

Promote Safe Migration Pathways & Regularization

The Issue

- **Bi-lateral agreements** between countries facilitating the migration of migrant women workers, particularly for domestic work, may rely on unscrupulous recruiting agencies; ask women to sign contracts in languages they do not understand; or tie their migratory status to a single employer opening the way to abuse without legal recourse. Such “regular pathways” in fact exacerbate the exploitation and violation of women’s human rights.
- **Irregular Migratory Status in Destination Countries:** Migrants in irregular status face greater vulnerabilities and denial of their human rights. Restrictive regularization procedures create barriers to a life of dignity. Irregular status makes it difficult to rent a place to live, find work in the formal sector, enroll children in school, receive medical attention, open a bank account, or report crimes and access justice.

Gender Dimensions

- Migrant women in undocumented or irregular migratory status and those with temporary work permits tied to a single employer are particularly vulnerable to gender-based violence and face greater obstacles to protecting their rights and accessing justice.
- These women face greater risk of abuse because they fear reporting labor and other rights violations including gender-based violence.
- Limited access to regular pathways means that migrant women are more likely to migrate through irregular channels. They then face obstacles to regularize their status, keeping them in a precarious situation. They may be exposed to trafficking rings for labour and sexual exploitation.

Good Practices

Some Latin American States are already implementing policies addressing these concerns.

- Argentina was one of the first countries to recognize the regularization of migrants as an obligation of the State and a right for those in the country in undocumented or irregular status. (Ley 25.871, art. 17, 2003).

- In Brazil, regularization of documents is a principle of migration policy (Ley 13.445 de 2017, art.3, V).
- Uruguayan law also established the obligation to “offer migrants the information needed to regularize their status in the country.” (Ley 18.250, art.9, 2008).
- Peru “*favors permanent regularization for migrants, enabling protection for the human person and preventing or correcting situations that undermine human dignity, rights and liberties.*” (Decreto Legislativo N°1350, 2017, art. XII).

Recommendations – States should:

1. Avoid relying on temporary work programs as a regular pathway for migration.
2. 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.)
3. Promote norms, mechanisms and practices that affirm regularization of migratory status as a first response rather than detention, deportation or expulsion.
4. Revise codes and norms regarding migratory status so that being undocumented is not an impediment to gaining residency status.
5. Incorporate objective, gender-responsive and non-discriminatory criteria for attaining regularization and protection, particularly for women migrants.
6. Offer information and adequate legal advice to enable and encourage regularization and prevent migrants from falling into or remaining in irregular migratory status. Simplify procedures for regularization so that they are clear, accessible and affordable.

Relevant International Policy

Global Compact for Safe, Orderly and Regular Migration, Objectives (4) adequate documentation; (5) pathways for regular migration; (6) ethical recruitment and decent work; (7) Address and reduce 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