****

**Submission to the United Nations Special Rapporteur on the Human Rights of Migrants for the thematic report on how to expand and diversify regularisation mechanisms and programs to enhance the protection of the human rights of migrants**

February 15, 2023

This is the contribution of the Women in Migration Network (WIMN) to the Report of the Special Rapporteur on the Human Rights of Migrants on how to expand and diversify regularization mechanisms and programs to enhance the protection of the human rights of migrants.

WIMN is composed of national, regional and global organizations from women’s, migrant, human rights, labor and others, representing different regions of the globe. The Network works to impact national and global migration policy as it affects women and to hold States accountable for human rights commitments regarding women in migration.

**How can regularization processes facilitate the enjoyment of human rights by migrants?**

* When local documentation (regular migration status) and integration processes are included inmigration policy – migrants, including migrant women and girls – are better able to exercise their rights. In fact, possession of local documentation facilitates integration. Regular migration status supports migrant women’s access to housing; ability to work in the formal economy; healthcare, including sexual and reproductive health services; access to bank accounts; and access to the justice system and to education.
* Through human rights-based, gender-responsive pathways for regular migration and for the regularization of undocumented migrants, states must provide options for permanent residence, citizenship, and meaningful participation in civic life to facilitate social and family cohesion. Rights-based, gender responsive, and permanent regular pathways enhance migrants’ human rights.
* Regularization enables migrants to “come out of the shadows” and exercise agency in joining unions, exercising freedom of expression and the right to collective bargain, advocating for services, and defending their rights—including resistance to all forms of discrimination and abuse. As such, regularization promotes migrant women’s autonomy and rights.
* The global discourse on regular pathways must not be narrowed to focus on temporary work migration. Regularization programs should shift from an emphasis on temporary migration to promoting and allowing access to permanent residence and pathways to citizenship, including family reunification initiatives, if migrants so choose. This is also true in the context of migration due to climate and environmental-related displacement. Women migrant workers are often relegated to jobs in the care and service economy, which are low paid and highly exploitative. Rights-based, gender responsive, and permanent regular pathways enhance migrants’ labor rights.
* Temporary residence permits for asylum seekers, potential victims of trafficking, and other victims of crime offer only short-term stays, with restricted or no access to the labour market. As such, they fall short of needed rights-based regularization. The Global Alliance Against Traffic in Women (GAATW), a member of WIMN, reports that in several European countries, asylum seekers are prohibited from working and the women GAATW has interviewed[[1]](#footnote-1) describe the severe effect this has had on their physical and mental wellbeing, socioeconomic inclusion and security.
* Migration policy-making on regular pathways must center migrant women voices and experiences and create space for migrant women to access national regularization policies.
* Rights-based, gender-responsive, and permanent regular pathways for climate-displaced migrants are increasingly needed and must be consistent with rights and protections in international human rights law and established international labor standards.
* Another WIMN member, the National Network for Immigrant and Refugee Rights, recently published [*The Spotlight Report on the Borderlands*](https://spotlight.nnirr.org/wp-content/uploads/2022/10/Spotlight-Report-on-the-US-Mexico-Borderlands_WEB.pdf)*, which* analyzed and cited the effects of immigration deterrence and border militarization on border communities, migrants and asylum seekers. The report concluded that such policies will never make migration “safe, regular, or orderly”. Instead, the report says, “these practices set the basis for use of excessive force, acts of torture, and other threats to physical integrity…Current migration and border management approaches are creating a human rights catastrophe where thousands of migrants have gone missing or perished in the vast territories of the borderlands.” Key to its recommendations to policymakers, who are urged to “assess all border laws, policies, and procedures to ensure the centrality of human rights,” NNIRR recommends the need to “Increase access to visas and rights-based pathways for people in migration who are moving across borders in search of jobs, family reunification, or escaping political, social, economic, or climate devastation.”
* Independent regular status is essential to enable women to confront gender-based violence at home, in transit and in the workplace and to hold perpetrators accountable. When a woman’s status is tied to that of her partner or employer, she is at risk of abuse. Women migrants, including women migrant workers, are subjected to harassment and violence, yet without formal documentation they risk losing their job or being detained or deported if they speak up.
* Regularization policies cannot be tied to sponsorship schemes such as the Kafala regime, that lead to exploitation and rights abuses. The Kafala system should be abolished, not be reformed. MigrantRights.org, a Gulf Cooperation Council (GCC)-based advocacy platform which is participating as an observer in WIMN, reports that in the Gulf countries those that are under sponsorship of the Kafala system, are at risk of losing their regular status post-arrival. They are often forced into irregularity due to extenuating circumstances beyond their control. For example, if the worker escapes exploitative working and living conditions to make a living wage or to escape abusive employers – a frequent reality for domestic workers in live-in employment arrangements – they lose their regular status. While such schemes, in theory, may grant a person legal status, in practice they are so precarious that they expose people to many of the same risks and challenges as being undocumented.
* In the Gulf States a WIMN partner notes that at times of economic downturn the first response is to view migrant workers as a problem. During the COVID pandemic in some states there was a one month amnesty campaign to force origin countries to repatriate migrant workers on temporary labor contracts. Wage theft was rampant, with little recourse to collect owed wages once workers were back in their country of origin. This underscores the precarity of temporary labour schemes and lack of mechanisms for due process as well as migrant knowledge and relative power to claim rights in such situations.

* New regularization pathways include residence permits on grounds’ of domestic violence. According to the Platform for International Cooperation on Undocumented Migrants (PICUM), a WIMN member, while this is an important regularization pathway, in some European countries such as Spain, the procedure requires a court conviction of the perpetrator. This means that victims need to go through a judicial proceeding to have access to a residence permit, which is wrought with many challenges and can itself be traumatic experience[[2]](#footnote-2).

**Engagement with civil society organizations: concrete initiatives, actions and programs relating to the regularization of migrants in an irregular situation that have been developed by civil society organizations**

The Instituto de Mujeres en la Migración – IMUMI, a WIMN Member, makes the following proposal:

* Establish strategic governmental actors to implement a pilot program to make migration regularization channels more flexible for Central American women victims of gender-based violence and their children in Mexico. The proposal is focused on migrant women due to the conditions of violence they experience in their countries of origin, continues in transit or migratory settlement. Women resort to migration to escape this violence. The women frequently travel with their children. Thus, their daughters and sons also need to be regularized so that women are not re-victimized. For more information: direccion@imumi.org
* The Women in Migration Network, WIMN, played a key role in developing the Global Coalition on Migration’s 2022 Spotlight Report on Global Migration for the UN IMRF. An infographic in that report addresses how essential regularization and safe, regular, rights-based pathways are to ensuring the realization of migrants’ human rights. See <https://spotlightreportmigration.org/wp-content/uploads/SRGM_Infographic.pdf.>
1. Research conducted by GAATW in 2020-2022, report forthcoming in spring 2023. [↑](#footnote-ref-1)
2. Regularisation mechanisms and programmes: Why they matter and how to design them, PICUM 2022. [↑](#footnote-ref-2)