

Defend the Rights of all Migrant Workers

The Issue

- The right to work is a human right and pertains to migrants without discrimination, regardless of status, nationality or gender.
- Migrant workers are often denied the full exercise of internationally-established labor rights, including the freedom of association and right to organize.
- Because of the gendered care-giving role that women play in society, temporary migration programs have significant costs to migrant women workers and their families.
- Temporary or circular migration schemes are being used to create precariousness in formerly stable, permanent jobs; workers in such programs are often unable to change their employer, job or status, or accrue residence rights, creating situations of dependency and exploitation. Social security, and even labour law, protections are limited. Recruitment fees can lead to debt bondage and abuse. Regular migration schemes are defaulting to these temporary migration programs that are structurally exploitative. Such programs are creating a secondary class of segregated low wage workers who are being denied the right to be with their own families.
- Wage theft is common for migrant workers. Workers in the informal economy, including domestic workers, may not receive pay stubs, making wage theft commonplace.
- The very structures of labour migration often perpetuate these troubling trends and lead to an expansion of precarious work that undermines the decent work agenda and is especially acute for women migrant workers in underregulated sectors or in the informal economy (such as domestic work and agriculture).

Gender Dimensions

- Women migrant workers are often discriminated against in the migration process because they are normally relegated to gendered sectors or work roles.
- The economic sectors and jobs that women migrants are allowed to migrate into are often under-regulated or part of the informal/undocumented economy, putting women outside the protection of labour law, with low wages, a lack of opportunities for skills development and the risk of exploitation.
- Migrant women often perform the most risky jobs in isolated situations, with limited networking opportunities, access to information, social support, and labour organizing.
- Women migrant workers may have less ability than their male counterparts to access occupational hierarchies, along the so-called mobility chains, which link occupational and job clusters together. Compared to migrant men, women migrant workers tend to be concentrated in a more limited number of occupations with relatively little skill acquisition.

- Women migrant workers are often in the unregulated informal economy limiting their options to access justice and undermining their possibility to acquire regular migratory status.
- Women migrant workers in temporary visa programs, where their visas are tied to their employers, or working irregularly, may be unable to report abuse as they fear retaliation, blacklisting, and loss of a job and consequently their visa or permit if they have one, after paying exorbitant recruitment fees.

Recommendations – States should:

- Implement International Labor Organization core labor standards into national law and practice, including by ensuring that labour complaints mechanisms are effective for workers regardless of status, and workers do not risk immigration enforcement as a result of exercising their rights.
- Avoid relying on temporary work programs as a regular pathway for migration.
- Labour migration programs should offer the possibility of permanent residency, access to citizenship and family unity and ensure equal treatment (regarding working conditions, pay, health and safety, insurance, social security, social services, etc.)
- Create paths to permanent and secure employment for migrant workers.
- Eliminate exploitative recruitment practices and eliminate all recruitment fees.
- Affirm in law and practice workplace rights equal to nationals, including freedom of association for all migrant workers regardless of status.
- Do not allow discrimination or job segregation by gender.
- Enact legislation allowing for visa and documentation portability, not tied to a particular employer, job or sector. Allow work for multiple employers and time for unemployment/job search, as well as change to another kind of status from within the territory.
- Ensure portability of skills and qualification to ensure that migrants are not limited to riskier and lower paid work because their skills and qualifications are not recognized.
- Address domestic social and economic policies that make migration a necessity, including a lack of decent work, climate change, and conflict. Create good jobs in origin countries rather than relying on labour out-migration and remittances.

Relevant International Policy

Global Compact for Safe, Orderly and Regular Migration: Objectives (4), adequate documentation; (5) pathways for regular migration; (6) fair and ethical recruitment, decent work (7) Address vulnerabilities in migration; (12) migration procedures for appropriate screening, assessment and referral; (13) Use migration detention only as a measure of last resort (14) consular protection (16) full inclusion and social cohesion.

Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW), General recommendation No. 26 on women migrant workers, CEDAW/C/2009/WP.1/R.

Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), General comment No. 1 on migrant domestic workers, CMW/C/GC/1.

Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), General comment No. 2 on the rights of migrant workers in an irregular situation and members of their families, CMW/C/GC/2.