

Key Gender & Migration Points Towards the Global Compact on Migration*

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**[A work in progress. For input, please contact womenandmigration@gmail.com]*

WOMEN¹ IN MIGRATION

- The framing of *Women in Migration* goes beyond migrant women to explore the realities of all women affected by migration in countries of origin, transit, destination and return.
- Women in migration are not alone, they have families and their “right to family life” should be taken into account as a priority human rights principle. Deportation and repatriation aggravate family separation. Right to family life and best interest of the child must be affirmed in policy.
- Women migrants often experience multiple forms of discrimination. States must prioritize ending all forms of discrimination against women, regardless of legal status or factors including race, ethnicity, nationality, age, religion, sexual orientation, gender identity, disability, health and pregnancy status, or occupation.
- Women in Migration is not only about *domestic workers* and *trafficked women*—it is about the broad and diverse ways that women are impacted by their own migration or that of family members as well as the right to remain at home.
- States should give particular attention to migrant women and girls with disabilities and should play a key role in protecting their human rights, agency and leadership roles.
- Women’s mobility is a continuum within countries and across borders, based in some cases on choice, but increasingly driven by economic, political, gender-based, conflict-driven, or climate-change factors. Gender-based violence or gender discrimination are also drivers of women’s migration. Women’s lived realities do not easily fit into current national and global frameworks and categories of people on the move—categories that serve to include some and exclude others and create a false hierarchy of “deserving” and “undeserving” migrants. States have the obligation to fulfill human rights and treaty obligations regardless of the category or status.
- For migration to be a choice, not a necessity requires rights-based development that enables women’s human rights, women’s role in decision-making, women’s bodily integrity, decent work, social protections and sustainable environmental practices.

‘VULNERABILITY’

- Women in Migration are not “vulnerable populations,” in need of “rescue”, they are advocates for their rights and agents of change. Current immigration policies create the contexts of

¹ “Women” includes lesbian, bisexual, trans and gender non-conforming, and intersex women and girls.

exclusion, inequality and rights violations which put women at risk and in a situation of vulnerability.

- Language should not be about “protecting” women, which limits autonomy and enjoyment of women’s rights. It should be about protecting *women’s rights*.

INTERSECTIONAL ANALYSIS, RIGHT’S BASED AND GENDER APPROACH

- Migrant women continue to be seen as an add-on population. Women are half the world’s population, not a “group”. We must avoid adding “and women and girls” to texts and avoid undermining the indivisibility of human rights or risk excluding others (people with disabilities, people of colour, indigenous people, LGBTQ and others).
- An intersectional analysis on migration including gender, race, class and sexual orientation must be concerned with both causes and realities of migration.
- The Compact should utilize a gender analysis that looks at the full picture of migration, including causes of migration, women who remain at home, women in transit, destination countries and return.
- An analysis is needed of the undervaluing of women’s work in a global care economy in terms of women’s paid and unpaid labor. The global economy relies on highly exploited women’s labor in the workplace and women’s provision of unpaid services at home and community. States should address gender stereotypes in the labour market and informal sector through national programs and monitoring.

MIGRANT WORKERS

- Women increasingly migrate for work, which is disproportionately precarious, in informal, unregulated sectors and low-paid. Measures need to be taken to provide all migrant women migrant with regular channels for migration and full labour rights protections, independent of the economic sector.
- The main challenge is a flawed development model that relies on the exploited labor of migrant women while building barriers to their movement across borders and criminalizing their presence in destination countries.
- Global international labour migration policy is creating a class of low wage workers who are segregated from society in destination countries and separated from their families in origin countries. Guest worker and temporary worker programs tap migrant labour without extending rights, family-reunification and permanent status. The Compact must shift from an emphasis on temporary migration to promoting and allowing access to permanent residence and eventually citizenship, including family reunification initiatives.
- There is a need to go beyond recommendations for improving bilateral temporary labour contracts with a “gender sensitive” perspective by demanding full realization of labour rights, including CEDAW General Observation 26 and ILO regulations including Convention 169.
- Human rights, women’s rights, labour rights and decent work must be at the centre of all migration policy and governance. States should ensure effective protection for all migrant women experiencing violence, abuse and labour exploitation.

- The importance of decent work extends to countries of origin. Women should, be enabled to develop their careers – to use their skills in origin, transit and destination countries and ensure that such opportunities are not gender stereotyped.
- Ensure that women migrant workers are not instrumentalised as a source of income to their countries of origin through remittances, instead recognizing their social and political agency.
- Sex work is work, and should not be moralized or criminalized. It must be protected within the framework of labour rights under ILO conventions. Sex workers should have the right to organize and collective bargain, as all workers do. States should pay particular attention to protecting the rights of migrant women, including trans migrant women sex workers and guaranteeing freedom from violence, arrest and persecution.

GENDER-BASED VIOLENCE AND VIOLENCE AGAINST WOMEN

- While gender-based violence is present in all aspects of women in migration—in home, transit and destination countries, migrants are targeted for violence for a *range* of reasons including migration status, nationality, race, religion, etc. Violence is often perpetrated by the state, including in the context of immigration enforcement.
- Victims and survivors of GBV in countries of transit and destination should be able to report GBV crimes without fearing deportation, independently of their migration status.
- The “protection of women” must not be utilized to criminalize migrant men and exacerbate xenophobia in the name of “women’s rights.”
- *Safe, orderly and regular channels* of migration for women should not be limited to work visas. Women migrate for education, with families, and also fleeing from violence, including gender-based violence.
- Gender-based violence is a reality in all countries and at all levels. Responses must recognize the rights and agency of women rather than reinforcing gendered power relations.

CRIMINALIZATION OF MIGRATION

- The principles of security and national sovereignty cannot go against human rights, gender equality or women’s human rights.
- Governments should not use concern about trafficking and people-smuggling to justify more intense border security, enforcement and criminalization which further penalizes migrants. Anti-trafficking policies should not be anti-migration. By stating that “*We will combat with all the means at our disposal the abuses and exploitation suffered by countless refugees and migrants in vulnerable situations*” (parr. 9, 35 and 36) the New York Declaration justifies securitization of migration policies.
- Undocumented migration is not a crime. *Now* is the opportunity for countries of transit and destination to eliminate detention centers, places where serious violations of human rights are present and pose a particular risk to children, adolescents, women, indigenous people and LGBTIQ.
- “Anti-trafficking” policies are also being used to target migrant workers through raids on places of work (usually with migrants in irregular status getting detained and deported). This does not help trafficked persons, who are often returned alongside migrants, as states avoid their human rights obligations.

- Access to justice, education and health, including sexual and reproductive health and mental health should be granted for all women, independent of their nationality or migration status. 'Firewalls' must be developed between immigration enforcement and public services. Public service officials should be able to perform their important social missions without interference from anyone.
- Migrant and refugee women must have access to justice, including safe reporting and proper firewalls with immigration control. This should include access to legal advice and legal aid for women in migration, independent of their migration status, and information about how to access support in the event that rights are breached.
- Mothers seeking information on missing migrants in countries of transit or destination must also have access to legal information, legal aid and justice, with the ability to travel to these countries to seek information and redress in safety.
- States must end restrictive policies that legitimize family separation, with all the emotional and psychological effects that this generates. Mothers must be able to remain together with their children.
- So-called "voluntary repatriation programs" violate human rights and must end. They have systematically institutionalized deportations, detaining migrants not as an exception but as the rule, making women and their children particularly vulnerable. When women and children migrate fleeing violence at home, this intensifies their trauma. The Global Compact must be a paradigm shift regarding these enforcement policies and programs.

CAMPAIGN AGAINST XENOPHOBIA

- The Compact needs to go beyond a media campaign on xenophobia. It should involve an intersectional analysis of exclusions and 'othering' from gender and race perspectives in the context of sustainable development and human rights.
- The Compact should promote local level actions against xenophobia and commit to holding state parties to account through the relevant international mechanisms.
- National austerity programs have contributed to the rise of backlash against migrants. This cannot be counteracted through media campaigns. It will require concerted policy changes at the national level to safeguard the economic and social human rights of both citizens and migrants, including decent work and social protections in the context of Agenda 2030, to create well-being and economic security.
- The criminalization of migrants through enforcement policies and the creation of a discourse of "good migrants" and "bad migrants" have laid the groundwork for the current rise in xenophobia, which cannot be counteracted through mere media campaigns. Real change will require a roll-back on criminalization policies and the expansion of regular channels of migration.

SEXUAL DIVERSITY

- Gender is not binary. There must be an inclusive understanding of "women" which includes lesbian, trans-sexual, bi and intersex women.
- Enforcement policies, including detention, create particular dangers for trans women, who face police violence and may be housed in male detention centers where there is heightened risk of rape and physical abuse as well as denial of critical health care. Specific attention must be paid

to the vulnerabilities of trans women created by current migration policies. States must guarantee the human rights of trans migrants.

LANGUAGE ON MIGRATION

- Refer to *human mobility* or *people in mobility* (origin, transit, destination and return) and also of those affected by migration (those left behind), not only migrants.
- States must address internal and external movement (of all kinds) and affirm all people as bearers of rights regardless of whether mobility is within national boundaries, or whether they fall within particular migration categories when they cross borders. We do not need more categories (such as “forced migrants”). We need states to fulfill existing obligations to protect and promote human rights for all.
- “*Managed migration*” begs the question, management of whom (it's not all migrants), by whom, for whom, for what purpose? Who really benefits? We challenge the framing of “managed migration” which focuses on labor mobility rather than migrant human rights.
- The term “xenophobia” has no agreed definition. The UN World Conference on Racism Durban Declaration (WCAR) notes the overlap between racism and xenophobia. It says that *xenophobia* denotes behaviour specifically based on the perception that the *other* is foreign to or originates from outside the community or nation. Explicit reference to racism should not be omitted in discussions of xenophobia.
- The term “illegal” should never be used to refer to migrants and refugees. People may be in an irregular situation but this does not define them.
- There is lack of clarity and common definitions of the terms “mixed migration” and “forced migration”, calling their common use into question. Their use (by UNHCR, and other UN agencies) tends to exclude certain groups.
- There is a need to reject divisive language and labelling of “good and bad migrants” or the creation of a dichotomy between “good” refugees and “bad” migrants.

THE GLOBAL COMPACT AND AGENDA 2030

- The Agenda 2030 framing of “*safe, legal and orderly migration*,” echoed in the Global Compact, opens the possibility for regularization of migrants, end to temporary contracts and circular migration, expansion of channels for regular migration, particularly for low wage women workers, an end to criminalization of migrants at borders and the interior, and a full embrace of the current global migration governance framework as reflected in human rights treaties and ILO conventions. It must *not* be used as code for the further exclusion, criminalization and expulsion of migrants.
- The full breadth of sustainable development goals is necessary to make migration a choice and to guarantee women’s human rights and the future of the earth. Focus should not be limited to the places where “migration” or “women” are mentioned in the SDGs. We call for integration of the SDGs with the Global Compact.
- The Global Compact must also consider the outcomes of the Addis Ababa Declaration, the need for adequate development financing, and the gendered economic human rights implications of illicit financial flows.

- Migrant women's contributions go well beyond remittances or diaspora investments, and should not be instrumentalised as such. Development agendas will certainly benefit from migrant women's leadership and economic contributions, but the SDG agenda must not assume that resources emerging from women's precarious survival strategies constitute development financing or could provide any excuse for not fulfilling national commitments to ODA and shared global responsibility for development financing.
- Climate change has a direct gender and migration-related impact, particularly for rural women farmers, displacing women within countries and across borders. States must recognize the gendered nature of agriculture in addressing migrants in crisis.
- Women in migration should have access to SDG goal of health care, including sexual and reproductive health care and mental health care, regardless of their migration status.

PARTICIPATION OF WOMEN IN GLOBAL MIGRATION GOVERNANCE

- We call for a Global Compact negotiation process that fully includes civil society at all stages in a transparent manner. There should be regional preparatory events and parallel self-organized civil society events. The process should include events organized by women's organizations with a specific focus on women in migration at every stage of the process.
- Civil Society should be accredited to the process through an ECOSOC Roster status that enables non-ECOSOC NGOs to fully participate. Member states must not have the right to arbitrarily reject NGO applications.
- Civil society should identify agenda, scholarship allocations and speakers for all civil society events and identify speakers for the formal state-led negotiation sessions.

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