**Global Alliance Against Traffic in Women (GAATW)**

Submission to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families regarding the concept note and draft of General comment (No. 6) on the convergence of the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and (ICMW) the Global Compact for Safe, Orderly and Regular Migration (GCM)

Dear Committee Members,

We are writing in response to your call for submissions regarding the above subject.

The[**Global Alliance Against Traffic in Women (GAATW)**](http://www.gaatw.org/) is an Alliance of more than 80 non-governmental organisations from Africa, Asia, Europe, Latin America, and North America. Member Organisations include migrant rights organisations; anti-trafficking organisations; self-organised groups of migrant workers, domestic workers, survivors of trafficking and sex workers; human rights and women's rights organisations; and direct service providers. The GAATW International Secretariat is based in Bangkok, Thailand and co-ordinates the activities of the Alliance, collects and disseminates information, and advocates on behalf of the Alliance at regional and international levels.

Rather than commenting on the entirety of the draft and concept note, we have chosen to focus on a specific group of cross border migrants, namely women who are mostly engaged in low waged work, and some specific challenges which they face in countries of destination and upon return in their countries of origin. GAATW has been working with community-based organisations and collectives of women migrant workers for several years. We have also carried out a number of collaborative pieces of Feminist Participatory Action Research (FPAR) in many regions of the world.

Our studies show that the challenges surrounding the socio-economic inclusion of low waged women migrant workers in countries of destination and sustainable reintegration upon return to countries of origin remain some of the more neglected areas in policy making.  Despite their contributions to the economies in countries of destination and origin and to the families of their employers, as well as their own, women migrant workers face abuse and rejection at both ends.

In Objective 21 of [the Global Compact for Safe, Orderly and Regular Migration](https://undocs.org/A/RES/73/195) (GCM) , States committed themselves to “cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration.” Given the fact that many states overtly or covertly violate international human rights laws while “returning” and “readmitting” migrants, Objective 21 aims to address an important lacuna. The [2018 thematic study on return and reintegration of migrants](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/125/17/PDF/G1812517.pdf?OpenElement) by the UN Special Rapporteur on the Human Rights of Migrants[[1]](#footnote-1) had pointed out that so-called “voluntary return” is often not genuinely voluntary, preferable as it may be to forced return or expulsion.

Unlike return and reintegration, socio-economic inclusion often does not feature in international documents. At a time when most countries prefer to have temporary migration schemes, perhaps it is assumed that migrants would return to their home countries and reintegrate socially and economically. Yet, ideally, measures for socio-economic inclusion in countries of destination should be put in place, even for temporary migrants.

In 2020-2022, GAATW and 30 partner organisations in 18 countries in South and Southeast Asia, Latin America, Western Europe, and North America conducted parallel pieces of Feminist Participatory Action Research (FPAR) to give voice to migrant women's experiences with socioeconomic inclusion in destination countries and upon return, to highlight gaps in policy and implementation.[[2]](#footnote-2)

Despite States’ commitments to the 2030 Agenda and the GCM, as well as ratification of the ICMW by some of them, the exclusion and othering of migrants continue around the world and have been exacerbated by the COVID-19 pandemic. Gender, race, class, caste, religion, and ethnicity are invoked in different contexts, both within countries and across borders, to justify exclusion.

In destination countries, migrant women reported racism and discrimination based on their nationality, ethnicity, or race, which meant that they were offered only work in ‘3D’ jobs (dirty, dangerous, and difficult). Many took up jobs that were below their education and experience because their qualifications were not recognised. Despite having university degrees and years of experience in professional settings, some women had to accept jobs on construction sites and farms, or as domestic workers.

Language was another barrier preventing migrant women from obtaining decent jobs, including jobs that match their qualifications, and participating in the social life of their new countries. Even when women had taken state-provided language classes, these were not sufficient for meaningful inclusion and participation in society. In many cases, migrant women relied only on other migrants from their home countries for work, housing, and socialisation.

All this contributed to situations where migrant women were subjected to exploitative working conditions, including working without contracts, being underpaid or not paid at all, not receiving social security contributions, being dismissed without a cause, or being given tasks that they had not agreed to.

Upon return, women often encountered the same difficult conditions - poverty, lack of employment opportunities, violence at home - that drove them to migrate in the first place. Returnee migrant women face added social challenges such as stigma, rejection, and discrimination. In the absence of employment, social support and social security, reintegration measures are merely short-term services mostly offered by non-state actors.

Migrant women shared that they often feel left alone with their problems. Governments either do not have specific programmes in place to support them, or where they do, information is hard to come by, and there are many bureaucratic hurdles for accessing assistance. Societal attitudes towards migrant women result in gender-based discrimination, which adversely affects their social integration and causes intense psychological pressure. This remains a strong limiting factor on their prospects and opportunities.

We therefore appreciate the significance of promoting a rights-based approach to the implementation of both the ICMW and the GCM and analysing the implications of their respective provisions in this regard so that all migrant workers can enjoy their socio-economic and labour rights in countries of destination and upon return in their home countries. This is of particular importance in view of the fact that, whereas signatories to the ICMW have also pledged support to the GCM and should thus implement their commitments under the latter in complementary fashion with the former, a larger number of states have not signed the Convention but have pledged support to the GCM, which, while not legally binding, makes reference to human rights principles and related applicable international treaties. Therefore, their implementation of GCM-related commitments should take into account relevant Articles of the Convention.

With regard to the topic of sustainable return and reintegration, we observe that there are significant gaps in the treatment of this topic in both instruments. As the draft and concept note for General Comment (No. 6) point out, the GCM addresses this issue primarily in Objective 21. Para (h) of this Objective recommends that states:

“Facilitate the sustainable reintegration of returning migrants into community life by providing them equal access to social protection and services, justice, psycho-social assistance, vocational training, employment opportunities and decent work, recognition of skills acquired abroad, and financial services, in order to fully build upon their entrepreneurship, skills and human capital as active members of society and contributors to sustainable development in the country of origin upon return.”

While this is a comprehensive list of services that should be made available to returning migrants, important missing aspects include facilitating access to justice, both in countries of destination and in countries of origin, upon return, when many cases are no longer pursued; support for emergency assistance to women migrant workers trapped in exploitative situations; as well as access to comprehensive health services and insurance schemes, which currently exclude many migrant workers, including women migrant workers, especially those in irregular situations. Furthermore, our research has found that for women migrants, there are continuing structural hurdles to accessing such services which are rooted in longstanding patterns of gender-based discrimination. In addition, many of the existing programmes provided by governments and international agencies are not effective because they fail to address these fundamental problems, which in many cases act as an adverse driver for migration in the first place, and continue to hinder women’s equal access to services and ability to access and enjoy their rights.

In this regard, a meaningful consideration of GCM provisions in the context of socioeconomic inclusion should also consider Objective 2 on “Minimiz[ing] the adverse drivers and structural factors that compel people to leave their country of origin”, in particular para (b) on “accelerat[ing] States’ fulfilment of the Sustainable Development Goals with the aim of eliminating the adverse drivers and structural factors that compel people to leave their country of origin, including through […] gender equality and empowerment of women and girls […].” However, we note that this is the only paragraph in the Objective that mentions gender at all, and it is not sufficiently specific in addressing the various types of gender-based discrimination that compel women to leave their countries of origin, which our research has identified as including lack of access to education, skills training and employment opportunities; social and economic marginalisation at national, local and community levels; as well as active discrimination and targeted gender-based violence, both from state and non-state actors, including family members.

In addition, it is worth noting that discussions during the drafting, adoption and implementation of the GCM have one-sidedly focused on the issue of return itself – the returnability of migrants in irregular status, readmission by countries of origin, and legal safeguards against involuntary return – driven by the dominant concerns of countries of destination. This is reflected in the text of Objective 21, which, apart from the one paragraph quoted above, focuses almost entirely on these issues. In practice, therefore, and as evidenced by discussions at the recent first International Migration Review Forum (IMRF), at which GAATW organised a [side event on socioeconomic inclusion and return and reintegration](https://media.un.org/en/asset/k1h/k1hcrcxd9j), we have noticed a lack of attention to this topic in GCM implementation, and to the rights to socioeconomic inclusion of migrant women. We therefore hope that the General Comment (No. 6) would highlight the importance of this issue.

Regarding the treatment of this topic in the Convention, it seems to not have been a major focus area when the instrument was drafted. As mentioned in the concept note and draft, the CMW primarily addresses return in Art. 67, which quite cursorily mentions state cooperation in the return of migrants, and “promoting adequate economic conditions for their resettlement”, which seems somewhat outdated vis-à-vis today’s migration realities, and is also much less comprehensive than even the short list of goals listed in GCM Objective 21 (h).

Furthermore, regarding the underlying conditions that adversely drive migration and can hinder meaningful and rights-based return and reintegration, we observe an incongruence between the Convention and the GCM, at least in how this issue is presented in the concept note, which links the above-mentioned GCM Objective 2 with CMW Articles 42, 43 and 45. However, these Articles seem to focus primarily on ensuring migrant workers’ access to rights and services in countries of destination on par with nationals, rather than addressing pre-migration conditions in countries of origin.

Therefore, we see the Convention’s value first and foremost in strengthening States’ rights-based approaches in designing and implementing their migration policies. With regard to sustainable return and reintegration specifically, the Convention should draw some inspiration from the concrete issues listed under GCM Objective 21 (h). The actual implementation of actions in these areas – whether in the context of the GCM or indeed in the application of the Convention, could be significantly strengthened by the latter’s strong human rights focus and emphasis on decent work standards, which should be equally applied in countries of destination and origin. Doing so would serve to underscore the deficits in these areas that are at the heart of global inequalities which continue to underpin much of today’s labour migration and give rise to the exploitative practices that both the Convention and the GCM were designed to address.

Apart from underlining the importance of human rights in general and decent work in particular, we would like to see General Comment (No. 6) make a specific effort to address gender-based discrimination and structural inequalities, including in, but not limited to, the area of socioeconomic inclusion. As our researches have shown, as long as States continue to ignore this fundamental issue, no policy, no matter how diligently designed regarding its various technical components, will be able to meaningfully improve the situation of the many women migrant workers who continue to face obstacles during their migration and upon return.

1. A/HRC/38/41 [↑](#footnote-ref-1)
2. See, *Sustainable Reintegration – What Do Women Migrant Workers in the South Asia-Middle East Corridor Say?*, GAATW, Bangkok, 2022, <https://www.gaatw.org/publications/Return_Reintegration_SA-ME.pdf>; M Raguparan, ‘*Of Course People Will Hire the White Person’: Social and economic inclusion of migrant women in Vancouver, Canada*, Bangkok, 2022, <https://www.gaatw.org/publications/Canada_FPAR_Report.pdf>; E Cebrián, ‘I spent many days on the road but I made it here’: Socioeconomic inclusion of migrant and trafficked women in South America, GAATW, Bangkok, 2022, <https://gaatw.org/publications/SouthAmericaSocioeconomicInclisionReport.pdf>; Report on socioeconomic inclusion of migrant and trafficked women in Southeast Asia and Europe, forthcoming 2022; see also Our ‘Work, Our Lives, issue 5: Return, reintegration, and socio-economic inclusion’, https://www.gaatw.org/publications/OWOL\_issue5.pdf [↑](#footnote-ref-2)