

# Irina Fehr

## City ID Cards and their Potential for Irregular Migrants Affected by Domestic Violence

**Abstract:** Although migrants without regular status are entitled to numerous rights, they are rarely able to assert them in practice. This paper analyzes the challenges that irregular migrants face when enforcing their rights in Switzerland, while focusing on situations of domestic violence and the right to victim support. Furthermore, the paper discusses a potential remedy to the limited access to the respective support services: the introduction of a city ID card. The paper focuses on the city of Bern and follows a multidisciplinary approach, combining the disciplines of law and sociology. The analysis draws on a literature review and five semi-structured expert interviews. The results show that many irregular migrants refrain from claiming the protections they are legally entitled to, and while the interviewees consider a city ID card as a valuable remedy, much of its potential seems to depend on whether third parties would officially recognize the card.

**Keywords:** Irregular migration, city ID cards, urban citizenship, access to justice, domestic violence

After completing her MA in European Global Studies in 2020, **Irina Fehr** worked as a junior researcher at Tilburg University (Netherlands), where she analyzed migration trajectories and experiences of victimization along the journey. In September 2021, she started her PhD at Tilburg Law School, in which she conducts research on the EU migration control regime and practices of human trafficking and human smuggling at external EU borders.

# Introduction

Migrants who live in Switzerland without valid residence papers – so called irregular migrants – often lead a life in the shadow of society. They hope that the migration authorities will not detect them, in which event they make themselves liable to expulsion.<sup>1</sup> But despite their irregular status, they are legally entitled to certain rights and benefits which are independent of their residence status.<sup>2</sup> However, irregular migrants are often unable to enforce them in practice. The risk of being deported is a constant companion, restricting their access to law enforcement agencies or support services.<sup>3</sup> If they become victims of a crime, for example, irregular migrants are often so concerned about attracting the attention of the authorities that they refrain from pursuing the legal protections to which they are entitled.<sup>4</sup>

Against this background, the master's thesis on which this article is based analyzed the challenges that irregular migrants face when enforcing their rights in Switzerland. A particular focus was put on their right of access to justice and the obstacles that irregular migrants face when filing criminal charges with the police. In addition, the thesis conducted a case study where the specific situation of irregular migrants affected by domestic violence was addressed. Due to their limited access to the law enforcement agencies, irregular migrants are particularly vulnerable to this form of exploitation.<sup>5</sup> Here, not only the challenges when filing criminal charges but also the obstacles when accessing the respective support services were the subject of discussion. Finally, the master's thesis examined a potential remedy to these challenges: the introduction of a city ID card. These locally issued cards allow all residents of a city, including irregular migrants, to identify themselves to local actors without revealing their respective residence status.<sup>6</sup> The introduction of such city ID cards thus holds immense potential to facilitate irregular migrants' access to local services and institutions<sup>7</sup> – and ultimately justice.

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1 Denise Efonayi-Mäder and Silvia Schönenberger and Ilka Anita Steiner, *Leben als Sans-Papiers in der Schweiz: Entwicklungen 2000-2010* (Eidgenössische Kommission für Migrationsfragen, 2010), 6.

2 Ibid., 38.

3 Regina Kiener and Danielle Breitenbücher, "Das Recht von Sans-Papiers auf Justizzugang – Erhebung und Bekanntgabe von Daten über Aufenthaltsstatus durch Justizbehörden aus grundrechtlicher Sicht," *Schweizerisches Zentralblatt für Staats- und Verwaltungsrecht* 120, no. 7 (2019).

4 Regina Kiener and Danielle Breitenbücher, *Justizzugang von Sans-Papiers: Gutachten zuhanden der Integrationsförderung der Stadt Zürich* (Zürich, 2018), 2.

5 Nicola Delvino and Sarah Spencer, *Migrants with Irregular Status in Europe: Guidance for Municipalities* (Oxford: Centre on Migration, Policy and Society (COMPAS), 2019), 43.

6 Els De Graauw, "Municipal ID cards for undocumented immigrants: Local bureaucratic membership in a federal system," *Politics & Society* 42, no. 3 (2014).

7 David Kaufmann, "Comparing Urban Citizenship, Sanctuary Cities, Local Bureaucratic Membership, and Regularizations," *Public Administration Review* 79, no. 3 (2019): 444.

While focusing on the specific context of the city of Bern,<sup>8</sup> the thesis discussed the question of whether the introduction of a city ID card could increase irregular migrants' access to the police when filing criminal charges, and in case of domestic violence access to local support institutions. This article will focus on the latter and discuss the challenges of irregular migrants affected by domestic violence, as the analysis of irregular migrants' access to the police has already been published separately.<sup>9</sup> After a brief description of the data and methodology, the paper will introduce the topic of irregular migration in Europe. In a next step, the context and legal framework of domestic violence in Switzerland is discussed. Based on this, it is examined what challenges irregular migrants face when affected by domestic violence and how a city ID card could serve as a remedy.

## Data and methodology

In order to discuss the issues raised, the thesis adopted a multidisciplinary approach, combining the disciplines of law and sociology. The goal was to consider both the legal and social conditions that determine whether irregular migrants can effectively claim their rights in Switzerland. The legal analysis was based on a detailed literature review, whereby the recently published reports on the legal position of irregular migrants in Zurich<sup>10</sup> and in Switzerland in general<sup>11</sup> provided the most relevant sources. The sociological analysis drew on five semi-structured expert interviews with different representatives of local institutions in the city of Bern. The interviews were conducted in cooperation with a study that analyzed the functionality and feasibility of a local ID card in Bern, which was carried out on behalf of the local competence center for integration. The interviews took place between March and June 2020. Because the stated study will not be published and is only addressed to the competence center for integration and the municipal council, the information collected in the interviews is confidential and the interview partners remain anonymous. The publication of the empirical material used for the thesis was specifically agreed upon with the respective interviewees.

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8 The city of Bern constitutes a well-suited site for this analysis: The municipal council commissioned a study to examine the functionality and feasibility of a local ID card, based on which it will decide whether a city ID card will be introduced in the upcoming years; City of Bern, "City for all with focus migration," accessed August 13, 2021, [https://www.bern.ch/mediencenter/medienmitteilungen/aktuell\\_ptk/stadt-fuer-alle-mit-fokus-migration-die-ziele-sind-definiert](https://www.bern.ch/mediencenter/medienmitteilungen/aktuell_ptk/stadt-fuer-alle-mit-fokus-migration-die-ziele-sind-definiert).

9 See Irina Fehr, "Enforcing the rights of migrants with irregular status: City ID cards as a remedy?," *cognitio* 1 (2021).

10 Kiener and Breitenbücher, "Das Recht von Sans-Papiers auf Justizzugang".

11 Roswitha Petry, *La situation juridique des migrants sans statut légal: entre droit international des droits de l'homme et droit suisse des migrations* (Geneva: Schulthess éd. romandes, 2013).

# Irregular Migration in a European (Global) Perspective

Irregular migration must be understood as a global phenomenon, occurring all over the world and involving the crossing of international borders.<sup>12</sup> With Switzerland located in the middle of Europe, the following introduces the topic while focusing on the European context.

In a historical perspective, irregular migration can be considered a rather new concept. Until the 20th century, there were hardly any restrictions on migration in Europe.<sup>13</sup> Since then, a complex hierarchy of titles defining migrants' legal status has developed.<sup>14</sup> After the Second World War, many European countries, including Switzerland, established guest worker schemes, where residence permits were issued seasonally according to the economic situation.<sup>15</sup> But many of the seasonal workers did not strictly adhere to their limited residence permits and irregular migration became an increasingly common and also tolerated phenomenon.<sup>16</sup> It was only by the 1990s that Switzerland and many other European countries started to prioritize the battle against irregular migration.<sup>17</sup>

As of today, the Schengen agreement fundamentally shapes the European migration framework. It states that international borders are systematically enforced at the common external borders and no longer between the different signatory states.<sup>18</sup> Consequently, the barriers to entry and residence in Europe have become greater for non-European nationals, and particularly for those qualifying as unskilled workers.<sup>19</sup> But as countries increasingly restrict legal labor migration channels out of political interest, the demand for cheap labor is met by irregular migration. Scholars have identified the asymmetry between the countries' legal labor supply and their actual demand for it as a main cause of the phenomenon.<sup>20</sup> It needs to be emphasized, however, that people migrate not only for economic reasons, but also due to individual or political reasons such as war, persecution, or family reunification. If there are no legal pathways to do so, however, these people are left with the option of migrating irregularly.<sup>21</sup> Accordingly, it can be concluded

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12 Roberto Gonzales et al., *Undocumented Migration: Borders, Immigration Enforcement, and Belonging* (Cambridge: 2019), 27.

13 Franck Düvell, *Illegal immigration in Europe: Beyond Control?* (London: 2006), 24.

14 Henrik Lebuhn, "Local border practices and urban citizenship in Europe: Exploring urban Borderlands," *City* 17, no. 1 (2013): 42.

15 Martina Caroni et al., *Migrationsrecht* (Bern, 2018), 24.

16 Alice Bloch and Milena Chimienti, "Irregular migration in a globalizing world," *Ethnic and Racial Studies* 34, no. 8 (2011): 1273.

17 Anna Triandafyllidou, *Irregular migration in Europe: Myths and Realities* (Ashgate, 2010), 11.

18 Whereby the Schengen area includes most EU-member states plus the four non-EU states Iceland, Norway, Switzerland and Liechtenstein; cf. Lebuhn, "Exploring urban Borderlands," 37.

19 Bloch and Chimienti, "Irregular migration in a globalizing world," 1275.

20 Franck Düvell, *Irreguläre Migrant/innen in den Städten Europas: wirtschaftliche, ethische und politische Implikationen* (Oxford, 2007), 6.

21 Petry, *La situation juridique des migrants sans statut légal*, 13.

that the nation states and their migration and asylum policies also serve as major determinants for irregular migration.<sup>22</sup>

As a further consequence of the Schengen agreement, formal border controls are increasingly supplemented by domestic bordering practices within the nations' territories.<sup>23</sup> This means that ordinary service providers including welfare agencies, hospitals or health insurance companies increasingly check identification and residence papers in order to determine if people are entitled to use their services.<sup>24</sup> Accordingly, many irregular migrants lose access to social institutions and local services due to their lacking residence permit.<sup>25</sup>

To sum up, scholars have identified irregular migration in Europe as a legal, political and social construct of the 20th century,<sup>26</sup> resulting from the interplay between global migration flows, draconian immigration and asylum policies, and a capitalist economy.<sup>27</sup> This further illustrates the paradox of today's globalized world, where the free flow of information, capital and goods is promoted, but not the free flow of people.<sup>28</sup> Based on this introduction into the context of irregular migration in Europe, the following discusses the challenges that migrants residing irregularly in Switzerland face in case they are affected by domestic violence.

## Domestic Violence Among (Irregular) Migrants in Switzerland

Generally, domestic violence<sup>29</sup> is an underestimated problem area. If one looks at recent numbers, however, the scope and saliency of the issue become alarmingly evident. According to police criminal statistics, 40 percent of all violent crimes registered in Switzerland occur in domestic

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22 Bloch and Chimienti, "Irregular migration in a globalizing world," 1277.

23 Düvell, *Irreguläre Migrant/innen in den Städten Europas*, 15.

24 Lebuhn, "Exploring urban Borderlands," 42, 43.

25 Sarah Schilliger, "Urban Citizenship," in *Stadt Für Alle!: Analysen Und Aneignungen*, ed. Heidrun Aigner and Sarah Kuning (Vienna: 2018), 14.

26 Düvell, *Irreguläre Migrant/innen in den Städten Europas*, 4.

27 Gonzales et al., *Undocumented Migration*, 27.

28 Düvell, *Irreguläre Migrant/innen in den Städten Europas*, 10.

29 According to the definition used by the police criminal statistic, domestic violence describes situations where persons within an existing or dissolved family, marriage or marriage-like relationship commit or threaten to commit physical, psychological or sexual violence – with several of these forms often occurring at the same time. Cf. Claudia Dubacher and Lena Reusser, *Häusliche Gewalt und Migrantinnen* (Schweizerische Beobachtungsstelle für Asyl- und Ausländerrecht, 2011), 7.

relationships.<sup>30</sup> Thereby, one can observe a clear gender bias: Around 75 percent of the victims are female, and 80 percent of the perpetrators are male.<sup>31</sup> Against this background, the thesis focused on women affected by domestic violence.

While situations of domestic violence generally show complex motive layers and structures of dependencies, this is often intensified when the factor of migration is involved.<sup>32</sup> Migrant women are exposed to violence in their own homes comparatively more frequently and often more seriously than Swiss women.<sup>33</sup> In 2013, 63 percent of all women seeking support in women's shelters were not Swiss citizens.<sup>34</sup> Experts explain this disparity towards migrant women with an accumulation of so-called risk factors, as for example precarious work and housing conditions, higher financial dependencies,<sup>35</sup> or a less established social network.<sup>36</sup> These risk factors are all the more pressing for irregular migrants, who are particularly at risk of domestic violence and who face additional challenges in seeking support and redress.<sup>37</sup>

## The Legal Framework Regarding Domestic Violence in Switzerland

There are various legal sources addressing domestic violence in Switzerland. The Victim Support Act,<sup>38</sup> for example, states that any person whose physical, psychological or sexual integrity has been directly affected by a crime is entitled to assistance within the framework of victim support,<sup>39</sup> which usually applies to victims of domestic violence.<sup>40</sup> Cantons are obliged to set up

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30 Christian Schwarzenegger and Rahel Ott, "Polizeiliche und strafrechtliche Massnahmen gegen häusliche Gewalt – Wirkung und Praxis," in *Zugang zum Recht: Vom Grundrecht auf einen wirksamen Rechtsschutz*, ed. by Claudia Kaufmann and Christina Hausammann (Helbing Lichtenhahn Verlag, 2017), 79.

31 *Ibid.*, 80.

32 Interview 2, representative of the Women's Shelter in Bern.

33 Dubacher and Reusser, *Häusliche Gewalt und Migrantinnen*, 1.

34 Susanne Stern, Judith Trageser, Bettina Rüege, and Rolf Iten, *Ist- und Bedarfsanalyse Frauenhäuser Schweiz – Grundlagenbericht* (Zurich: INFRAS, 2015), 29.

35 Dubacher and Reusser, *Häusliche Gewalt und Migrantinnen*, 8.

36 Stern, Trageser, Rüege and Iten, *Frauenhäuser Schweiz*, 29.

37 Delvino and Spencer, *Migrants with Irregular Status in Europe*, 43, 47.

38 OHG (Bundesgesetz über die Hilfe an Opfer von Straftaten, Opferhilfegesetz, SR 312.5). For many Swiss laws referred to in this article, there are no official English abbreviations. Therefore, this article uniformly indicates the German abbreviations for Swiss laws.

39 Art. 1 para. 1 OHG.

40 Lucy Keller Läubli, *Zum Einfluss der Opferhilfe-Beratungsstellen auf das Anzeigeverhalten der Opfer von Straftaten* (Bern: 2012), 12.

support centers that provide the respective victims with assistance.<sup>41</sup> Furthermore, domestic violence constitutes an offense requiring ex officio prosecution. This means that acts in the domestic sphere such as repeated assaults, single bodily harm, threats, as well as sexual assault and rape<sup>42</sup> must be prosecuted if the law enforcement agencies become aware of their occurrence.<sup>43</sup> In addition, the Swiss Civil Code holds protective measures for victims of domestic violence,<sup>44</sup> and Switzerland recently ratified the Istanbul Convention<sup>45</sup> and introduced a new law on the Protection of Persons Affected by Violence.<sup>46</sup>

## Support Options for Victims of Domestic Violence in Bern

Based on these legal grounds, there are different options for victims of domestic violence to seek redress and support. These options are taken into closer consideration, while focusing on the specific context of the city of Bern. First, there are protective measures that provide certain short-term remedies, such as expelling a person from the shared home,<sup>47</sup> which is often a crucial first step in situations of domestic violence.<sup>48</sup> Next, victims of domestic violence have the option to file criminal charges. As already mentioned, crimes falling under domestic violence are prosecuted ex officio, which is why a mere information of the police about the occurrence of such crimes is sufficient to start criminal proceedings.<sup>49</sup> Although the option to file criminal charges constitutes a fundamental aspect of redress, it will not be examined in this article as it has already been discussed in a separate publication.<sup>50</sup> Here, further support options provided by local institutions in the city of Bern will stand in the foreground. The cantonal Victim Assistance Organization, for example, provides support services for people affected by domestic violence.<sup>51</sup> Additionally,

41 Theres Egger and Marianne Schär Moser, *Gewalt in Paarbeziehungen: Ursachen und in der Schweiz getroffene Massnahmen* (Bern: 2008), 50.

42 Art. 126 para. 2 StGB (Schweizerisches Strafgesetzbuch, SR 311.0), art. 123 para. 2 StGB, art. 180 para. 2 StGB, art. 189 StGB and art. 190 StGB.

43 Egger and Schär Moser, *Gewalt in Paarbeziehungen*; Dubacher and Reusser, *Häusliche Gewalt und Migrantinnen*.

44 Art. 28b ZGB (Schweizerisches Zivilgesetzbuch, SR 210); Egger and Schär Moser, *Gewalt in Paarbeziehungen*, 50.

45 The Istanbul Convention (SR 0.311.35) is an international treaty that is directed towards preventing and combating domestic violence and violence against women in particular; cf. Stern, Tragser, Rüeegg and Iten, *Frauenhäuser Schweiz*.

46 Dispatch on the Federal Act on the Improvement of the Protection of Persons Affected by Violence, 7340.

47 Based on art. 83 para. 1 lit. f PolG Bern (Polizeigesetz Kanton Bern, BSG 551.1).

48 Interview 4, representative of the municipal Expert Agency against Domestic Violence.

49 According to art. 301 StGB.

50 See Fehr, “Enforcing the rights of migrants with irregular status”.

51 Victim Assistance Organization Bern, “Home,” accessed August 13, 2021, <https://www.opferhilfe-bern.ch/de>.

the women's shelter represents a core facility,<sup>52</sup> providing a stationary home where women can escape to and plan their next steps while receiving professional advice.<sup>53</sup> Furthermore, there is a support organization specialized in assisting victims of sexual violence called Lantana,<sup>54</sup> the local expert Agency against Domestic Violence,<sup>55</sup> and the Intervention Agency against Domestic Violence established by the cantonal Department of Security.<sup>56</sup>

## Challenges Regarding Victim Support for Irregular Migrants

There are thus various institutions providing assistance to people affected by domestic violence in the city of Bern. The question that arises, however, is whether irregular migrants are entitled to these services and whether they receive effective access to them.

In general, support is granted to all people who have been victims of a crime that occurred in Switzerland,<sup>57</sup> irrespective of their place of residence, status or nationality. If a crime took place abroad, however, victims are only able to obtain assistance from the victim support centers if they were a regular resident in Switzerland at the time of the crime and the application for victim support.<sup>58</sup> This may pose a severe problem for irregular migrants, for example, if someone's partner who exerts psychological violence from abroad has not yet arrived in Switzerland,<sup>59</sup> or if violence occurred during the journey to Switzerland. This is repeatedly the case during the flights of asylum seekers,<sup>60</sup> in which event the victims are excluded from basic support services. Overall, irregular migrants affected by domestic violence are thus covered by victim support, but they do not enjoy the same protection rights as persons with a regular residence status.

52 Foundation against violence against women and children, "Women's shelter Bern," accessed August 13, 2021, <https://stiftung-gegen-gewalt.ch/wsp/de/fachstellen/frauenhaus-bern/>.

53 Stern, Tragser, Rügge and Iten, *Frauenhäuser Schweiz*, 12.

54 Foundation against violence against women and children, "Lantana," accessed August 13, 2021, <http://stiftung-gegen-gewalt.ch/wsp/de/fachstellen/lantanabern/>.

55 City of Bern, "Domestic violence," accessed August 13, 2021, <https://www.bern.ch/themen/sicherheit/schutz-vor-gewalt/hausliche-gewalt>.

56 Canton of Bern, "Intervention Agency against Domestic Violence Bern," accessed August 13, 2021, <https://www.pom.be.ch/pom/de/index/direktion/organisation/generalsekretariat/interventionsstellehaeuslichegewalt.html>.

57 Art. 3 para 1. OHG.

58 Art. 17 OHG; Revital Ludewig, "Praxis der Opferhilfe-Beratungsstellen in der Schweiz," *Praxis der Rechtspsychologie* 20, no. 2 (2010): 330.

59 Interview 2, representative of the Women's Shelter in Bern.

60 Interview 3, representative of the Support Organization for Victims of Sexualized Violence.



Furthermore, victims of domestic violence with irregular status face considerable hurdles in accessing support benefits in practice. The interviews clearly evinced that irregular migrants only rarely contact victim support organizations to seek support. Consequently, irregular migrants often do not receive the assistance they are technically entitled to.<sup>61</sup> But even if they do seek assistance, the support organizations are limited in the services they can provide to victims in an irregular residence situation, as they are restricted in their access to health insurance, social aid or official housing.<sup>62</sup> In addition, there are further challenges regarding accessing victim support that apply to migrants in general. These include lacking awareness of the available support services or language barriers.<sup>63</sup> Furthermore, there are specific challenges for so-called ‘secondary irregular migrants’<sup>64</sup> when accessing the services of the women’s shelter, in that they cannot benefit from the services for the same period of time and they only receive half of what other victims receive to cover their daily costs.<sup>65</sup> While this does not hold for ‘primary irregular migrants’,<sup>66</sup> the interviews have shown that the latter seek assistance even in fewer cases, as they are more afraid of stepping out of their anonymity.<sup>67</sup> What is more, it is very difficult for irregular migrants to find independent housing away from the perpetrator,<sup>68</sup> as tenancies must be reported to the residents’ registration office and landlords can make themselves liable to prosecution if they rent to irregular migrants.<sup>69</sup> Also, the interviews evinced that residing irregularly in Switzerland creates so many uncertainties in daily life that the rehabilitation process in general is far more challenging for victims with an irregular residence situation.<sup>70</sup> Finally, the interviewees mentioned that irregular migrants often do not make use of the above-mentioned protective measures<sup>71</sup> or file criminal charges,<sup>72</sup> as that would require them to contact the police and thus poses too great a risk.<sup>73</sup>

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61 Ibid.

62 Interview 4, representative of the municipal Expert Agency against Domestic Violence.

63 Interview 3, representative of the Support Organization for Victims of Sexualized Violence; Interview 4, representative of the municipal Expert Agency against Domestic Violence.

64 Meaning people whose identities are known to the authorities, such as asylum seekers with a negative or non-admission decision.

65 This stems from the fact that if secondary migrants seek assistance from the shelter, a different cantonal institution (namely the cantonal migration services instead of the cantonal Directorate of Health, Social Affairs and Integration) is responsible for covering the resulting costs; Interview 2, representative of the Women’s Shelter in Bern.

66 Referring to migrants whose identity is not known to the authorities.

67 Interview 2, representative of the Women’s Shelter in Bern.

68 Ibid., see also Stern, Tragser, Rügge and Iten, *Frauenhäuser Schweiz*, 61.

69 Eflonayi-Mäder, Schönenberger and Steiner, *Leben als Sans-Papiers in der Schweiz*, 68.

70 Interview 2, representative of the Women’s Shelter in Bern.

71 Interview 4, representative of the municipal Expert Agency against Domestic Violence.

72 Interview 2, representative of the Women’s Shelter in Bern; Interview 3, representative of the Support Organization for Victims of Sexualized Violence.

73 For further information on irregular migrants’ access to the police see Fehr, “Enforcing the rights of migrants with irregular status”.

## Urban Citizenship and Local ID Cards

As this analysis demonstrated, there are manifold challenges for irregular migrants when accessing support in case of domestic violence. Therefore, the next section examines whether city ID cards could serve as a remedy in this regard. For context, the concept of urban citizenship is briefly introduced, which provides the theoretical foundation for the development of such cards.

Generally, cities represent an attractive place to live for migrants, due to wide-ranging labor opportunities or emerging diaspora communities.<sup>74</sup> However, in the European migration framework, cities play an ambiguous role: On the one hand, city authorities undertake local bordering practices and substantially participate in the monitoring and enforcement of immigration policies. On the other hand, they may create a field of action, where national immigration policies are called into question and community participation of (irregular) migrants is fostered.<sup>75</sup>

It was in this context that in the 1990s, the urban citizenship discourse developed a critical understanding of citizenship anchored at the local level.<sup>76</sup> In this novel approach, citizenship is no longer viewed as a purely formal legal status defining who does or does not belong to a national community,<sup>77</sup> but rather as a political practice in flux. This means that according to the approach of urban citizenship, belonging to a society and having access to rights is no longer based on legal criteria such as nationality or residence status, but rather on factual aspects such as place of residence and participation in public life.<sup>78</sup>

Based on this theoretical foundation, several urban citizenship policies and practices have recently evolved in various cities around the world.<sup>79</sup> These include regularization programs, the building of sanctuary and solidarity cities, or municipal ID cards. Here, the focus lies on the latter, which are locally issued identification cards that are available to all residents of a city, regardless of their residence status. They are only valid in the city in which they are issued and can be used for identification with local actors and service providers, but they do not confer regular residence status on the holder.<sup>80</sup> They aim to “advance the civic integration of city residents who have difficulty obtaining government-issued identification documents”,<sup>81</sup> but they do not

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74 International Organization for Migration, *World Migration Report* (Geneva: 2010).

75 Kaufmann, “Comparing Urban Citizenship”; Schilliger, “Urban Citizenship”; Lebuhn, “Exploring urban Borderlands”.

76 Sabine Hess and Henrik Lebuhn, “Politiken der Bürgerschaft. Zur Forschungsdebatte um Migration, Stadt und citizenship,” *Sub|Urban. Zeitschrift für kritische Stadtforschung* 2, no. 3 (2014): 11-13.

77 Schilliger, “Urban Citizenship,” 17.

78 Schilliger, “Urban Citizenship,” 17.

79 See e.g. Wenke Christoph and Stefanie Kron, “Solidarische Städte in Europa. Urbane Politik zwischen Charity und Citizenship,” *Solidarische Städte in Europa*, ed. Wenke Christoph and Stefanie Kron (Berlin: 2019).

80 Kaufmann, “Comparing Urban Citizenship,” 444.

81 De Graauw, “Municipal ID cards,” 313.

regularize the status of irregular migrants or expand their political or social rights. Rather, they facilitate irregular migrants' access to basic city services and encourage them to make use of the benefits to which they are already entitled.<sup>82</sup>

Several cities such as New York, San Francisco, Madrid, and Barcelona have already introduced such local ID cards.<sup>83</sup> Further cities including Berlin and Hamburg are evaluating the implications and potential of introducing a city ID card.<sup>84</sup> So far, no Swiss city offers a local ID card, but efforts to do so can be observed in Bern, Zurich, or St. Gallen.<sup>85</sup> In Bern, the municipal competence center for integration is currently developing a strategy for the introduction of the city ID card and on their behalf, a study was conducted analyzing the functionality and feasibility of a local ID card in Bern. Based on this study, the Gemeinderat, the local executive, will decide on the realization of the city ID card.<sup>86</sup>

## City ID Cards as a Remedy for Irregular Migrants Affected by Domestic Violence?

During the interviews, the representatives of local support organizations in Bern were asked about the potential a city ID card might bring to irregular migrants affected by domestic violence. It was found that the respective support organizations do not require a residence permit in order to render their services, so that irregular migrants are not structurally excluded from assistance.<sup>87</sup> Nevertheless, a city ID card was considered to bring several advantages. Two interviewees argued that a city ID card could potentially increase the use of the offered support services by victims in an irregular situation, as it reduces their inhibitions to contact support organizations.<sup>88</sup> One interviewee further elaborated that irregular migrants might not be aware

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82 De Graauw, "Municipal ID cards," 314.

83 Schilliger, "Urban Citizenship," 25; Delvino and Spencer, *Migrants with Irregular Status in Europe*, 67 et seq.; Kaufmann, "Comparing Urban Citizenship," 445.

84 Helene Heuser, Nele Austermann and Julia Gelhaar, *Rechtsgutachten zur Einführung einer City-ID in Hamburg und Berlin* (HAMBURG: 2020).

85 See e.g. Züri City Card, "Stadtrat," accessed August 13, 2021, <https://www.zuericitycard.ch/stadtrat>; Tagblatt, "City Card auch für St. Gallen: Zwei Parlamentarier fordern eine städtische Identitätskarte," May 24, 2020, <https://www.tagblatt.ch/ostschweiz/stgallen/zwei-parlamentarier-fordern-eine-staetische-identitaetskarte-ld.1222998>.

86 Cf. internal documents of the study that was carried out on behalf of the local competence center for integration.

87 Interview 2, representative of the Women's Shelter in Bern; Interview 3, representative of the Support Organization for Victims of Sexualized Violence; Interview 4, representative of the municipal Expert Agency against Domestic Violence.

88 Interview 3, representative of the Support Organization for Victims of Sexualized Violence; Interview 4, representative of the municipal Expert Agency against Domestic Violence.

of the fact that they are not required to provide an official identity document in order to receive assistance, which is why the card might remedy the fear of having to identify oneself.<sup>89</sup> The card could thus strengthen the confidence of irregular migrants in coming into contact with local actors, which could then lead to an increased use of the victim support services.

What is more, the interviews evinced that the city ID card's potential for irregular migrants substantially depends on whether the card improves access to other actors apart from the support organizations. These include the police, housing administrations, as well as health care or social assistance providers. Access to these actors determines the possible scope for action of irregular migrants,<sup>90</sup> as well as the possibilities in which victim support organizations can help the concerned persons.<sup>91</sup> The city ID card's potential thus fundamentally depends on whether third parties respect the card as a sufficient means of identification.<sup>92</sup> But as there are still various uncertainties at this stage regarding the usability of the card, further research first needs to examine which institutions and actors – such as landlords, health insurance companies, social service providers, and the police – could be obliged to accept the ID card as a valid means of identification. However, the discussion of these aspects requires extensive additional analyses into the feasibility and compliance of a city ID card in the context of Bern, which is why answering this question goes beyond the scope of this article.

Finally, it must be mentioned that certain disadvantages for irregular migrants in terms of victim support could not be remedied with the city ID card, such as language barriers or lacking awareness about the offered support services.<sup>93</sup> Also, the inequalities for 'secondary irregular migrants' in receiving financial assistance regarding women's shelters could not be remedied with the introduction of such a card.<sup>94</sup> It can thus be concluded that – irrespective of the introduction of a city ID card – there is need for further and supplementary strategies to tackle the systematic challenges that irregular migrants face when claiming their victim support benefits in cases of domestic violence.

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89 Interview 4, representative of the municipal Expert Agency against Domestic Violence.

90 Interview 2, representative of the Women's Shelter in Bern; Interview 4, representative of the municipal Expert Agency against Domestic Violence.

91 Interview 4, representative of the municipal Expert Agency against Domestic Violence.

92 Cf. Heuser, Austermann and Gelhaar, *Rechtsgutachten*, 45.

93 Interview 3, representative of the Support Organization for Victims of Sexualized Violence

94 Interview 2, representative of the Women's Shelter in Bern.

## Discussion

In essence, the conflict between the implementation of restrictive migration policies on the one hand, and the state's responsibility to respect and guarantee basic human rights of irregular migrants on the other hand, lie at the very heart of this master's thesis. In this conflict of (legal) interests, the fundamental question arises as to which rights are given priority and whether irregular migrants are recognized as full rights holders who also receive the opportunity to enforce their rights in practice.

Insight into the practice in Switzerland – by way of the example of its capital city – has shown that irregular migrants face systematic challenges when seeking to enforce their rights, while focusing on their right of access to justice and the right to victim support in case of domestic violence. The analysis thus revealed a severe discrepancy between their legal position in theory and the actual situation they face in everyday life: Although they are legally entitled to various rights and benefits, they are rarely able to claim them in practice.

In the context of domestic violence, this means that many irregular migrants refrain from claiming the victim assistance services they are legally entitled to, which makes existing and already precarious situations of domestic violence even more pressing.

While the current state regarding access to victim support thus shows fundamental challenges for irregular migrants, the analysis also demonstrated that there is room for maneuver. Introducing a local ID card represents one option of how this could be made use of. However, it is a complex undertaking to determine the potential of the card, as much of it depends on which third parties would recognize the card as a means of identification. As such, the interplay between local, cantonal, and national actors, that very much characterizes the Swiss political system, brings certain challenges to the usability of the card.

Although the potential of a city ID card thus cannot yet be conclusively evaluated, this thesis identified structural obstacles of irregular migrants' access to the police and victim support services in the city of Bern. Even if the provisioned card cannot serve as a universal remedy, need for action has been demonstrated; namely that irregular migrants are restricted in their rights and that responsibility must be assumed – regardless of whether it is at the local, cantonal, or federal level.

Finally, this thesis demonstrated that irregular migration and urban citizenship should not be viewed as isolated phenomena, but rather as global issues, occurring all over the world and

displaying cross-border interconnections. Cities can therefore benefit from looking at other urban citizenship practices, and accordingly, the results discussed in this analysis are not only pertinent in the Swiss context, but beyond that show considerable relevance on a European and global scale.

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### **Interviews**

Interview no. 1, by Sarah Schilliger with two representatives of the Support Organization for Irregular Migrants in the city of Bern, March 10, 2020, in the city of Bern.

Interview no. 2, by Sarah Schilliger and Irina Fehr with a representative of the Women’s Shelter in the city of Bern, May 8, 2020, via Zoom.

Interview no. 3, by Irina Fehr with a representative of Lantana, the Support Organization for Victims of Sexualized Violence in Bern, May 28, 2020, by telephone.

Interview no. 4, by Irina Fehr with a representative of the municipal Expert Agency against Domestic Violence in the city of Bern, June 4, 2020, via Zoom.