

International Conference

On women's rights: between violenceand exploitation

11th - 12th November 2019

The International Conference is organized by the **Department of Political Science, Law and International Studies** and the **Human Rights Centre "Antonio Papisca" of the University of Padova**, in the framework of the project "Migrant Women at the Margin: Addressing Vulnerabilities in Intersectionality between Violence and Exploitation/Mwm", funded by the **Cariparo Foundation, Padova/Visiting Programme 2018**.

The MwM Project is realized with the University of Wrocław, Faculty of Social Sciences, Institute of International Studies as leading foreign partner. The Conference is organised in cooperation with the Bachelor Degree Programme in "Political Science, International Relations, Human Rights" and the Master's Degree Programme in "Human Rights and Multi-level Governance"







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HUMAN RIGHTS CENTRE "ANTONIO PAPISCA"

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Progetto sostenuto dalla



Nell'ambito del Bando



Background

The assumption of this **International Conference** is that **gender-based violence** (GBV) perpetrated by males against women, women's vulnerability, and women's exploitation are inextricably linked phenomena.

To deal with worldwide violence and exploitation, largely means to tackle occurrences of violence and exploitation that affect women. Against this background some target of migrant women may be a special case.

On the one hand, **GBV** is one of the root causes of women's vulnerability in that it directly contributes to it and explains some of its specific features; on the other hand, male violence is a crucial mechanism through which women's vulnerability and subjugation are maintained, reproduced and reinforced. Both male perpetrators of violence against women and exploiters use similar power control tactics to dominate their victims.

As fully recognized today, violence is related to the structural differences in terms of power between women and men, reproduced through a gender-based division of roles and reinforced by the persistence of stereotypes rooted in many social norms. For migrant women, in particular, involved in such dynamics, the outcome can be prostitution (irrespective of the policies of toleration or repression adopted at the national levels) or severe forms of exploitation in labour, or a variety of different forms of severe abuse, where gender plays a prominent role.

A **correlation between GBV, migration and women's severe exploitation** is nowadays largely reported by any agencies dealing with victims of trafficking in human beings and more in general with the intersectional dimension of discriminations. Intersectorial analysis of violence and exploitation may indeed shed light on a variety of situations, only partially the object of public awareness and ad hoc policies. Violence erupts "unexpectedly" in the grey zones where public/private, identity/difference, material/cultural layers overlap and slip almost irretrievably.

In the 40th anniversary of the CEDAW, and the 30th of the CRC, the Conference holds to a **human rights based** approach to the issue of violence and exploitation, also in the light of the CEDAW General Recommendation n. 35 (2017), that sets new standards in combating male violence against women and in protecting the dignity and human rights of women and their children.

Programme

Monday, 11th November 2019

Venue: <u>Sala delle Edicole</u>, Palazzo del Capitanio Piazza Capitaniato 3, Padova

8.45

Registration of participants

9.00

Welcome Addresses

Annalisa Oboe

Vice Rector for Cultural, Social and Gender Relations, University of Padova, Italy

Gabriella Salviulo

Director, Human Rights Centre "Antonio Papisca", University of Padova, Italy

Magdalena Ratajczak

Deputy Director, Institute of International Studies, University of Wrocław, Poland

9.30 - 11.30

Session — Addressing violence and exploitation: due diligence and intesersectorial analysis

Chair: Elena Pariotti

Director, Department of Political Science, Law, and International Studies, University of Padova, Italy

9.30 - 9.40

Introduction

Paola Degani

Department of Political Science, Law and International Studies and Human Rights Centre, University of Padova, Italy

9.40 - 10.20

Gender violence and exploitation: state accountability and the due diligence standard

Maria Grazia Giammarinaro

UN Special Rapporteur on Trafficking in Persons Especially Women and Children

10.20 - 11.00

Male violence against women: the challenge of intersectionality

Rosa Logar

Co-Founder of WAVE, Former Member of GREVIO and Director of the Domestic Violence Intervention Center Vienna, Austria

11.00 - 11.30 Break

11.30 - 13.00

Panel 1 — Migrant women at the margin

Chairs: Magdalena Ratajczak and Katarzyna Jedrzejczyk-Kuliniak Institute of International Studies, University of Wrocław, Poland

Between vulnerability and agency. Motherhood of Nigerian and Romanian women in sexual exploitation

Rafaela Pascoal

University of Palermo, Italy

Syrian and Syrian Palestinian women refugee in Lebanon: vulnerabilities, coping mechanisms and challenges

Lorenza Perini and Claudia do Campos

University of Padova, Italy

Gender based violence and vulnerability of stateless identity

Nicoletta Policek

University of Cumbria, United Kingdom

Inter-normative approaches to intersectional violence. The case of honor-based violence and forced marriages

Clara Rigoni

Max Planck Institute, Halle and Freiburg, Germany

13.00 - 14.30 Lunch

14.30 - 16.00

Panel 2 — Concepts and practices in intersectionality: human rights protection vs violence and exploitation

Chairs: Paola Degani and Pietro de Perini

Department of Political Science, Law, and International Studies and Human Rights Centre, University of Padova, Italy

I don't have a choice and I know: the intersectional dimension of women trafficking and the failure of HR protection

Francesca Cimino

University of Padova, Italy

Homicide of female prostitutes in Italy (1988-2018) between vulnerability, violence and exploitation

Gianfranco Della Valle

Municipality of Venice, Social Protection and Anti-Violence Service, Italy

Human trafficking and vulnerability at the crossroads of human rights protection and criminal law

Kerttuli Lingenfelter

European University Institute, Firenze, Italy

Dignity and liberty: a complementary couple in the definition of "vulnerability" offered by trafficking in human beings documents

Stoppioni Chiara

University of Firenze, Italy

16.30 - 18.00

Panel 3 — Justiciability of violence and exploiation

Chair: Claudia Pividori

Anti-Violence Centre Padova, and Human Rights Centre, University of Padova, Italy

Tackling gender based violence and exploitation. A comparative overview among UNECE states after 25 years from the Beijing Declaration and Program for action

Carletti Cristiana

University of Roma Tre, Italy

Universality for whom? A comparison of the global responses to non-necessary genital modifications on female and intersex children

Ino Kehrer

University of Padova, Italy

Developments regarding domestic violence in the case-law of the European Court of Human Rights: Kurt v. Austria

Jelena Ristik

University American College, Skopje, Republic of North Macedonia

Sexual exploitation and abuse in peacekeeping: making human rights obligations universal

Sofia Sutera

University of Padova, Italy

Tuesday, 12th November 2019

Venue: Aula Ippolito Nievo, Cortile Antico, Palazzo Bo

Via VIII Febbraio 2, Padova

9.00 - 11.00

Session — Operationalising the fight against violence and exploitation

Chair: Paolo De Stefani

Department of Political Science, Law, and International Studies and Human Rights Centre, University of Padova, Italy

9.00 - 9.30

Migrant women at the margin: addressing vulnerabilities in intersectionality between violence and exploitation / Mwm: the Cariparo Project

Paola Degani

Department of Political Science, Law and International Studies and Human Rights Centre, University of Padova, Italy

9.30 - 10.00

The Istanbul Convention and beyond

Christina Olsen

Council of Europe, Member of GREVIO's Secretariat

10.00 - 10.30

A rights based approach to addressing and avoiding the creation of vulnerabilities

Kristina Touzenis

Head of International Migration Law Unit at IOM, Geneva, Switzerland

10.30 - 11.00

The multi-agency approach to tackle violence against women: the Anti-Violence Italian Plan 2017-2020

Maura Misiti

Institute for Research on Population and Social Policies, National Research Council IRPPS-CNR

11.00 - 11.30 Break

11.30 - 12.30

Discussion and conclusion

Abstracts

Between vulnerability and agency. Motherhood of Nigerian and Romanian women in sexual exploitation

Rafaela Hilário Pascoal

University of Palermo, Italy

The international legal framework on Human Trafficking has always urged the States to adopt a gender mainstream approach at a national level. In fact, gender seems to be highly relevant regarding the victims profile according to International reports (EUROSTAT 2015; UNODC 2016). However, despite the blatant correlation between Human Trafficking, especially for sexual purposes and gender, the issue of Motherhood seems to be highly overlooked by the Academic Literature (Brotherton 2016), being only recently considered regarding to new exploitative typologies such as sham marriages, illegal adoptions and surrogacy. Sexual exploitation is also extremely related to the issue of Motherhood as well as reproductive rights, since the victims are normally women in a fertile age. However, being in a situation of trafficking, the role of motherhood seems is highly controlled by the traffickers (Worldwide 2014). Furthermore, Human Trafficking is often connected to kinship (Europol 2016), where the traffickers share and abuse the emotional or family ties with the victims (Pascoal & Schwartz 2017).

The present research intends to fulfil the literature gap on such topic by correlating the two nationalities with a higher number of victims of sexual exploitation in Europe, Romanian and Nigerian (EUROSTAT 2015). Therefore, the present research aims at 1) understanding if Nigerian women more vulnerable to human trafficking than Romanian women due to their lack of European citizenship; 2) analyse the influence of Motherhood as a factor of vulnerability in human trafficking for sexual exploitation. Key words: motherhood; human trafficking; sexual exploitation; Nigerian; Romanian women.

Keywords: motherhood; human trafficking; sexual exploitation; Nigerian; Romanian women.

Syrian and Syrian Palestinian women refugee in Lebanon: vulnerabilities, coping mechanisms and challenges

Lorenza Perini and Claudia do Campos

University of Padova, Italy

The focus of the present research is on the highly stressful condition that the Syrians and the Syrian Palestinians refugee are experiencing in refugee camps and on how this situation is affecting women, traumatizing them, increasing their vulnerabilities, reinforcing and strengthen all the patriarchal tendencies of the displaced community¹.

Through some specific case studies and field work in Lebanon, the research wants to highlight the importance of the refugee women's narratives, showing how different forms of violence overlap and impact their everyday life conditions and empowerment. In addition to economic exploitation, refugee women also often referred about sexual harassment and the fear of harassment in the context of employment as well as the fear reporting violence as a result of factors that are embedded into formal and informal laws ruling the camps and creating the intersectionality of violence. In this complex scenario, what kind of empowerment do Syrian and Syrian-Palestinian refugee women really need today? Their displacement condition is always detrimental and risky for their life and safety or are there some other aspects that can be drawn from the new and unexpected situation? Through some specific study cases, the research aims at reconstructing some response scenarios, bringing into play -and in some way challenging- some of the settings of the Western NGOs that manage the camps.

Keywords: displacement, war, violence, empowerment.

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¹ Fiddian-Qasmiyeh,E.,The Ideal refugees: Gender, Islam and the Sahrawi Politics of Survival. NY: Syracuse University Press, 2014.

Gender based violence and vulnerability of stateless identity

Nicoletta Policek

University of Cumbria, United Kingdom

Statelessness, in a strictly legal sense, describes people who are not considered nationals and are unrecognized by any state: they are either migrants, refugees or individuals who have never left the country where they were born. Although stateless women are subject to the same types of violence as non-stateless women, the specificity of their positions may in some cases increase their vulnerability to certain forms of violence and may limit the ability for seeking protection and redress.

Moreover, stateless women are more vulnerable than stateless men to violence because of gendered inequalities within the migratory process and in both their countries of origin and new host countries. Drawing on mini case studies, this contribution contends that stateless women experience a situation where they are "doubly" vulnerable to violence — as migrants/refugees and as women.

The "invisibilisation" of migrant/refugee women means that violence to which they are subject are under-reported, ignored, unseen or un-investigated. Subsequently, the assessment of vulnerability, and likely responses, all linked to power and social identity, at the aggregate, the local and the global levels, remain very challenging. Furthermore, the response to vulnerabilities (whether narrowly economic or linked to identity) is shaped by the structure of agency and associated power structures in society which in turn are likely to lead to unequal patterns of neglect, or perverse responses that protect entrenched interests aligned with existing structures which perpetuate the "vulnerability of stateless identity" for women.

Keywords: stateless women, migration, vulnerability, gender-based violence, state violence.

Inter-normative approaches to intersectional violence. The case of honor-based violence and forced marriages

Clara Rigoni

Max Planck Institute, Halle and Freiburg, Germany

In the last 20 years, the related phenomena of honor-based violence and forced marriages have received increasing attention at the International and European level. In Europe, strong responses towards this type of violence have been adopted also as a consequence of the Istanbul Convention. Despite this, however, data concerning reporting and prosecution rates for these crimes remain very low. This is due to several reasons. Some of these reasons are typical of any form of family and domestic violence, and have to deal with privacy concerns and close relationship with the offender. Some others are linked to intersectionality, as victims of honor-based violence and forced marriages in Europe are often women from ethnic and immigrant minorities. Finally, the characteristics of this type of violence and the strong levels of social control that it implies contribute to maintain reporting rates very low.

A possibility to improve women access to justice is represented by alternative dispute resolution mechanisms, particularly widespread within the communities in which honor-based violence mostly occurs. In Europe, however, the use of such mechanisms, including restorative justice, is highly discouraged for such cases, mainly for reasons of safety and power imbalance. Through the illustration of examples from the United Kingdom and Norway, the presentation will try to assess whether alternative solutions applied to cases of honor-based violence and forced marriages could be able to avoid, on the one hand, the shortcomings of criminal law-based responses and, on the other, the problems generally associated with alternative dispute resolution mechanisms.

Keywords: honor-based violence, forced marriages, alternative dispute resolution, restorative justice, access to justice.

I don't have a choice and I know: the intersectional dimension of women trafficking and the failure of HR protection

Francesca Cimino

University of Padova, Italy

Since the beginning of the recent migration flows to Europe, which started around 2014, trafficking in human beings has increased year after years (ICMPD, 2015). Specifically, women and girls remain the most targeted by traffickers, and they represent 94% of detected victims for sexual exploitation (UNODC, 2018). However, according to recent data the majority of the victims (or potential victims) are still not identified (Healy, 2019; United States Department of State, 2019) although important actions and improvements in the legal and policies framework were made, both at international and regional level (the EU), primarily related to the protection of the victim's human rights. The political and popular narrative, as well as some literature, usually addresses women trafficking as a very likely risk which can happen to women on the move, due to their increased vulnerability during the journey.

Left aside the discourse about the agency of the women which is often not considered in the protection systems of the receiving countries (Degani & Perini, 2019; Serughetti, 2018), and the fact that it is now known that many women are aware of the violence and the abuses they will suffer at the point that they take contraceptive measures before leaving, this contribution wants to challenge the assumption that trafficking and exploitation just "happen" to women on the move.

Through the analysis of relevant literature, laws and policies related to human trafficking, and the first data collected in the field in 2019, we maintain that the lack of regular migration channels not anymore causes women to use irregular migration routes and to fall in the exploitation of criminal networks: they made trafficking and exploitation means to migrate, preventing the protection of the victims and contributing to create what we call "survival trafficking".

To prove the intersectional dimension between male violence against women and exploitation, today there is a new draft of Cedaw Committee on this specific matter.

Keywords: women trafficking, mixed migration flows, intersectionality, survival trafficking, women's human rights.

Homicide of female prostitutes in Italy (1988-2018) between vulnerability, violence and exploitation

Gianfranco Della Valle

Municipality of Venice, Social Protection and Anti-Violence Service, Italy

The paper deals with the theme of voluntary homicide of female prostitutes in Italy (femicide of woman involved in prostitution – both sex workers and forced prostitutes), during the last three decades. In this period of time in Italy we have been witnessing the transformation of the phenomenon of outdoor prostituition from the autochthonous to the migrants one. Roughly speaking five hundreds woman prostitute have been killed during these 30 years.

Their murders – in terms of authors of crimes - can be approximately divided between "intimate or proximity" (partner or customer) and "crimimal offenders" (exploitation networks) ones. The discuss about data and the experiences of contact in Italy with street prostitutes allow us to affirm that thei murder represents a very serious epiphenomenon in the framework of various manifestations of gender based violence that affects woman daily.

Such violence is aggravated by pubblic policies which, in an attempt to tackle the phenomenon of "degradation" in the city and to get money, make woman, especially who are forced prostitutes, more vulnerable.

Keywords: homicide, prostitution, feminicide

Human trafficking and vulnerability at the crossroads of human rights protection and criminal law

Kerttuli Lingenfelter

European University Institute, Firenze, Italy

Human trafficking and vulnerability at the crossroads of human rights protection and criminal law Human trafficking has been framed most often, both domestically and internationally, as a crime. Whilst human rights courts have brought human trafficking into the scope of human rights law, they have unduly focused their attention on the obligations of states to criminalize human trafficking. The international definition of trafficking in persons recognizes that human trafficking can arise through both violent means, such as threat and force, as well as from an abuse of a position of vulnerability.1 This suggests at least two aspects about human trafficking that are under-researched, which this paper aims to address.

First, vulnerability is a component of human trafficking. Secondly, there are causes beyond the actions of a perpetrator (upon which criminal procedures focus) that can lead to human trafficking. It seems, then, that human rights law is positioned to respond to aspects of human trafficking outside the control of an individual perpetrator, i.e. the root causes of human trafficking, and the vulnerabilities which arise. My paper will delve into these questions to bring light upon the interaction of criminal law (violence at the hands of another person) and human rights law (the vulnerability and resilience of rights-holders at risk of being trafficked) as they relate to vulnerability in the context of human trafficking.

Keywords: human trafficking, crime, violence, vulnerability, human rights

Dignity and liberty: a complementary couple in the definition of "vulnerability" offered by trafficking in human beings documents

Stoppioni Chiara

University of Firenze, Italy

Dignity is a complex concept usually rebuilted in two opposite ways, which outline a completely different approach to the relationship between freedom and dignity.

The first approach is strictly objective: it moves from the Kantian idea which considers individuals as an end in themselves and, consequently, it squeezes everyone's freedom to choose within and ideological frame. From this perspective, all the activities which are broadly considered "inconsistent with dignity" are also perceived as never be chosen as options of life and, eventually, they become the emersion point of a condition of vulnerability.

The second approach, instead, is subjective: it conceives dignity as an essential condition which strengthens the effectiveness of human rights and which assumes everyone's freedom to choose in relation to each aspect of life. Therefore, there are not predefined "unworthy" activities, the "inconsistance with dignity" presupposes a sort of cohercion and, accordingly, vulnerability is a disavantaged condition which prevents free choices.

Starting from two decisions of the italian Constitutional Court, n. 141 and 144 of 2019, which seem to accede to opposite reenactments of the concept of dignity, the paper aims to reflect on the definition of "vulnerability" offered by supranational documents on THB, focusing on trafficking for the purpuse of sexual exploitation.

The definition of "vulnerability" as a situation in which individuals "has no real and acceptable choice but to submit to the abuse", in fact, makes the need to consider environmental conditionings as factors which can vitiate the consent and which can be used against victims of exploitation even if they are less evident than violence and cohercion.

Therefore, this approach emphatizes the importance of individual choice, bluring both the idea that prostitution should always be considered as "inconsistent to dignity" and the view of trafficking as a practice which necessarily presupposes a directly exercised coercion.

Keywords: dignity; freedom; vulnerability; trafficking; sexual exploitation.

Tackling gender based violence and exploitation. A comparative overview among UNECE states after 25 years from the Beijing Declaration and Program for action

Carletti Cristiana

University of Roma Tre, Italy

In 2019-2020 a twofold significant anniversary will be celebrated within the UN system: 40 years since the entry into force of the CEDAW Convention and 25 years from the adoption of the Declaration and Platform for Action after a long but intense political and technical negotiation process bringing to an end the 1995 Beijing Fourth World Conference on Women.

In 2019 the UN system as a whole started working for this celebration under the leadership and coordination role of the UN Commission on the Status of Women: this body has been charged with undertaking a review and appraisal of progress made in the implementation of the Beijing Declaration and Platform for Action in March 2020. Furthermore, in September 2020, the UN General Assembly is expected to convene a one-day high-level meeting to celebrate the 25 anniversary and accelerate the realization of gender equality and the empowerment of all women and girls.

All Governments, according to their membership to UN regional economic commissions, have been called upon to compile their national reviews to feed into the comprehensive CSW 2020 review.

The contribution proposal will be focused on a comparative analysis of the United Nations Economic Commission for Europe (UNECE) selected Member States national reviews in relation to some key-questions with a view to provide for updated and detailed information about the reinforcement of legislative and operational measures and tools for a stronger justiciability of women's rights and support to victims of violence and exploitation.

Keywords: GBV, justiciability, Beijing+25, UNECE, national review.

Universality for whom? A comparison of the global responses to nonnecessary genital modifications on female and intersex children

Ino Kehrer

University of Padova, Italy

Female genital mutilations/cutting have been acknowledged to be a widespread and urgent social problem in particular after the national women's conference in Copenhagen in 1980. Through the work of activists, researchers and mass media the public at a global level became aware of the need for change. This have led to the adoption in almost every European country of dispositions that prohibit mostly any form of female genital modification by providing specific sanctions. Furthermore, in line with an evolving jurisprudence, a girl or woman seeking asylum because she has been compelled to undergo, or is likely to be subjected to FGM, can qualify for refugee status under the 1951 Convention relating to the Status of Refugees.

Perhaps the situation is different where the genitalia that are cut/modified are not those of a female child but of an intersex child. Notwithstanding the claims of several advocacy groups and researchers since the '90th, that the genital surgeries carried out on intersex infants since the '50th , are almost not necessary or urgent, invasive, irreversible and have many harmful consequences, the public awareness is still limited and they are still not considered at a global level as a social problem in need for change. Only three countries worldwide have adopted specific dispositions and there is almost no jurisprudence concerning asylum claims done by intersex people.

By looking to the classic model on the emergence of global prohibition the developments in the field of female genital mutilations/cutting and non-necessary genital surgeries of intersex children will be examined by considering what are the possible future scenarios within a human rights framework. This intervention wants to contribute to the current debate concerning the sometimes-challenging balance between the best interest and the rights, in particular to bodily integrity and self-determination, of the child and the rights and religious freedoms of parents and families.

Keywords: genital modifications, children, rights.

Developments regarding domestic violence in the case-law of the European Court of Human Rights: Kurt v. Austria

Jelena Ristik

University American College, Skopje, Republic of North Macedonia

The focus of the paper is placed on the recent developments in the case-law of the European court of Human Rights regarding cases that involve domestic violence. The European Court of Human Rights has already delivered a number of important judgments in cases concerning domestic violence. One of the most recent judgments in this regard is delivered in the case Kurt v. Austria on 4 July 2019. No violation of the European Convention of Human Rights was found in Kurt. However, it seems that the reasoning of the European Court of Human Rights by which it reached its judgment in this case does not take into account certain standards regarding domestic violence cases, established in its previous case-law. In this sense, the paper analyses this case in terms of the previously established case-law as regards domestic violence.

Namely, as it seems that the case-law of the European Court of Human Rights on domestic violence is somewhat inconsistent, it is crucial for the European Court of Human Rights to fully clarify its approach on domestic violence, especially having in mind that its rulings are vital guidelines for the national authorities in fulfilling their obligations to secure to everyone the rights and freedoms guaranteed in the European Convention on Human Rights.

Keywords: domestic violence; European Court of Human Rights; European Convention on Human Rights; Kurt v. Austria.

Sexual exploitation and abuse in peacekeeping: making human rights obligations universal

Sofia Sutera

University of Padova, Italy

Violence and exploitation against women are usually characterized by intersectional dimensions of discrimination. Considering that 2019 marks the 40th anniversary of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979, the aim of this paper is to look at the grave emergence of acts of sexual exploitation and abuse (SEA) in the context of peacekeeping operations, affecting in particular women and girls, through a human rights based approach, which emphasizes the agency of individuals as rights holders. Moreover, CEDAW General Recommendation n. 35, adopted in 2017, updating General Recommendation No. 19 from 1992 (the first to finally bring violence against women outside of the private sphere into the field of human rights), while recognizing that the prohibition of gender-based violence has become a norm of international customary law, also determines different levels of State liability for acts and omissions committed by its agents or subjects under its authority, within and outside its territory, and for failing to exercise due diligence in preventing violence.

This research will therefore look at the justiciability of violence and exploitation against women and girls in the context of UN missions by examining the standards of conduct adopted by the UN and the legal frameworks for Troop and/or Police Contributing Country, in order to observe if they are compliant with international norms on extraterritorial responsibility.

Keywords: women's Human Rights; women and girls' protection; peacekeeping operations; sexual exploitation and abuse; UN system.

VENUES 11th November 2019

Sala delle Edicole Palazzo del Capitanio Piazza Capitaniato 3. Padova

12th November 2019

Aula Nievo Cortile antico, Palazzo Bo via VIII Febbraio 2, Padova

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More information, full programme of the Conference and **registration** at:

http://unipd-centrodirittiumani.it/en/attivita/International-conference-On-womens-rights-between-violence-and-exploitation/1266

