

UNITED NATIONS HIGH LEVEL DIALOGUE ON INTERNATIONAL MIGRATION AND DEVELOPMENT

WOMEN AND GLOBAL MIGRATION CAUCUS¹

Key Policy Recommendations regarding Women and Global Migration²

August 2013

Background:

Women are both the beneficiaries and victims of development policies. While increased access to education and greater autonomy provide opportunities for some women, many more suffer as a result of failed development policies. In this context we must address women's multiple identities including gender, race, ethnicity, sexual orientation, religion, age, disability and national origin. Neo-liberal programs of austerity and de-regulation since the 1980s have relied on the intensification of women's unpaid labor as public services are cut; their paid labor—in EPZ's and maquiladora-style industries and agriculture to create the exports to repay debts and balance trade deficits; and their paid labor in care work, to keep the society running. Women and girls are impacted by failed development policies in particular ways—from super-exploitative work, to migrating spouses and divided families, to increased care burdens, to violence and displacement.

These policies have had devastating impact on developing nation economies, in many cases intensifying climate degradation, conflict and war, and displacement due to the drive for natural resources. One consequence of this model is massive internal and international migration flows. Half of the world's international migrants are women. The further evolution of a global migration model based on purportedly temporary workers with short term contracts to meet the labour needs of receiving countries and remittance-dependency of sending countries, leaves the rights and interests of migrants out of the equation. For many women this reflects a chain of care work, where low-wage women workers assume carework for other women and their families both within regions and from global South to North.

In the lead up to the Post-2015 Development Agenda it is critical to link migration to the lack of real, equitable, sustainable, internal development that would create stable livelihoods. This points to the

¹ This document was coordinated by the Women and Global Migration Working Group (www.wgmwg.org, <https://www.facebook.com/WGMWG>, info@wgmwg.org) It represents inputs from six regional civil society HLD preparatory events organized by the Global Coalition on Migration (<http://gcmigration.org/>) and from a global list serve of over 300 advocates from all regions of the world. Contributions have also come from the women and migration caucuses at the 5th World Social Forum on Migration in Manila 2012; the UN Commission on the Status of Women, New York 2013, the UN Commission on Population and Development, New York 2013, and the UN Civil Society Interactive Hearings for the HLD on Migration and Development in July 2013. It serves as a global advocacy document for the UN HLD, October 3-4 2013 in New York.

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responsibility of sending nations to create development models oriented towards their majorities and of rich nations to fulfill commitments to sustainable development in the global south, through more equitable debt, trade, finance and aid policies (Goal 8 of MDGs).

While international debates on gender and migration have tended to limit the focus to domestic workers, trafficking, and unscrupulous recruiters, women and migration include much larger concerns. Many women and girls stay behind when the men in their families migrate for work, often becoming heads of households. There is some evidence that women have greater autonomy, at least while men are gone, while other women are deserted and left more vulnerable to human rights abuses. Some women migrate on their own, on short term contracts or as undocumented workers. Others migrate with spouses and their status is bound with those spouses, giving them little recourse if they are abused. Violence is a constant threat and reality in all regions and all stages of women's journeys. Migrant women in irregular status face lack of access to public services for themselves and their children; exploitative working conditions; discrimination and lack of access to justice. Harsh enforcement policies have led to women's detention and deportation and in some places, abuse in detention and the shackling of women detainees during childbirth.

Migrant women and girls are agents of change, and should not be viewed solely as victims of human rights violations. They contribute to the social and economic development of both home and new countries. They have rights and should be given every opportunity to exercise those rights and to give leadership in shaping public policy.

The shaping of global migration policy and the post-2015 development agenda need to have women's rights and women's voices at the center. States must ensure the full participation of migrant women and women who stay behind in decision-making on all issues affecting them.

Key Policy Recommendations regarding Women and Global Migration

1. WORKER RIGHTS

Vision: *Both migrant women and nationals should enjoy labour rights that fulfill the ILO core labour standards. Develop a gender-sensitive labour policy that is applicable regardless of status. Value the essential role of low-wage labour by paying living wages and giving migrant workers a path to permanent status.*

Specific Recommendation(s):

- We urge States to shift from a temporary-worker model of circular migration, which prevents and restricts the movement of migrant workers and their families and increases the risk of abusive and irregular situations where they can be exploited by recruiters and employers. Instead, implement migration policies focused on the human rights of migrants and family unity.
- States should ratify and implement the Internal Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Governments who have ratified this should abolish any quota system for foreign workers.

- The UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families should commit to including an analysis of gender and migration in all their future general comments, to aid gender-sensitive interpretation and implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- States should ratify and implement ILO Convention 189 on Domestic Workers, and recognise domestic workers as workers, providing protections for them under national labour laws. Women’s care work is work, and should be valued and adequately remunerated.
- States should implement CEDAW General Recommendation No. 26 on women migrant workers, which gives clear guidance on how to define gender-sensitive migration policies
- States must authorize work for spouses of temporary workers and create a pathway to citizenship for temporary workers and their families
- Governments need to impose substantial financial sanctions on those who exploit or abuse migrant workers
- States should allow labour unions to monitor migrant labour rights with particular concern for the rights of migrant women workers.
- Governments should work to ensure that the employment of migrant women is not primarily limited to the informal sector and that rights protections are extended to women in the informal sector including the right to association. Address gender stereotypes in the labour market.
- Governments should work to eliminate discriminatory laws and practices against migrant sex workers.
- States should develop avenues for low-wage workers to obtain visas, fostering alternative opportunities to migrate other than temporary work. While unscrupulous recruitment agents are a concern in the temporary worker model, agents would not be necessary if other options were available.
- States should institute programs to create decent work in home countries, making migration a choice rather than a necessity.
- Consulates have the responsibility to protect their national’s abroad. Budgets should be increased to support workers abroad, particularly women.

2. CRIMINALIZATION OF MIGRANTS

Vision: *Migrants should not be criminalized, detained or deported based on legal status. They should have full access to public services and protection of civil and human rights.*

Specific Recommendation(s):

- Within the framework of the UN human rights system, States have the obligation to promote, respect and protect the human rights of migrant women and their families, including conditions in detention that would be considered torture under international law.

- States should protect human rights of migrants with particular regard to the rights of women and girls, regardless of status through implementation of the Migrant Rights Convention in national law. Governments and non-state actors should *never* detain women survivors of trafficking or sexual violence or witnesses to these crimes, separated and unaccompanied girls and adolescents, women with children, nursing mothers, pregnant women, or women with mental health issues, for migration-related purposes.
- Migrant women and girls should not be detained solely because of their migrant status. Given current realities of detention, which we challenge, where women are detained, governments should proactively seek to implement gender and age-sensitive alternatives to detention, as long as it is not an alternative form of detention. Governments must ensure that detained women migrants are separated from men, and attended and supervised only by women officers, in order to protect them against sexual violence. They must also avoid the detention of pregnant women, breastfeeding mothers, and women who are ill.
- Drug trafficking and the so-called “War on Drugs” has militarized nations and made women and girls more vulnerable to human rights violations, often leading to migration and displacement. The use of women as drug carriers who are arrested and abandoned has expanded female prison populations. States’ investment in genuine development, social protection, quality public services and decent work is the best way to undercut the drug trade and related violence, not criminalization. Military responses have only intensified the violence.
- Ensure that laws on trafficking in persons protect victims of trafficking from prosecution for criminal acts committed as part of the trafficking process (status offences) and guarantee that they will be provided with free legal advice.

3. DISCRIMINATION/RACISM/XENOPHOBIA

Vision: *Because women experience multiple forms of oppression, migrant women should not face discrimination on the basis of gender, race, ethnicity, national origin, sexual orientation, gender identity, age, disability, religion or other factors. Rather, they should be welcomed into new countries with full respect for their human rights, cultural identity and dignity.*

Specific Recommendation(s):

- States should ratify and implement the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).
- Governments must recognise that women migrants often experience multiple forms of discrimination and actively prioritize ending all forms of discrimination against women, regardless of legal status or factors including race, ethnicity, nationality, age, religion, sexual orientation, gender identity, health and pregnancy status, or occupation.

- Governments must develop an intersectional perspective on gender that establishes protections that recognize and take into account the numerous, specific risks that migrant women face, and provide redress, including compensation.
- States need to provide access to justice mechanisms, due process, and legal assistance to migrant women and girls so they can defend their rights and confront rights violations in the workplace, home and community.
- States should incorporate CEDAW General Recommendation 27 on older women and the protection of their human rights into national law and recognize how this intersects with migrant women.
- States should give particular attention to migrant women and girls with disabilities and should play a key role in protecting their human rights.

4. VIOLENCE

Vision: *States have the obligation to protect migrant women from violence. Women must have access to legal recourse for gender-based violence regardless of their status. Women's bodies must not be used as objects.*

Specific Recommendation(s):

- In developing national policy States can benefit from using newly introduced (2011) Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No 210) as a model. States should implement a legally binding document that includes the prohibition of discrimination based on sexual orientation, gender identity, migrant or refugee or other status.
- States should incorporate CEDAW, including CEDAW General Recommendation 19 on VAW, and 26 on women migrant workers into national law and address the gendered inequalities that both drive and lie within the migratory process in countries of origin, transit and destination countries and which disproportionately expose women to a range of risks, including violence.
- States must adopt laws that provide shelter and legal recourse to migrant women who have experienced gender-based violence, regardless of status.
- States should remove restrictions that tie migrant workers to their employers so that they cannot leave an abusive employer by changing jobs.
- States must prevent and address sexual harassment, violence and sexual abuse in and outside of the workplace for all workers, irrespective of migrant status, and promote equitable access to sexual and reproductive health and rights.
- States need to strengthen support systems for migrant women who are victims of violence and ensure their access to them in accordance with human rights standards, irrespective of their immigration status. Such support should be linguistically and culturally appropriate, and should include provision of information on women migrant workers' rights, their access to redress, legal, psychological, medical and social assistance, access to shelters and compensation for damages.
- States must address the violence of economic policies that impoverish women and girls, as well as militarism, both of which force women to migrate. Economic

violence and militarism often lead to conditions which intensify gender-based violence as well.

5. THE HIGHEST ATTAINABLE STANDARD OF HEALTH INCLUDING SEXUAL AND REPRODUCTIVE HEALTH

Vision: *All migrant women and girls must have access to quality public healthcare, including preventive care and sexual and reproductive healthcare regardless of status.*

Specific Recommendation(s):

- States should ensure that migrant women and girls have access to the highest attainable standard of physical and mental health services regardless of status. Governments should recognize, respect and affirm women's right to health and their sexual and reproductive health and rights. This should include provision of equitable access to rights-based, comprehensive and integrated sexual and reproductive health information and services, including prevention and treatment of STIs and HIV, choice of full range of contraceptives, maternal and safe abortion services, prevention and early detection and referral for diseases of the reproductive systems, such as breast and cervical cancers, at all stages of the migration cycle.
- States must end policies which require health professionals and other service providers to report undocumented women to immigration authorities.
- States must abolish any discriminatory policies based on health status, such as HIV status and pregnancy that may affect the rights of women in migration.
- States should create transparency within health care systems in order to enable migrants' access to vital services. This also includes interpretation in healthcare facilities.
- States should address the practice of female genital mutilation in new countries to ensure the human rights of, and provision of quality healthcare and support for, girls.
- The 20-year review of the International Conference on Population and Development in 2014 should commit to the highest attainable standard of physical and mental health services for migrant women and girls regardless of status.

6. BORDERS/TRANSIT/MOBILITY

Vision: *Borders should facilitate movement of goods, services and people to benefit nations and communities with full respect for human rights, rather than creating barriers.*

Specific Recommendation(s):

- Within the framework of the UN human rights system, States must protect migrants human rights and be held accountable for human rights violations, including conditions in detention that would be considered torture or ill-treatment under international law.
- States must end inhumane deportation practices.
- States should not place immigration policy within a national security apparatus.

- States should change policies that create the need for smugglers, rather than criminalizing smugglers and migrants in transit. Driving smuggling further underground increases both the cost and danger for migrants. Those who help people cross borders should not be prosecuted solely on that basis. Rather, creation of legal processes for long-term migration, including for impoverished, low-wage women, would make irregular border crossing unnecessary. This would also reduce migrant women's disproportionate risk of rape in transit.
- States must address the gendered impact of border controls that often replicate gender inequality, with barriers on the basis of levels of formal education and status which are often denied to women, especially from the global South.
- Nations of origin and destination should implement human rights-based multilateral agreements and treaties that progressively reduce barriers to women's movement, regardless of income or level of education.
- In many situations, women who have been trafficked are only legally protected during prosecution of traffickers, and may then become subject to deportation. States are obligated to provide witnesses with support and protection to enable them to testify against the perpetrators of trafficking. These women need to receive information on their entitlements so that they can make an informed decisions about their legal options and should be offered a "reflection period", to provide them with time and space to decide on their options, including whether they will cooperate with criminal justice agencies in the prosecution of their exploiters. Care and support to survivors of trafficking should never be made conditional on cooperation with criminal justice authorities.
- States must ensure that migrant women and girls in situations of distress, from natural disasters, to conflict, to dangers in transit, can access the necessary services, including health care, housing, and safety, on an equal basis with nationals. Inequities are exacerbated in times of crisis and migrant women may lack social networks to support them.

7. FAMILIES

Vision: *Women are frequently the caregivers in families, both women who remain at home and women who migrate with their families. In many cases their status is tied to that of a spouse. At the same time, many women are migrating on their own, leaving their children behind to raise others' children. Migration policy must ensure that families and their needs are considered in the creation of immigration policies, without stereotyping women in the context of families or having their status depend on a spouse. Non-traditional families should be recognized in immigration law.*

Specific Recommendation(s):

- States should develop migration policy to facilitate the unity and reunification of families, recognising that diverse forms of family exist. This includes LGBT couples and their children.

- Governments' migration policies should enable women to obtain legal status independent of a partner, spouse, or employer. States should remove discriminatory restrictions on women's freedom of movement, such as the requirement that women who migrate need signature from father or husband.
- Women on temporary work contracts should have the freedom to be in relationships, marry, have children and live with their family.
- States should consider women who remain at home, often as heads of households, in migration and development policy and they should receive extended public services, rights protections, and social support.
- States should recognize the particular risks faced by LGBT migrants who leave home fleeing rights violations related to their sexual orientation or gender identity by offering asylum where there is a well-founded fear of persecution.
- States should address the unique realities and challenges for migrant girls, adolescents, young adults and elders.

8. GENUINE DEVELOPMENT/POST 2015 AGENDA/CAUSES of MIGRATION

Vision: *Just, sustainable, equitable, gender-sensitive development would put both people and nature at the center of the development agenda. It would help to distribute wealth and resources so that all have access based on human rights, including economic and social rights. It would help to create decent work for all based on sustainable models of production and consumption. It would involve grassroots women's voices in decision-making. It would make migration a choice, not a necessity.*

Specific Recommendations:

Within the UN Post-2015 Development Framework and as national policy:

- States should consider issues of trade, investment, aid and finance policy as key push factors of migration. Reassess current trade agreements that undermine economic stability in impoverished nations.
- States should shift from a temporary-worker model of circular migration, because it prevents and restricts the movement of migrant workers and increases the risk of abusive and irregular situations where they can be exploited by recruiters and employers, to one focused on the human rights of migrants and family unity. Migrant workers, including low-wage workers, should have full labour rights and human rights and a path to citizenship.
- Sending countries should not rely on labour export policies and remittances for development income. They should develop internal production and markets in order to create decent work at home, so migration does not become a necessity. Remittances do not support investment in essential public services, including health and education – indeed; there is evidence that migration is a consequence of inadequate social protection programmes.
- States should invest in quality public services, including competitive salaries, which is critical to development. Nations seeking to fill labour gaps by recruiting health and

- education professionals undermine developing nations' ability to meet Millennium Development Goals.
- Receiving countries should not rely on temporary worker programs to fill gaps in labour supply, particularly the use of highly exploited irregular workers. Rather, migrants should have the opportunity to work with full rights and a path to citizenship.
 - States should make national food sovereignty a major development concern and recognize the human right to food. Women are both primary producers of food and family providers in many countries. Loss of land, export-oriented agriculture and rising food costs contribute to poverty and displacement for women and their families.
 - Governments must reassess so-called "sustainable development" green schemes that commodify nature and peoples and displace communities.
 - States must challenge land and resource-grabbing that displaces peoples, with particularly dire effects on women's rights. Agrarian reform and national industrialization processes are essential to sustainable development that would end forced migration. States should pursue these policies rather than labour export programs, which are not a genuine development strategy.
 - States should guarantee women and girls access to social protection. Education of women and girls is essential to development, and to their ability to obtain decent work. The State has the responsibility to provide education and healthcare to its population as a basic human right. Women's low-wage employment is often due to lack of quality education, in some cases leading to migration. States' undervaluing of quality public education may also contribute to an exodus of needed teaching professionals.
 - States must address the concerns of migrant women and girls in national action plans on Women, Peace and Security to implement Security Council 1325 as well as related resolutions 1820, 1880, and 1886 that will enhance safety of women who are displaced by conflict.

9. GENDER-SPECIFIC MIGRATION POLICY

Vision: *Women's concerns integrated into data collection, research, education, outreach and funding at all levels of policy-making and decision-making, without having to struggle to make it happen.*

Specific Recommendations:

- The UN High Level Dialogue on International Migration and Development should commit to a five year action plan in cooperation with member states, the UN system and civil society, including migrant women and girls, to be assessed at a High Level Dialogue in 2018.
- States must ensure that the international human rights framework is the primary framework for the global governance of migration.

- States and the UN system should house global migration policy-making within the normative framework of the UN. Civil Society should play a central role in governance regarding migration policy, with a place at the table similar to the UN Permanent Forum on Indigenous Issues.
- States and the UN system must expand their framework of women and migration beyond stereotyped limits of trafficking and domestic work, to include the complexity of migrant women's realities as well as women who remain at home, often as heads of households. This includes addressing realities of women workers in paid and unpaid work; gender-based violence; access to justice; women's access to the highest quality healthcare and to all economic, social and cultural human rights.
- States should recognize the gender aspects of migration and address their impacts; affirm women's autonomy; protect and fulfil women's rights throughout the migration process; ensuring independent migration status that provides the right to work and ensures access to redress.
- States and the UN system should ensure that data collected about migration and migrants is disaggregated by gender in order to better understand the realities of migration and to provide adequate services to migrants. They should support research on migratory processes and differential impact on women, both women who migrate and women who remain at home.
- States should generate and distribute information on the human rights of women to all migrants. Governments should ensure that women migrants have access to information and education, including vocational training as well as human rights education, and orientation programs that include language training.
- States and the UN System should develop policy at the national and global level to address the specificity of migrant women's needs and the needs of women who remain at home, including in such areas as gender-based violence; sexual and reproductive health; access to public services; access to justice; inequality in labour markets and the disproportionate role women play in care work.
- States should implement labour and social policies to value women's paid and unpaid care work, now increasingly filled by migrant women. If this were regulated, formal, decent work with living wages and benefits it would shift the nature and value of the work.
- States should foster comprehensive, gender-responsive, and rights-based socioeconomic integration and reintegration of women migrants and returning migrants centred on women's rights.
- The UN System and Member states should support programs within the UN system for research, education and direct support of migrant women's organizations through the Global Migration Group. The gender and migration programme of UN Women should be strengthened to support programmes directly related to women and migration both globally and within regions.

10. WOMEN AS AGENTS OF CHANGE

Vision: *All women and girls, living multiple identities and realities, have the resources, autonomy, and access to realize their human rights and to engage in action for transformative change.*

Specific Recommendations:

- States, international agencies and civil society must recognize migrant women as agents of change. They should not be stereotyped solely as victims of human rights violations. All stakeholders should create an enabling environment where women and girls can fully claim their rights.