.

³² Pope Francis, *Apostolic Exhortation Evangelii Gaudium*, November 24, 2013, no. 212.

Indeed, the most significant gap in Malta is its antidiscrimination measures which provide no remedy under Maltese law as a result of weakly enforced definitions of multiple discrimination. Discrimination is indivisible to legislators, and widespread social stereotypes make it difficult for migrant women, who are also socially marginalized, to integrate into Maltese society.

Concluding Remarks

This study of migrant women provides an insight into the legal and socioeconomic situation of a disadvantaged group of women trapped at the periphery of Maltese society, and examines existing laws and policies that target poverty and social exclusion. The dearth in research and studies, and the scarcity of data disaggregated by gender, religion, and race, do not allow for an in-depth understanding of the most marginalized women, their specific needs for participation in the labour market, their well-being, and their overall integration into Maltese society.

Policies towards the inclusion of African migrant women in Malta are few, and their effectiveness cannot easily be assessed because law enforcement and sanctions against racial discrimination are weak. For instance, MIPEX finds that Malta scores only 40/100 in terms of migrant integration and ranks 33 out of 38 countries. Principles of equal treatment are still missing in Malta's integration policies, as evidenced, for example, in the restrictions for African migrants to become long term residents that would guarantee basic equal rights to health services, education, political participation and access to the labour market.³³

Migrant women face multiple disadvantages that call for changes in policy and legislation, and real improvements in their disadvantaged and socially excluded lives. Indeed, urgent action is needed to eradicate discrimination and promote diversity.³⁴ For example, rarely does the State take into account the existing realities in the lives of migrant women by listening to them and involving them in discussions pertaining to policies that concern *them* directly.

Migrant women in Malta have no voice; they are invisible to legislators and policy makers; their needs are unknown, and NGOs contend that although services are in principle free and open to all migrants, "there is total lack of

³³ Migrant Integration Policy Index 2005, <http://www.mipex.eu/>

³⁴ Frances Camilleri-Cassar, *An EAPN Malta Brief Reaction to Malta's National Report on Strategies for Social Protection and Social Inclusion 2008-2010* (Malta: European Anti-Poverty Network, 2008),

policies in this.”³⁵ Although from a legal standpoint the primary responsibility to protect those most at risk lies with the State (UNHCR, 2006), in practice, the provision of social benefits and employment tend to be given with reluctance in Malta.³⁶

In view of the ongoing conflicts and repression in a number of African countries, and Malta’s added attraction as a member of the European Union, the stream of migrant women will continue to increase. A first step in this regard is to gain adequate knowledge about their specific needs and conditions. It is only in the light of available information that legislation and policies could be drawn up and implemented to respond to the exigencies of vulnerable groups, especially the socially vulnerable women at the periphery of Maltese society. A growth in such practices would require a refiguring of the ways in which traditional notions of migrants and women of ethnic minorities are conceived within law, policy, and practice alike. Such a model may require a new approach on a needs criterion. For example, migration law and integration policy need considerable improvement to meet the needs of women, particularly pregnant and nursing mothers, and to ensure protection of their dignity and rights: “How beautiful are those cities which overcome paralysing mistrust, integrate those who are different and make this very integration a new factor of development! How attractive are those cities which, even in their architectural design, are full of spaces which connect, relate and favour the recognition of others!”³⁷

Malta is encouraged to act with urgency on drawing up a long-term migration policy, taking into serious consideration future challenges, the fundamental rights of migrants, and especially the special needs of women. By defining strategic goals, specifying expected results, and enhancing accountability, Malta could improve delivery of protection to the most socially excluded women living at the periphery of Maltese society.

Migrant women would benefit from regular courses in language and culture to ensure easy access to information regarding their rights and social integration. Empowerment skills are necessary if women are to seek employment in the formal labour market. The government is also encouraged to promote access to its employment market, and make it more inclusive for integrating migrants and minority women. Migrant women need to be especially protected against illegal work and exploitation by employers, and

³⁵ ENAR, *Shadow Report 2006*, no. 5.4.

³⁶ The Today Public Policy Institute (TPPI), *Managing the Challenges of Irregular Immigration in Malta* (Malta: TPPI, 2008), accessed January 14, 2016, <http://www.tppi.org/cms/reports/IrregularMigration/Report.pdf>.

³⁷ Pope Francis, *Evangelii Gaudium*, no. 210.

as the standards of work for migrants are under threat, the more these illicit practices spread with impunity.³⁸

Malta is urged to develop consultation mechanisms and dialogue at a national level between migrant women, grassroots NGOs, and public bodies involved in the integration process. Migrant women have specific social disadvantages which ask for gender sensitive policy approaches, and their role in childcare makes them an even more important focus for social inclusion policies. For example, one of the aims of the European Union's open method of coordination in social inclusion and social protection is to increase the involvement and participation of stakeholders in the policy development process. In his Apostolic Exhortation, Pope Francis calls on the Church to face the challenges of poverty: "They have much to teach us. Not only do they share in the *sensus fidei*, but in their difficulties they know the suffering Christ. ... We are called to find Christ in them, not only to lend our voice to their causes, but also to be their friends, to listen to them, to speak for them and to embrace the mysterious wisdom which God wishes to share with us through them."³⁹

Drawing on the emergent findings of this study, I raise two questions from an interdisciplinary perspective of State and theology: How often does Malta take into account the existing realities in the lives of African migrant women by listening to them, and involving them in discussion pertaining to law and policies that concern *their* lives directly? Could African women trapped at the periphery of Maltese society be calling for a paradigm shift within theology: from a theology that provides precise answers, to a theology that is built on companionship and dialogue?

³⁸ Camilleri-Cassar, *An EAPN Malta Brief Reaction*.

³⁹ Pope Francis, *Evangelii Gaudium*, no. 198.