

**Civil Society Days 2015, 12-13 October 2015**

BRIDGING PAPER<sup>1</sup>

## **Women in Migration**

This contribution by the *Women and Global Migration Working Group*<sup>2</sup> brings gender into the discussion of migration & development, focusing on the particular situation and concerns of women—those who migrate, those who remain behind when family members migrate, and those who struggle to keep their families together at home, choosing *not* to migrate.

Around 50 per cent of the world’s estimated 232 million international migrants are women. Regional migration is on the increase. Between 2000 and 2013, the estimated number of international migrants in the global North increased by 32 million, while the migrant population in the global South grew by around 25 million.” Women increasingly migrate for work, which is disproportionately precarious and low-wage. And women migrants and refugees face unique vulnerabilities in transit and at borders. Data, research, analysis and responses to the reality of migration and development must involve a gender perspective in all areas.

While the GFMD focuses on international migrants, and while national laws and international treaties have specific legal frameworks and categories for people who move for diverse reasons, women’s realities do not easily fit into these structures. Rural women, facing the impact of trade agreements, austerity programs, export-oriented agricultural policies, and climate change, land-grabbing and other factors are compelled to migrate internally, often to urban areas within their countries. When cities cannot absorb all of these displaced workers, many will migrate to neighbouring countries. Others migrate within their region, or from South to North. Many women migrate even when economic conditions are favourable, fleeing gender-based violence or seeking educational opportunities closed to them due to gender discrimination. Some migrate due to political and religious persecution or war. They are then categorized as “internally displaced persons,” internal economic migrants, international migrants, refugees, or asylum-seekers. States extend welcome or turn newcomers away based on these categories, often failing to recognize multiple and complex reasons for women’s migration, common realities across these categories, and the need to fulfil human rights and treaty obligations regardless of the specific category. For example, a Central American woman fleeing violence in her country may have experienced gender-based violence at home and in transit; may have been trafficked; may also have economic reasons for leaving home. Yet some in her situation will receive documents based on proof of gender-based violence or trafficking, while others will be deported from the US and Mexico. As the GFMD convenes in Istanbul, the world is facing a vast refugee crisis, particularly but not limited to Europe. Response has been and continues to be

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<sup>1</sup> This draft Action Paper has been prepared as input for the 2015 GFMD Civil Society Days by the Women and Migration Global Working Group

<sup>2</sup> For a list of Working Group members see: [www.wgmwg.org/members](http://www.wgmwg.org/members)

inadequate to meet the urgent needs of refugees. At the same time, this reality should not divert attention from the on-going realities and needs of migrants around the world, nor should it allow states, the media and the public to pit one group against another, welcoming “deserving” refugees who flee war while criminalizing, jailing and deporting “undeserving” economic migrants seeking work. While many migrants choose to leave home, millions of others are forced to do so. Forced migration reflects the failure of states to deliver peace, development and human rights, regardless of the “name” given to those who move. In this paper we refer to both migrants and refugees, understanding the limitations of these categories.

## I. INTRODUCTION

### ***Gender Analysis:***

A gender analysis explores the social roles assigned to men and women in society and how these social roles shape women’s respective circumstances, including their power to negotiate on their own terms and to claim rights. This is in the context of other forms of power or exclusion, including race, ethnicity, religion, national origin, sexual orientation, gender identity, age and national status. There is no generic woman or man; people live at the intersection of multiple identities that bestow greater or lesser power. Gender analysis is a crosscutting issue in migration and development that does not solely consider equal representation, but also the lifting up and deepening of a gender lens in terms of causes, consequences, and advocacy in every focal area.

Across the globe, women continue to be marginalized in decision-making and to lack access to the resources that provide economic, political and social power. Among other roles in the economy, most women fulfil the role as caregivers and in some regions, food producers, in their families, providing unpaid labour for the social reproduction of the household. In the paid economy women are concentrated in low wage care-giving roles, from child-care and domestic labour to teachers, nurses and food workers. Rural women grow the food to feed their families and for local markets, often in the informal economy. A growing global care chain has increased demand for paid household workers from the Global South to work in the homes of professional women in the Global North. Both groups of women workers are squeezed by a global economy that increases demand on women’s labour time in and out of the home<sup>3</sup>.

Gender-based violence is a reality in all countries, from the household, the street and the workplace to state actors including police, military, and border and immigration enforcement officials. When these realities are recognized, too often the response is one of victim-rescue and protection, reinforcing gendered power relations, rather than recognizing the rights and agency of women.

Migration, then, is seen in this context—women trying to navigate livelihoods, protection of their families, safety and rights when they continue to hold subordinate status. This becomes all the more complex and difficult for women who are marginalized by race, ethnicity, class, religion, sexual orientation, gender identity, national status and other factors<sup>4</sup>. Equally relevant are the particular layers of gender and racial discrimination towards migrant women. This is especially true for women in destination countries where

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<sup>3</sup> See “Contributions of women migrant workers to development: going beyond remittances,” Background Note prepared for the GFMD Third Thematic Meeting, 8 September 2015, Geneva, [https://www.gfmd.org/files/documents/gfmd\\_turkey2014-2015\\_tm3\\_background\\_note.pdf](https://www.gfmd.org/files/documents/gfmd_turkey2014-2015_tm3_background_note.pdf)

<sup>4</sup> See Women’s Caucus document for the 2013 UN High Level Dialogue on Migration & Development at: <http://wgmwg.org/wp-content/uploads/2013/RE08/final-advocacy-doc-ENGLISH.pdf>

they become marginalized members of racial and ethnic minority groups. Migrant women of colour face added levels of discrimination, lower pay, increased sexual violence and higher incidence of trafficking, in both private and public spheres. The intersectionalities of gender, race, class, homophobia and ageism as relate to women on the move have not benefited from sufficient analysis from academics and policy experts.

### ***Gender and the ‘Circular Migration’ Model:***

“Circular Migration” is a model in which migrant workers return to their home countries after a period of temporary employment. It relies on the education and training of these migrants by sending countries and assumes that migrants will return home, rather than remaining in irregular status. In this model, migrants gain new skills to contribute to their home countries’ development while contributing their labour to destination countries. However, as National Network for Immigrant and Refugee Rights (NNIRR) notes, “because these migrants are not accorded the same rights as other citizens while in these “temporary” situations, they are frequently subjected to employer exploitation and are almost always forced to remain separated from their families since they are provided with temporary work visas only for themselves... Governments’ reliance on temporary or guest worker programs has become a cornerstone of migration policy among many migrant-receiving countries in the Global North<sup>5</sup>.” This occurs in the framework of “managed migration”, which argues that “migrants can make significant contributions to the development of both sending and receiving countries, as long as migration is managed according to current economic (market) needs. While governments claim this would “lessen repression” against migrants, workers subjected to this system fare no better and are reduced to being a labour commodity, to be used and disposed of according to economic trends and employer need<sup>6</sup>.”

In this much-touted “circular migration” model, countries of origin often encourage the “exportation” of women workers both as a social safety valve and for the remittances that they send home. In global negotiations on both Financing for Development and means of implementation of the SDGs, global remittances (over \$400 billion per year) were frequently seen as a resource to pay for the development agenda without adequately recognizing the cost that these remittances represent in terms of migration, labour exploitation, violence against women, divided families and lives on the margins of society<sup>7</sup>. Countries of destination actively seek low wage migrant labour to fill labour gaps and enhance profits. Too often the lack of sufficient channels for regular migration means that these flows of migrant labour are accompanied by the criminalization of migrant workers and their families, leading to detention and deportation. Migrant labour is in great demand, but without guarantees of rights. For migrant women in both paid and unpaid caregiving roles, the lack of access to social services (health, housing, social protection); recourse to justice in cases of violence; and decent work at liveable wages without threat of violence and exploitation are part of the package of “circular migration.” Countries of destination want women’s labour without taking responsibility for political, economic, social and cultural rights or for their integration into the society.

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<sup>5</sup> “Excluded and Exploited: The New Regime of Trade, Managed Migration and Repression,” National Network for Immigrant & Refugee Rights, November, 2010,  
[http://www.nnirr.org/~nnirrorg/drupal/sites/default/files/excluded\\_and\\_exploited\\_-\\_english.pdf](http://www.nnirr.org/~nnirrorg/drupal/sites/default/files/excluded_and_exploited_-_english.pdf)

<sup>6</sup> *ibid*

<sup>7</sup> See “Contributions of women migrant workers to development: going beyond remittances,” Background Note prepared for the GFMD Third Thematic Meeting, 8 September 2015, Geneva,  
[https://www.gfmd.org/files/documents/gfmd\\_turkey2014-2015\\_tm3\\_background\\_note.pdf](https://www.gfmd.org/files/documents/gfmd_turkey2014-2015_tm3_background_note.pdf)

Important efforts to regularize migration, recruitment and employment policies, portability of pensions, and other ways to improve the migration experience are necessary but insufficient. They fail to challenge the circular migration model itself, which takes as a given the benefit of migration as well as the detrimental development model that forces so many women and men to migrate.

### ***Human Rights Framework:***

Human rights and women's rights must be at the centre of all migration policy and governance. Migrant women are bearers of rights, and not simply "agents of development." National security policy, leading to the criminalization of migrants, cannot override human rights commitments. There are deficiencies in application of human rights law and specificity for all migrants. The process of migration for whatever reason further undermines access to and application of rights standards and can exacerbate impact on women, as demonstrated in the following sections. The right to migrate and right not to migrate must be affirmed through policies that directly support these choices.

We celebrate the 25<sup>th</sup> anniversary of the Migrant Rights Convention affirming the human rights of all migrants, regardless of status. The convention should interact with other key international human rights conventions, including the Convention on the Rights of the Child and CEDAW, fundamental ILO conventions, Convention 189 on domestic workers, and ILO conventions on migrant workers as tools for guaranteeing these rights.

## **II. SUSTAINABLE DEVELOPMENT GOALS BEYOND 2015 FOR MIGRANTS AND COMMUNITIES**

The 2030 agenda for sustainable development and adoption of 17 sustainable development goals (SDGs) mark a substantial setback from commitments made in the Beijing declaration and platform for action, which required governments, the private sector, financial institutions, donors and civil society to advance 50 strategic objectives covering 12 "critical areas of concern", including poverty, health, education, violence, armed conflict, the economy, power and decision-making, the environment, the media, and women's rights institutions. Where the new goals offer vague recommendations, the Beijing agreement set very specific commitments for governments. Comments Kate Lappin of Asia-Pacific Forum on Women, Law & Development (APWLD), "The objectives of Beijing were consistent with a recognition of the deeply structural nature of the inequalities experienced by women. By openly challenging austerity programmes and the impact of macroeconomic policies on women, the platform acknowledged that the neoliberal, "trade not aid" model of development was – and is – failing the majority of the world's women. Despite the intervening impact of two global financial crises, rocketing wealth inequality, growing fundamentalisms, and a steadily worsening climate crisis, the SDGs fail even to match the Beijing agreement's level of ambition, let alone build on it to meet our current challenges<sup>8</sup>." Thus, there is real danger that the SDGs may directly undermine the Beijing accord. "Rather than new commitments from governments in the SDGs, we need accountability for the promises made 20 years ago in Beijing."

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<sup>8</sup> "Global goals on women's rights are a pale imitation of promises made in Beijing," Kate Lappin, The Guardian, September 23, 2015, <http://www.theguardian.com/global-development/2015/sep/23/global-goals-womens-rights-pale-imitation-beijing-declaration-and-platform-for-action>

The 2030 Agenda For Sustainable Development aims to be “a comprehensive, far-reaching and people-centred set of universal and transformative Goals and targets<sup>9</sup>.” Whilst the agenda and its Sustainable Development Goals (SDGs) include some good provisions for women in migration, the agenda fails to address the structural changes necessary to truly transform and improve the lived realities of women migrants and women affected by migration. The goal of addressing inequality – within and between countries – is important but fundamentally flawed in its target to control migrations, focusing on safe, orderly, regular and responsible migration<sup>10</sup>. This limited understanding of migration puts the interests of the state ahead of the human rights of migrants and ignores that it is state restriction of regular migration and border controls which are responsible for irregular migrations and the smuggling of migrants.

National migration policies and practices, particularly circular and temporary migration models endorsed by the SDGs, prevent and restrict the movement of migrant workers and increase their risk of being put in abusive and irregular situations where they can be exploited by recruiters and employers, contradicting states’ commitment in the SDGs to “Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment<sup>11</sup>”.

The current refugee and migration crises show the limitations of the SDG’s approach to both migration and development by exposing the necessity of migrating due to failed development policies, including austerity programs; the net outflow of capital from poor nations; disasters related to climate change; displacement due to resource extraction and land-grabbing; war and conflict, including conflict over resources.

The lack of accountability mechanisms in the new Agenda are a serious weakness and a significant disadvantage against other, binding, agreements, such as trade agreements, that will affect the implementation of the commitments made by states with these new SDGs<sup>12</sup>. With its continued reliance on the neoliberal model of development, emphasizing growth and an increasing role for the private sector, the SDGs perpetuate an economic development model that drives inequalities and relies on the unpaid labour of women and girls<sup>13</sup>.

### **Contributions of Women Migrants Beyond Remittances**

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<sup>9</sup> *Transforming Our World: The 2030 Agenda For Sustainable Development*, Para.2 (available at <https://sustainabledevelopment.un.org/post2015/transformingourworld>)

<sup>10</sup> *Transforming Our World*, goal 10, target 10.7

<sup>11</sup> *Transforming Our World*, goal 8, target 8.8

<sup>12</sup> Fran Quigley, SDGs vs Trade Agreements: Not a Fair Fight, *Health and Human Rights Journal* (blog), 13 September 2015, <http://www.hhrjournal.org/2015/09/13/sdg-series-sustainable-development-goals-vs-trade-agreements-not-a-fair-fight/>

<sup>13</sup> Women’s Major Group, *Sustainable Development Agenda 2030 Presents a Bold Vision for Women and Girls Advocates Gear Up for Work to Come*, 9 August 2015 <http://www.womenmajorgroup.org/wp-content/uploads/2015/08/Press-Release-WMG-re-2030-Agenda-WMG-10Aug2015.pdf> ; Asia Pacific Forum on Women, Law and Development (APWLD), *New Development Goals lack foundations to deliver according to women’s rights network*, 14 August 2015, <http://apwld.org/new-development-goals-lack-foundations-to-deliver-according-to-womens-rights-network/>; Jason Hickel, The Problem with Saving the World: The UN’s new Sustainable Development Goals aim to save the world without transforming it, *Jacobin*, 8 August 2015, <https://www.jacobinmag.com/2015/08/global-poverty-climate-change-sdgs/>

Much of the discussion regarding migration and the SDG agenda has focused on the contributions that migrants make to development. As articulated at the GFMD Third Thematic Meeting in Geneva on 8 September, migrant women workers make significant contributions to development beyond remittances<sup>14</sup>. This includes women's leadership, knowledge and social and economic contributions in countries of origin and destination. However, such contributions often come at a significant cost to women, which must not be overlooked.

There is no doubt that the remittances that women send to home countries are significant, and should be recognized. "Whilst there is little in the way of sex-disaggregated data on remittances, it is reported that by sending a higher proportion of their often lower wages, migrant women are responsible for half of the World Bank's estimated \$582 Billion in global remittances. In countries such as Nepal, women migrant workers - mostly domestic workers contribute about 50% of migrant workers' remittances, or around 23% to Gross Domestic Product (GDP)<sup>15</sup>." While the payments from migrants make up considerable contributions to the national treasuries of many countries (through VAT, property taxes, school fees, etc), many of these same nations plead poverty when asked to provide minimally decent consular services to their nationals abroad. This creates an equity and human rights issue for those who are deprived of those services. Furthermore, the countries that embrace remittance-driven economic development have done little or nothing to recognize and facilitate the political representation of nationals living abroad, nor to assist with reintegration if they return home<sup>16</sup>.

Whatever women migrants' contributions to development are, global economic processes over which they have no control still may and often do work against their efforts to provide for their livelihoods and those of their families in countries of origin. Women migrant workers' role in development cannot be instrumentalized but must be seen in the complex nexus of their choices, their lack of choices, their family relationships and their ability to claim rights, including economic and social human rights. 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.

### **Recommendations:**

1. Civil society should engage critically with the limited and harmful framing of migration in the 2030 Agenda/SDGs and its reliance on a development model that is sustainable only through the unpaid and underpaid work of women and girls.
2. States should make good on their 2030 Agenda/SDGs commitment to protect the labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment, in the context of progressively realizing their obligations to the human right to decent work
3. States, private sectors, and civil society should ensure full and equitable access to women and their children to health care, education, water, and sanitation as per SDG objectives 3, 4 and 5.

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<sup>14</sup> See "Contributions of women migrant workers to development: going beyond remittances," Background Note prepared for the GFMD Third Thematic Meeting, 8 September 2015, Geneva,

[https://www.gfmd.org/files/documents/gfmd\\_turkey2014-2015\\_tm3\\_background\\_note.pdf](https://www.gfmd.org/files/documents/gfmd_turkey2014-2015_tm3_background_note.pdf)

<sup>15</sup> *ibid*, p. 3

<sup>16</sup> See "Paying their Share: Migrants Contribution to Fiscal Health in Mexico and El Salvador" Oscar Chacon and Jose Luis Guterrez, editors, NALACC, <http://www.nalacc.org/membership/nalacc-resource-library/>



### III. HUMAN SECURITY AND HUMAN DEVELOPMENT FOR MIGRANTS ON THE MOVE

#### Migrants in Crisis

Over the past few months, we have seen historically unprecedented levels of migrants and refugees, mainly from the Middle East and Africa, trekking towards the assumed safety and security of Europe. In the name of national security, European countries are neglecting protection needs of thousands of migrants and refugees arriving daily at EU borders and Member State borders, including but not limited to recognition of the right of asylum and to due process<sup>17</sup>. Similar ‘crises’ across the globe such as Rohingya and Bangladeshi refugees in the Andaman Sea, migrants along the Central America/Mexico/US migration corridor, and Australian offshore detention facilities, demonstrate a failure of increasingly restrictive and punitive policies linked to larger failures of the current development model. In addition, the growing externalization of borders shifts enforcement practices to places where migrants are less visible and rights may be violated with impunity. For example, the current situation in Hungary and Croatia provides a mirror to Mexico’s southern border, which has become the locus for intercepting refugees from Central America and summarily deporting them. The current focus on refugees and asylum-seekers, which requires urgent, rights-based responses, should not divert our attention from the on-going realities of economic migrants seeking livelihoods across borders, and the overlap between the two categories.

An increasingly large and visible number of migrants at borders and in transit are women and children, which brings additional concerns to ensuring protection for migrants and refugees due to vulnerabilities linked to age and gender. This includes the experience of rape and other gender-based violence. According to the IOM, “One of the most significant recent trends in migration has been the rise in the number of women using dangerous routes previously used mainly by men. More and more women – fleeing discrimination, violence, or poverty – are now taking the same risks as men in search of a better life for themselves and their children. Indeed, while many women travel with their families, the International Organization for Migration (IOM) is seeing an increasing number of women migrating on their own to an unknown, unpredictable, and often dangerous future. Women and children migrants are dying with increasing frequency at sea, crossing deserts, and on other hazardous routes<sup>18</sup>.”

The initiative on Migrants in Countries in Crisis, MICIC, is an important process to address some of these concerns. There are specific vulnerabilities to be addressed regarding migrant women in crisis conflict and natural disasters, particularly because of their status (as temporary workers, for example), or lack of status. However, migrants in crisis needs to contemplate flows of refugees fleeing state and para-state violence as well as economic migrants facing crisis and violence in transit and at borders. We encourage states, agencies and civil society engaged in the MICIC initiative to bring a gender analysis to their work and expand the scope.

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<sup>17</sup> EU Response to Migration: Turn Political Crisis into Opportunity, PICUM, 11 September, 2015, [http://picum.org/picum.org/uploads/file\\_/PICUM%20Statement\\_11September\\_EN.pdf](http://picum.org/picum.org/uploads/file_/PICUM%20Statement_11September_EN.pdf)

<sup>18</sup> The International Organization for Migration, “Desperate Women’s Dangerous Moves”, Switzerland, March 2014, <http://www.iom.int/oped/desperate-womens-dangerous-moves>

According to UNICEF, 12 per cent of refugee women, the majority from Syria and Afghanistan, arriving in Macedonia are pregnant<sup>19</sup>. This is not a unique situation. Displaced women and migrant women, be they refugees or migrant workers, have no access to sexual and reproductive health services and are unable to avoid pregnancies. Some may have already been pregnant before being compelled to leave. Although pregnancy in itself does not constitute a “crisis”, the causes of the migration; poor conditions in transit and in camps including: lack of safe drinking water, adequate food and healthcare; unsanitary conditions; and obstructionist policies that seek to turn thousands of refugees away, significantly increase the gravity of the situation for pregnant women. Conditions on the journey and in camps exacerbate the risk of discrimination and sexual and gender-based violence against women refugees and migrants, which may lead to unwanted pregnancy.

Because rural women play such a significant role in food production (70% of African women are farmers, for example) they are highly impacted by natural disasters and some become refugees in neighbouring countries or within their sub regions. The impact of climate change has a direct gender and migration-related impact. For example, “an estimated 87 per cent of unmarried women and 100 per cent of married women lost their main source of income when Cyclone Nargis hit the Ayeyarwaddy Delta in Myanmar in 2008<sup>20</sup>.” The focus on migrants in crisis needs to reflect the gendered nature of agriculture and the impact that climate change has in displacing women, both within their countries and across borders. Global climate negotiations in Paris this year must recognize the urgency of this moment, agree on binding commitments regarding reducing the exploitation of fossil fuels and rate of carbon emissions. States should bring both gender and migration lenses to the deliberations, honouring the voices of those communities already impacted by climate change, particularly indigenous women.

### **Human Security, Human Development and Human Rights**

Current language around human security recognizes the importance of meeting critical economic, social and cultural needs. At the same time we are hesitant to use the term, as it can feed into the current dominant national security framework, which now frames migration policy. Rather, we reaffirm states obligations to promote, protect and fulfil all international human rights, including economic, social and cultural rights, regardless of migration status.

Treating “human development” in the context of national-level data and then ranking nations according to scores, as is done through the UN Human Development Index, has at least two major problems when it comes to understanding obstacles to human development and human needs fulfilment. First, the focus is on national processes of development, while in reality the causes of low levels of development are often attributable to international and global processes. Secondly, the realities and needs of those living in irregular circumstances may not even be captured in the data at all, so they and their needs disappear from the picture. Women migrants who are displaced, who become refugees, are trafficked, deported, or living undocumented in destination countries live in precarious conditions yet their “human development” remains unaddressed.

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<sup>19</sup> “Asylum is not gender neutral: the refugee crisis in Europe from a feminist perspective,” European Women’s Lobby, posted 2 September 2015, <http://www.womenlobby.org/spip.php?article7292>

<sup>20</sup> Blomstrom, E., Cunningham, S., Johnson, N., & Ower, C. “Climate Change Connections: Women at the Forefront”, United Nations Population Fund (UNFPA) and Women’s Environment and Development Organization (WEDO), 2009. [http://www.wedo.org/wp-content/uploads/climateconnections\\_1\\_overview.pdf](http://www.wedo.org/wp-content/uploads/climateconnections_1_overview.pdf)



## Recommendations:

1. States must ratify the 1951 Refugee Convention, as well as fulfil their obligations under the Convention and their customary law obligations, if not ratified. Destination countries must establish safe and regular channels for migrants and refugees to come, erasing the need for smugglers and precarious or deadly transit created by current migration and border enforcement policies.
2. States must address the needs of people on the move first and foremost. As people are in transit or move across borders, their needs and rights take priority over security and enforcement regimes. Saving lives must be paramount, be it in moments of “crisis” or on-going irregular migration flows made necessary due to the lack of regular channels. States must not respond with efforts to turn back migrants in transit, arrest, detention and deportation. Instead, states must ensure migrants’ safety and address their needs.
3. State policies and practices should end criminalisation of migration and migrant detention, including for women and children migrants, refugees and asylum-seekers. States should address monitoring and implementation of minimum standards for the treatment of women and children in transit. In addition, states should commit to a principle of not detaining children or families.
4. States must adhere to and implement commitments to human rights at international borders as outlined in OHCHR *Recommended Principles and Guidelines for Human Rights at International Borders*<sup>21</sup> which states that, “the human rights of all persons at international borders must be respected in the pursuit of border control, law enforcement and other State objectives, regardless of which authorities perform border governance measures and where such measures take place.” States must ensure that all border governance measures protect the right of all persons to leave any country, including their own, and that border management measures do not adversely affect the enjoyment of the human rights and dignity of migrants.
5. The right to due process of all migrants regardless of their status shall be respected and promoted by all states. This includes the right to an individual examination, the right to a judicial and effective remedy, a right of appeal and access to justice and redress mechanisms for all victims of crime irrespective of residence status.
6. States should pay particular attention to the support needs of survivors of gender-based violence, to ensure effective protection for all migrant women experiencing violence. They must also give specific attention to migrant women’s health, sexual and reproductive rights.
7. Specific attention should be paid by states to the situation of migrant women on dependent visas and undocumented women victims of crime to ensure an effective de-linkage of migration control mechanisms from access to justice and essential services for victims of crime, including gender-based violence.
8. States and the global community must implement a people-centred development model that adequately addresses climate change, which is at the heart of many of the current refugee and migrant realities. Governments gathering at COP21 in Paris from Nov. 30 - Dec. 11 must make firm commitments to keep 80% of fossil fuels in the ground and finance a just transition to 100% renewable energy by 2050.

## III. LABOUR MOBILITY, LABOUR RIGHTS AND DECENT WORK

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<sup>21</sup> [http://www.ohchr.org/Documents/Issues/Migration/OHCHR\\_Recommended\\_Principles\\_Guidelines.pdf](http://www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf)

A majority of women are migrating on their own account in search of work that will help sustain their families back home. Despite an upward trend in the migration of highly skilled (tertiary education) women workers, women migrant workers are usually employed in jobs that are not covered or inadequately covered by labour legislation or by social security or other welfare provisions, including maternity protection; and where the right to organize and bargain collectively are denied in law or in practice. Recruitment of migrant workers increasingly takes place under bilateral agreements which not only tend to ignore any applicable normative framework; they often promote or at least facilitate discrimination and abuse of the rights of migrant workers through, for example, the establishment of different entitlement packages for migrant workers from different countries of origin, even though they may be performing the same work. A migrant domestic worker from Kenya going to work in Saudi Arabia may command a much lower salary than a migrant worker from the Philippines going to the same country, simply because of the perceived “bargaining” power of the country of origin. Rather than reinforcing the protection of human and labour rights, bilateral agreements have become an instrument of trade, commodifying the labour of migrant women even further.

The international recruitment industry is big business. A lack of political will to regulate and monitor the industry means that it often operates in a legal vacuum and is responsible for many of the abuses experienced by migrant women workers: from gender-based violence, to extortionate fees leading to conditions of bondage, to withholding of wages and confiscation of passports. Migrant women, in particular, often lack access to adequate or accurate information about the type of job they are being recruited for, information about their labour and civil rights in countries of destination and access to justice should things go wrong.

### **Labour Market integration**

Existing gender discrimination in labour markets plays out in a particularly acute form for women migrant workers. Across regions, migrant women are overrepresented in underemployment, involuntary part-time employment, temporary-contract employment and informal work. Despite bringing a range of skills, migrant women are confined mainly to service sector occupations (e.g. cleaning, catering, domestic, health and social care). In Asia, migrant women predominate in low skilled jobs in agriculture and in the textile and garment industry. Added to that is discrimination based on race, nationality, ethnicity and religion; the flames of which are fanned by the prevailing xenophobic discourse surrounding migrants. Migrant women of colour are significantly more likely to be unemployed, in low-waged exploitative work, and to be or become undocumented. Incoherent national migration policies that are often the domain of interior and security ministries with little input from labour ministries aggravate structural and systemic barriers.

Unprecedented numbers of women are migrating as domestic workers. The demand for migrant women in domestic employment worldwide is fuelled by the withdrawal of State provision of crucial public services such as child and elderly care services, combined with women’s increased labour force participation in both countries of origin and destination. Migrant women are increasingly providing the infrastructure that allows other workers; especially those in medium and high skill occupations, to better reconcile work and family life.

The unregulated, insecure and privatised nature of migrant women’s domestic work leaves them vulnerable to labour exploitation and human rights abuses. The protection of domestic workers rights and the provision of security and benefits are crucial to ensure that the economic and social successes of some are not built on inequalities and on exploitation of others. These changes require effective and practical

measures and policy instruments, including the ratification and implementation of ILO Convention 189. Such changes also require a systemic re-valuation of domestic and care work, its role in the economy and in society and its contribution to the welfare of communities. Proper resourcing of the public health and social care services is equally essential.

#### **Recommendations:**

1. International instruments such as ILO Conventions 97 and 143, the 1990 UN Convention on the Protection of the Rights of All Migrant workers and Members of their families and the CEDAW General Recommendation No. 26 on women migrant workers must form the cornerstone of labour migration policies. The right to form and join unions, the right to equal treatment and non-discrimination in the workplace, regardless of migration status, and the right to access to courts, including labour courts and other grievance mechanisms are international human rights obligations, which States must respect. States should adopt active labour market policies that address structural and systemic barriers relating to gender, race and nationality.
2. Proper regulation and monitoring of the activities of private international recruitment agencies is crucial to ensuring fair recruitment and improving outcomes for migrant women workers.
3. Guest worker and temporary worker programs that tap migrant labour without extending rights, family-unification and permanent status undermine migrant women's ability to claim rights. These should be replaced with full status and rights, with a path to citizenship<sup>22</sup>.

#### **IV. MIGRANT EMPOWERMENT AND ACTION FOR HUMAN DEVELOPMENT**

Despite and often precisely due to the challenging conditions they face, migrant women are visionary and organized forces for change within their destination and origin countries. As survivors of xenophobia, labour exploitation, exclusion from social protections, and physical and sexual violence, migrant women have not simply been victims, but organize for political, social, and economic rights. Moreover, migrant women lead change from their multiple identities- as workers, students, parents, and LGBT individuals, in many public policy arenas from education, to healthcare, to housing. Yet, women's political agency and stories remain largely overlooked in the media and public discourse. Or, when women are featured they are seen mainly as the partners of men who are migrating or seeking refuge. They are generally portrayed as victims, not protagonists. This may serve media stereotypes of women and children in crisis but does not give an accurate picture of migrant women's agency and leadership. A recent alternate picture is that of 100 migrant women leaders, many of them undocumented, many of them domestic workers, who walked 100 miles in the US to bring their message to Pope Francis, that migrant women have dignity, make important contributions, and their rights should be recognized<sup>23</sup>.

Migrant women's contributions should be viewed in the full range of human development- as social, political, cultural, and economic agents of change. Uplifting migrant women's individual contributions are vital but should not shift states' obligations to correct structural conditions of unemployment, gender

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<sup>22</sup> See labour section of Women's Caucus document for the 2013 UN High Level Dialogue on Migration & Development at: <http://wgmwg.org/wp-content/uploads/2013/RE08/final-advocacy-doc-ENGLISH.pdf>

<sup>23</sup> <https://www.washingtonpost.com/news/acts-of-faith/wp/2015/09/21/people-dont-know-how-we-suffer-100-women-walk-to-d-c-for-pope-franciss-visit/>

inequalities, austerity cuts, or land grabbing. Migrant and diaspora women should be supported beyond 'economic success-story' models to collectively and safely organize to uphold a rights-based agenda.

Migrant women's social and political agency should be at the forefront of recognizing and supporting their leadership. In destination countries, migrant women are often the majority of grassroots organizers who challenge xenophobia, create mechanisms to address violence and trauma, set up social support networks, build migrant workers centres that negotiate with employers for labour rights, and lead migrant rights movements and public campaigns to reform national policies. In origin countries, migrant women can gain economic independence, shift gender relations, and participate politically with new knowledge and leadership. In addition, they are leading civil society claims on decent work, public services, against violence, and for land rights. Transnationally, migrant women's networks lead many civil society efforts to gain access to decent work, labour and social protections, gender-empowerment and rights-based development policies, and advocate as a common voice with governments, private sectors, and in global processes such as the GFMD and HLD. Indeed, migrant women are emerging as a growing force for human rights and development globally.

**Recommendations:**

1. Policies and practices should afford full recognition to migrant women of their rights as social, economic and political actors.
2. States and international processes such as the GFMD should ensure that organized migrant women are recognized and engaged in the policy spaces that impact their lives. This entails eliciting on-going collaboration from migrant women's organizations and networks engaged in rights-based organizing.
3. In order to genuinely facilitate migrant empowerment, 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 as a pre-condition to be able to participate civically.