

## CSD-GFMD Rapporteur on Women Report, Tuesday 13 October, 2015

We want to thank the ISC for having designated rapporteurs on both women and children at this CSD, and the multiple opportunities to raise gender issues throughout the CSD. We also salute the Turkish government for having organized a pre-GFMD event related to migrant women's contribution to development, and the very helpful concept note by UN Women lifting up the contributions beyond remittances, including women's leadership and social contributions. These are important strides! We make some general observations and then address the specific workshop themes. This reflects the broad input of participants across the two days of the CSD, the Women & Global Migration Working Group bridge paper, and the CSD Caucus on Women in Migration which took place on Monday.

A gender analysis of migration is comprehensive. It not only looks at migrant women, but all of the situations in which women and girls are affected by migration – what's happening in countries of origin that may force them to migrate or enable them to remain at home; what happens when men migrate and women are effectively abandoned; what it means to have divided families; what happens to women in transit and at borders; and what happens when women or their men return. Thus we talk about **Women in Migration, not only migrant women**. Gender explores the differential roles assigned to women and men in society, leading to differential power. This always intersects with religion, race, ethnicity, age, national status, sexual orientation, gender identity and other factors. Thus, all stakeholders should adopt a gender perspective and push for gender sensitive policy development, program design and evaluation that explore the ways in which gender norms and roles impact the migration experience; understanding women migrants as part of transnational families and communities.

Central to the analysis is an understanding that women are assigned the role of **social reproduction of the family through unpaid labor**-- bearing and raising children, growing and preparing food, family health and well-being. This gets transferred to the paid economy, in the formal and informal sectors, by boxing most women into low-wage, highly exploited care-giving roles. Increasingly, migrant women are filling these roles. Cuts in social programs have increased demands on women's unpaid labor while also creating a global care chain where migrant women fill the care gaps in destination countries. The current framework of **circular or managed migration relies on the hyper-exploitation of women's paid and unpaid labor** and thus violates commitments to decent work, gender equality and human rights. For some women, their limited power within family structures means that they are pushed into migrating by male family members as a means of obtaining resources for the family.

We note that most governments think only about women migrants, primarily domestic workers and trafficked women. While these are both important areas of concern they obscure the broad realities of Women in Migration that must be addressed. Governments and the media also tend to portray women as victims in need of rescue. Sometimes such "rescue" policies merely create additional barriers to entry and greater dangers. Instead, we need to recognize the role women in migration are playing as leaders and agents of change and create space for them to claim rights. **Migrant women are bearers of rights, not simply "agents of development,"** and they should not be instrumentalized. Migrant women's social and political agency should be at the forefront of recognizing and supporting their leadership. At the same time we recognize that women in irregular status are not able to exercise that agency freely and we call for efforts to regularize the status of migrant women.

In yesterday's opening plenary on alternatives to forced and dangerous migration; in the workshops; in the women's caucus, and in several of the side events, these themes consistently come up regarding women in migration:

1. There must be an **expansion of safe channels of migration** and respect for human rights at borders so that migrants, particularly women migrants, do not risk their lives or face violence in transit. The use of smugglers, often at the price of rape or death, is compelled due to the lack of safe regular channels of migration. Rather than criminalize both smugglers and migrants, States must recognize their own need for workers as well as their role in creating inequality, poverty, discrimination, war and conflict and climate-related extreme weather, all of which lead to migration, and must expand avenues for regular migration.
2. **Labour rights and decent work** are central to an agenda for migrant women's rights. Increasingly women are migrating to work, most often in highly exploitative conditions. Effective regulations regarding recruitment and freedom to change employers are urgent needs. We particularly call for an end to the Kafala system in the Gulf States which binds domestic workers to employers, even in abusive situations.
3. In many countries of the South, women migrate independently as cross border traders or to work in the **informal economy** such as street traders, proprietors of micro and small businesses, workers in family businesses and as sex workers. These economic activities must be acknowledged as legitimate work and women migrants in the informal sector, regardless of status, should not be subject to additional vulnerabilities or be denied basic labour or other rights. We also lift up the additional vulnerabilities of gay, lesbian and trans migrants and call for full recognition of their human rights.
4. Women must be able to **claim status independent of spouses or employers**, which can lead to abuse or irregular status.
5. Violence is a central part of the narrative for women and is both cause and effect of migration. This includes gender-based violence, state violence, structural post war violence, xenophobic attacks and institutional violence. The state has the obligation to prevent, promote and protect women's right to **freedom from violence** and must enact effective policies to do so.
  6. Women leaders and broader civil society actors must have the **freedom to speak out, organize and defend their rights** without threat of violence, arrest, jail or death. We join the call to Defend Human Rights Defenders, be they migrant women who claim rights, rural women in Africa who resist land-grabbing or indigenous women in Guatemala who resist dislocation by corporate extractivist industries. For example, migrant women domestic workers claiming their rights in GCC countries face severe penalties for civil society and workers' efforts to organize for rights. In addition to great isolation all domestic workers face, women and migrant rights groups organize under extreme risk of retaliation and violence as demonstrated by recent cases of violence by employers and justice systems. Destination countries must allow full freedom of association and rights to civil society, organizing, and trade unions. Women, migrant and human rights leaders are central to our ability to fulfill the Sustainable Development Goals in the context of human rights. We also call for visas and protection for a new form of "Mothers of the disappeared," mothers who come to transit and destination countries seeking to find children who have been lost on the journey.
  7. Migrant women's **access to sexual and reproductive health**, must be guaranteed as a human right, not subjected to additional fees for foreigners, regardless of migratory status. We heard about migrant women in Argentina suffer obstetric violence, a type of gender-based violence, during pregnancy, labour/childbirth and after

birth in the form of dehumanized treatment and over-medicalization. Migrant women are often discriminated and mistreated because of their race, national origin, appearance, accent, habits and preferences on carrying out their pregnancy, delivery and motherhood. We learned yesterday that a 23-year-old Somali woman had been detained on the island of Nauru by Australian authorities. On release she was living on the island and was raped. She had been seeking an abortion, which was denied to her on Nauru. After an outcry she was flown to Sydney for treatment, but police were not investigating her rape. Her vulnerable situation on Nauru was due to an increasingly common practice of keeping asylum seekers from reaching national territory in the name of “deterring future flows,” to avoid international obligations regarding refugees.

8. Migrant women must have **access to social services and justice regardless of status**. Positive laws regarding gender equality tend to exclude undocumented women. We urge broad ratification of the Istanbul convention of the Council of Europe to combat domestic violence and gender-based violence. States must create a firewall that enables women who have experienced violence to have access to justice with no intersection with immigration authorities. Family reunification must be a priority in immigration policy. Detention and deportation policies, prohibitive income requirements, language requirements, guest worker programs and other barriers, keep families divided.

### **Regarding the Sustainable Development Goals (Theme 1)**

1. The SDGs promote lofty goals through the same model of growth that creates poverty and inequality. It relies on unsustainable consumption and production, the exploitation of women's paid and unpaid labor, and the circular model of migration that locks in the abuse and exploitation of migrant women's labour. Our efforts to create effective indicators, not only where migration is referenced but across all of the SDGs, must be accompanied by advocacy to address the contradictions within the SDG agenda itself.
2. Civil society should engage women at the local level in articulating what they need in terms of development. This refers to migrant women, but also to women in countries of origin who should have the right to remain at home through effective sustainable development policies and realization of rights. Popular education programs that empower women to articulate their demands and engage with other sectors of society not only builds an agenda from the bottom up, but helps to build social movements that can really hold states accountable implementation of the goals.
3. States, private sectors, and civil society should ensure full and equitable access of women and their children to health care, education, water, and sanitation as per SDG objectives 3, 4 and 5.
4. Ratification and implementation of Migrant Rights convention and CEDAW should be part of the SDG measurable indicators. Count how many nations have ratified and specific laws, policies and budget expenditures towards implementation as part of the accountability mechanisms.
5. States, the UN System and IOM need to improve on sex disaggregated data collection to include irregular migrants, linking OECD and ILO data, and improving sex aggregated data on detainment, enforcement, and trafficking. Further, as countries such as Morocco and Mexico are no longer primarily migrant sending countries, but also countries of transit and destination, addressing such mixed flows will be increasingly important. Addressing such data gaps and inconsistencies are important for enabling

evidence-based policies and advocacy for women migrant workers, who are more likely to fall into irregular status.

### **Regarding forced and dangerous migration: (Theme 2)**

1. Given the above, women face unique vulnerabilities in dangerous migration and are also impacted by divided families and deaths of male family members in transit. Forced migration has multiple meanings. Women are forced to migrate due to gender based violence and gang-related violence, due to trade policies, extractivist policies and land grabbing. Those designated as refugees or those called economic migrants share similar conditions for migrating regardless of categories. According to the High Commissioner for Human Rights speaking at the UN General Assembly last week, “In these precarious flows, movement is rarely ‘voluntary’ in the true sense of that term. Refugees fleeing persecution and conflict journey together with migrants fleeing poverty, discrimination and despair. They are not two different kinds of people; ‘deserving’ and ‘undeserving’. They are all human-beings.<sup>1</sup> Migrant deaths in precarious situations are simply unacceptable. It is the obligation of states, including destination states, to enable safe channels for migration.
2. Existing definitions of refugees and asylum seekers do not address these multiple causes of forced migration. A focus on criminalizing smugglers ignores the reasons that people will take any risk to leave their countries. Returning migrants to dangerous situations, militarizing borders, or extending borders into third countries will not stem the flows.
3. Women seeking refuge should not be criminalized. Family and child detention must end immediately. Electronic shackling of women is not an acceptable alternative to detention. Programs such as “Operation Streamline” and new European “hot spots” to quickly review asylum cases and potentially deport refugees denies rights to legal representation and due process, further militarizes borders, and criminalizes migrants. New efforts to externalize borders, build fences, and shift refugees elsewhere is a shocking denial of human rights and is unacceptable. The SDG commitment to “safe, orderly, legal migration” is made in the context of a guarantee of migrants’ human rights, regardless of status. It cannot be used by states as an excuse to criminalize those who come through irregular means.
4. Women refugees must have access to sexual and reproductive healthcare, protection from violence and access to justice when they experience violence.

### **Reforming Migrant Labour Practices (Theme 3)**

1. Adopt and enforce labour standards on conditions of work and occupational safety and health and provide for adequate labour inspection in workplaces and sectors where migrants, particularly women, are employed. Establish and maintain adequate channels for regular labour mobility responsive to real labour demand at all skills levels, and for regularization of migrants in irregular situations. In particular, support full implementation by member States of established free movement regimes in regional economic communities.

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<sup>1</sup><http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16544&LangID=E#sthash.UC0dUENH.dpuf>

2. Ensure that any and all temporary, guest worker or seasonal migrant work regimes are subject to full application of international labour standards and human rights protections for all migrants concerned.
3. Address the situation of au pairs in many European countries, which is domestic work without formal recognition as such, without established wages or minimal social protection. They are vulnerable to exploitation and abuses of host families. Au pairs must be considered workers within national labor laws.
4. Ensure that all labour recruitment agencies and services are subject to proper regulation and monitoring, under the terms of ILO Convention 181 on regulation of private recruitment agencies.
5. Provide labour attaché and consular support services by origin country foreign services to emigrant and migrant populations in destination countries.
6. States should give more resources to and mandate their missions in destination countries to protect migrant, esp women, workers' rights, review, and assess employers and recruitment agencies that violate rights, and report to their origin countries.
7. CSO's, especially migrant women workers organizations, must be engaged in negotiations of bilateral and regional agreements and processes ( such as Colombo and Abu Dhabi processes) to ensure labour standards, implementation mechanisms, and Labour inspections that have firewalls for undocumented migrants.

#### **Migrant Empowerment (Theme 4)**

1. Women's contribution to development is more than remittances and should not be reduced to this role. While this contribution is significant and sending nations should reciprocate by extending consular protections and a role in political processes, they do not constitute development financing and cannot provide any excuse for not fulfilling national commitments to ODA and shared global responsibility for development financing, nor responsibility to fulfill economic and social human rights.
2. Migrant women of color face double oppressions related to their gender & race. This is especially true for women & LGBTQ in the West & in the Middle East. A lens on analyzing xenophobia needs to be broadened to include intersections of race and gender. The particular oppressions & discrimination related to the gender and ethnicity women & non-gender-identifying communities must be addressed in analysis, messages and policy.
3. States and private sector employers should adopt gender-sensitive and rights-based policies that create conditions where migrant women can claim full rights and social protections and enhance their capacity to participate in civic life. This includes ratification and implementation of CEDAW, the Convention on the Rights of Migrant Workers, ILO Convention 87 ensuring freedom of association, CEDAW general recommendation 26 on migrant women workers, and ILO Convention 189 on rights of Domestic Workers. CEDAW has been ratified by 189 of the 196 governments, and as such is particularly valuable for expanding our reach.
4. It is often migrant women who challenge xenophobia in host countries and provide support structures to victims of xenophobic violence. It is also often women in host communities that attend community dialogues and are more willing to work towards the return of migrants displaced by violence. States and international processes such as GFMD should prioritise and capacitate programmes (local, municipal level) that bring women together (host and migrant communities) to build united and active communities of peace and solidarity.