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## Submission to the CEDAW Committee prior to the General Discussion on "Access to Justice"

Ban Ying is a NGO in Berlin, Germany assisting migrant women, who experienced various forms of violence. We would like to draw the attention of the CEDAW committee to two extremely vulnerable groups of migrant women, who either per law or de-facto have no access or very limited access to justice. These are:

1. Undocumented Women
2. Migrant women, who are not married for than three years

### 1. Undocumented women

Undocumented Migrants in Germany in theory have access to justice, but in practice they cannot access any court or even police station, as the German law foresees that "any public institution immediately has to inform the Foreigners Office if it gains knowledge of the stay of a foreigner who does not possess the necessary residence permit and whose deportation has not been suspended" (§87 AufenthG. the Residence Act, 30 July 2004). In the past years, we have assisted various undocumented women, who were raped or exploited in various other situations, but decided not even try to go to the police/court as there's a risk of deportation afterwards. If they are presumably a victim of a serious crime, they might be granted a temporary visa in order to go through the criminal proceedings, but after the criminal proceedings the authorities will have them expelled from the country, as their whereabouts are now known.

Even if the state authority does not denounce the undocumented person, there is always the risk that the accused will denounce her and that the

authorities will use this information in order to expel the victim of the crime – at latest after the criminal proceedings.

In order to insure undocumented women an effective right to access to justice, we would be very grateful if the CEDAW committee could encourage states to find regulations, that ensure, that state authorities do not have the obligation to denounce undocumented people AND ensure that denouncements of accused can per law not be used in order to expel a victim of a crime, committed by the denouncing person.

## 1. Migrant women, who are not married for than three years

Migrants who enter Germany in order to marry a German spouse or a permanent resident of Germany are issued a visa for three years. After this period of time, they have to prove, that the marriage existed for at least three years, plus that the couple had lived together in the past – only then they can obtain an independent visa. In theory this regulation seems to be gender-neutral; in practice women who marry in Germany are very badly affected – if they experience domestic violence. In theory if they can prove, that the continuation of their marriage would be a hardship, they can be given a visa prior to this three years' time limit. In practice many forms of domestic violence cannot be proved, as there is no witness and/or proof (such as marital rape, psychological abuse, deprivation of food, etc.). In the past years, we have assisted many migrant women, who have experienced various forms of severe domestic violence, but did not have the courage to approach police/courts as they were scared that authorities would gain knowledge, about their separation form their husbands and then be expelled.