



# WOMEN MIGRANT WORKERS' HUMAN RIGHTS





“To understand the specific ways in which women are impacted, female migration should be studied from the perspective of gender inequality, traditional female roles, a gendered labour market, the universal prevalence of gender-based violence and the worldwide feminization of poverty and labour migration”.

Convention on the Elimination of All Forms of Discrimination against Women, CEDAW. General Recommendation No. 26 about women migrant workers, paragraph 5.

## WOMEN MIGRANT WORKERS' HUMAN RIGHTS<sup>1</sup>

The international community has developed a series of instruments for protecting women migrant workers' rights.

- The **Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families** (CTM, 1990) is the first and foremost instrument for the protection of this particular population. The CTM grants human rights to the migrant population in accordance with the principle of equality among all persons, and in turn, guarantees the access to human rights regardless of the group's status as migrants. Mexico is a State Party of this Convention since 1999.
- The **Convention on the Elimination of All Forms of Discrimination against Women** (CEDAW, 1979) seeks lasting solutions for gender-based discrimination and exclusion, which, combined with other dimensions—ethnicity, economic situation, nationality, age, occupation, amongst others—, limit the exercise of the rights of women migrant workers. Mexico ratified the CEDAW in 1981.
- The **CEDAW General Recommendation No. 26** (2008) addresses in detail the circumstances that contribute to the particular vulnerability of many migrant women and their experiences of gender- and sex-based discrimination, identifying this vulnerability as both a cause and a consequence of the violation of their human rights. This recommendation emphasizes that migration is not gender-blind, since women and men are impacted differently in the migration process. It maintains that it is essential to incorporate a gender perspective in the analysis of female migration and in the elaboration of public policies to eradicate discrimination and violence against them, and promote their rights as well as their social and economic inclusion.
- Several International Labour Organization (ILO) Conventions complement the protection of women migrant workers' rights. Specifically, the **Domestic Workers Convention (No. 189)** (2011), a fundamental tool which, after having been ratified by States, contributes to guaranteeing the rights of female nationals as well as migrant women who are employed as domestic workers. Mexico has not yet ratified this Convention.

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1 For more information, see: <http://mexico.unwomen.org/es/digiteca/publicaciones?topic=e67c3cc684ce-482d812861bd59c3d054>.

## LINK BETWEEN GENDER AND MIGRATION

- Migration is implicitly related to gender, since it **impacts women and men differently**, as well as different groups of women and men during the displacement process.
- However, neither a gender-based approach nor the particularities relating to women migrants are usually present in migration studies and analyses.
- Migration is entrenching a **new globalized sexual division of labour**, in which there is a demand for female and migrant labour in receiving countries, specifically in domestic and care work, within the service sector and the sex industry.
- Through migration it is possible that women as well as men develop a different skillset or earn differential wages, part of which may be sent to their country of origin in the form of remittances, also through varying methods and percentages.
- Migration may also **reinforce gender stereotypes** that limit women's autonomy, as well as their lack of power in decision-making processes, and their vulnerability to the systematic violation of their human rights.

## WOMEN MIGRANT WORKERS AT MEXICO'S SOUTHERN BORDER: REPORTING AN INVISIBLE REALITY

Mexico is a receiving country, and a country of origin, transit and return. As a destination country, international migration at the country's Southern border has been transformed over the last three decades and has witnessed **larger migration flows with a marked female presence**, as well as boys, girls and adolescents, mainly from Central American countries.<sup>2</sup>

In the State of Chiapas, 55% of people born in another country are women (2010 Population and Housing Census). In this context, three women migrant situations coexist:

- **Immigrant** workers (born in Central America, but living and working in Chiapas)
- **Trans-border** workers (who cross the border to work in Chiapas for short periods of time)
- **Temporary** workers (who cross the border for longer periods of time, or depending on agricultural cycles).

Even though there are variations depending on the type of migratory flux, these women are mainly young, of working and reproductive age, with high illiteracy levels or only a few years of education.

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<sup>2</sup> Consulted at: <http://www.unwomen.org/es/digital-library/publications/2015/01/las-trabajadoras-migrantes-centroamericanas-en-chiapas>.

**Central American migrant women workers live and work in extremely vulnerable conditions at Mexico's Southern border:**

- Most of them **work on an irregular basis** because they do not have legal residency documents, or they lack a work permit.
- They **are employed in the informal economy**, with precarious, low qualified jobs that have very low wages in sectors considered by society as being “female”, such as domestic labour, care work (children, sick and elderly people), street commerce, agricultural work and jobs in the sex industry.
- Although most Central American female workers contribute to the development of the region, **their work and contribution are not recognized**.

**Their exposure to vulnerable conditions is accentuated by the multiple intersections of discrimination that they face** based on race, ethnicity, socio-economic condition, nationality, age, migration status and gender associated characteristics. These types of discrimination are found at a legal level, in the design and/or implementation of public policies and programs, or the lack thereof; in the workspace, within the family, and, often, it is women themselves who do not recognize their rights, further exposing them to vulnerability.

**This failure to recognize the rights of women migrant workers has profound implications:** on the one hand, it affects their ability to access opportunities, resources and jobs under equality of circumstances. On the other hand, they often find themselves in disadvantaged situations in which they face abusive conditions in an informal job as well as in violent situations in the family sphere, at work and within their community.



Some barriers<sup>3</sup> that migrant women workers face in Mexico, as a destination country:

- Discrimination in the labour market.
- Exploitive conditions at work.
- Violence in the workplace.
- Restrictions to collective association and organization.
- Limited access to health services, including for their children (boys/girls).
- Obstacles in accessing education for their children (boys/girls).
- Restrictions to freedom of movement.
- Barriers for family reunification.
- Obstacles in accessing an identity for their children.
- Barriers in access to justice.
- Barriers in accessing migration documentation (residence permit and authorization to work).
- Difficulties in marrying a Mexican citizen.

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3 Barriers identified by the CEDAW General Recommendation No. 26 on women migrant workers.

## UN WOMEN'S WORK

For UN Women, **promoting a safe migratory environment for women and supporting countries in their adoption of a regulatory framework harmonized with the CEDAW and international human rights standards**, through its General Recommendation No. 26, is a priority to achieve substantive equality between women and men. Since its creation in 2010, UN Women has promoted the Convention and its Recommendation as a powerful tool for protecting the rights of women migrant workers and a compulsory fulfillment for the region of Latin America and the Caribbean.

Through the multi-country project *Promoting and Protecting the rights of women migrant workers through Human Rights national and international mechanisms to improve accountability*, an initiative sponsored by the European Union, UN Women seeks to promote and protect the rights of women migrant workers in all migration stages. In addition, UN Women seeks to improve the accountability of States vis-à-vis migrant women organizations and draw the attention of both national and international human rights supervisory mechanisms on the issue in question. The project is implemented in three countries: Mexico, Moldavia and the Philippines, as they are the main women migrant worker corridors at the international level.

In the case of Mexico, UN Women is focused on the Central American women migrant workers at the Southern border of the country, particularly in the State of Chiapas, with the aim of drawing greater attention to their contribution to the development of Mexico. With this aim, UN Women works on three levels:

- To provide **knowledge** products as inputs and references for the instrumentalization of public policy on the matter;<sup>4</sup>
- To carry out **advocacy and training** that may help to improve and adopt legislation and necessary strategies to ensure women migrants' economic rights and their empowerment;
- To improve the level of **harmonization** between the legal frameworks and national legislation on migration and the international instruments on gender equality and human rights of women that have been ratified by Mexico.

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4 To access more publications, visit: <http://mexico.unwomen.org/es/digiteca/publicaciones?topic=e67c3cc684ce-482d812861bd59c3d054>.



## A CALL FOR ACTION

UN Women strongly believes that, in the new millennium, it is impossible to understand sustainable development in its triple dimension (economic, social and environmental), as well as democracy, without the full participation of women and gender equality as a requirement, as a commitment and, most importantly, as an outcome.

In this regard, UN Women highlights the responsibility vested in Mexico to protect the human rights of women migrant workers that enter the country, which implies concrete commitments and specific actions, in at least four of the following levels:



## A CALL FOR ACTION

- **Relying on a legislation on migration that is harmonized with international standards** that recognize gender equality and regulate migrants' work, guarantee their rights and link its compliance with a gender-sensitive budget. Such legislation shall be based on evidence so that women migrant workers may effectively exercise their enshrined rights. In this line, it is also essential that the Mexican government ratifies the ILO Convention No. 189, with the subsequent legislative harmonization to ensure the rights of women migrants that perform domestic work.
- **Incorporating a gender perspective and a human rights approach in the elaboration and implementation of migration policy** at all governmental levels, as well as in the policies that address discrimination, exploitation and violence of which women migrant workers are victims. The formulation of such policies shall include the participation of different key actors, such as civil society, academia and, as a priority, the beneficiary population, represented by the women migrant workers' organizations and networks. This shall contribute to the de facto compliance of the CEDAW General Recommendation No. 26.
- **Generating evidence that informs the decision-making process** to ensure the rights of women migrant workers. Gender sensitive statistical information on the immigrant population shall allow the decision-makers to learn about it, identify its needs, and the specific inequalities faced by women migrant workers, with the aim of being able to decide where to intervene, how, with, and with what priorities, as well as to monitor the implementation and the accountability process.
- **Recognition of women migrant workers as individuals with rights and agency** that contribute to development, instead of stigmatizing, criminalizing, or identifying them only as victims. Policies and political, cultural and social interventions that broaden the understanding of their status are thus required in order to transform social and cultural biases; so that they are identified as agents that contribute to the country's development as well as human rights holders.

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UN Women is the United Nations entity dedicated to the promotion of gender equality and the empowerment of women. A global champion of women and girls, UN Women was established to accelerate progress on improving women's living conditions and on meeting their needs worldwide.

UN Women Mexico supports the egalitarian participation of women in all aspects of life, focusing on four areas to achieve substantive equality:

- Increasing women's leadership and participation.
- Elimination of violence against women and girls.
- Economic empowerment of women.
- Positioning gender equality as a central element of planning, national statistics and budgeting for sustainable development.

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