**Input to the United Nations Secretary General’s Report on the Human Rights of Migrants**

11 May 2023

1. **About GAATW**

The Global Alliance Against Traffic in Women (GAATW) is an Alliance of non-governmental organisations from Africa, Asia, Europe, and the Americas. Member organisations provide assistance to migrants, survivors of trafficking, sex workers, informal workers, victims of gender-based violence, and others. The GAATW International Secretariat is based in Bangkok, Thailand and coordinates the activities of the Alliance, initiates research, and advocates on behalf of the Alliance.

Over the past two years, GAATW, together with members and partners, has interviewed a total of 970 migrants and survivors of trafficking (953 women and 17 men) in 18 countries across Europe, Asia, and the Americas. This submission is based on the findings of these conversations, as well as the invaluable expertise of GAATW’s members and partners.

1. **Introduction**

This submission addresses two of the greatest challenges to the human rights of migrants at present. The first is the increasingly restrictive nature of immigration policies and border controls across Member States, and the ways in which this increases the risk of trafficking and other forms of exploitation. Specifically we address the increasing recourse to temporary labour migration schemes, as well as the erosion of legal pathways to regularisation for undocumented migrants. We also address discriminatory migration bans for women.

The second challenge relates to Members States ongoing failure to address harmful stereotypes about women who migrate overseas for work. At home, women who choose to migrate overseas are often met with suspicion and derision for having challenged traditional gender roles. Abroad, in Member States who enforce “tied visa arrangements,” migrant women who have experienced abuse and exploitation are forced to portray themselves wholly as helpless victims of “modern slavery” if they want to be able to change employer and continue to work. They are denied recognition as workers who are entitled to decent work, and instead forced into a dichotomy of either “victim” or “illegal migrant.”

1. **Submissions**

3.1. Restrictive immigration policies and border controls are increasing the risk of trafficking and other forms of exploitation

3.1.1. Temporary migration schemes

Member States across the world are increasingly resorting to temporary labour migration schemes, from the *kafala* system in parts of the Gulf and Middle East to the seasonal workers schemes of Europe and North America, yet these schemes expose migrant workers to a serious risk of human rights violations.

Temporary labour migration schemes are insecure and short-term, and they are generally dependent on the migrant worker’s employer. As a result migrant workers are forced to endure bad working conditions for fear of losing their immigration status if they try to leave and find other work.

For example, in research carried out in 2020, women from across South Asia who returned from working in the Gulf countries as domestic workers reported being forced to endure abusive working and living conditions as to escape would render them immediately undocumented and at risk of administrative, and even criminal, penalties.[[1]](#footnote-1) Similarly in the UK, overseas domestic workers are subjected to a tied visa scheme which forces them into extremely precarious and in some cases, abusive, working and living conditions.[[2]](#footnote-2) They are given a maximum of six months permission to live and work in the UK meaning that if a domestic worker wishes to leave an abusive employer, she must find a new employer within those six months or lose her immigration status.[[3]](#footnote-3)

3.1.2. A lack of pathways to regularisation and the legal right to work

The pathways to regularising one’s status and obtaining legal access to the labour market are being reduced and narrowed in many Member States. This is exposing migrant women to a greater risk of abuse and exploitation, as well as restricting their access to housing, food and healthcare.

For example, increasingly Member States are restricting access to the labour market for asylum seekers, potential victims of trafficking, and other victims of crime. In several European countries, asylum seekers and potential victims of trafficking are prohibited from working and migrant women have described the severe effect this has had on their physical and mental wellbeing and sense of socioeconomic inclusion and security.[[4]](#footnote-4)

These women, along with all other migrant women without a regular migration status are forced to look for informal work in order to survive, where there is often less regulation and oversight, and therefore a greater risk of abuse and exploitation.

Finding decent work in these circumstances is very difficult and many women can only find short-term hourly work and are often paid well below minimum wage. As explained by a Venezuelan woman in Brazil “*the employers see [undocumented] Venezuelans as an opportunity to avoid signing work permits*” and therefore avoid the ordinary labour standards afforded to migrant workers with a work permit.[[5]](#footnote-5) In Canada, migrant women reported similar experiences with employers “taking advantage” of their vulnerability due to their precarious immigration status.[[6]](#footnote-6) In Germany, women have described how they were made homeless and faced starvation due to the precarity of all the work they were able to find once their visas expired.[[7]](#footnote-7)

Migrant women without a regular immigration status are also routinely denied access to healthcare, housing and other vital public services. For example, in Peru, migrants are required to carry the *carnet de extranjería* (foreigner’s card) in order to receive medical assistance, resulting in the exclusion of irregular migrants.[[8]](#footnote-8) In Argentina and Brazil, whilst healthcare is universal and access to medical assistance is ensured for everyone, regardless of migratory status, in practice undocumented migrants are subjected to exclusionary practices and experience discrimination in hospitals and healthcare centres.[[9]](#footnote-9) Whilst firewalls can help to mitigate against this, very few Member States have such firewalls in operation.

The impact of Member States’ failure to provide pathways to regularisation was particularly grave during the COVID-19 pandemic, as most migrants who did not have legal permission to work were unable to access any social protection schemes. They were often therefore unable to refuse informal work, no matter how dangerous or exploitative the conditions. For example, one woman in Europe has described how she caught the virus from her employer but was forced to keep working while sick “*When my boss got infected with COVID, they let me clean their house. That’s why I get infected. I don’t have a proper PPE. I just improvised my own PPE which is I used a plastic bag or a bin bag. When I got infected with COVID, for just two days they still let me work from day to night. My body was trembling*.”[[10]](#footnote-10)

In Latin America, women described how migration services were overwhelmed and understaffed during the pandemic, which resulted in increased difficulty for migrants to access or renew necessary documentation to remain in regular status as well as to access public services. For example, in Brazil, the processes to regularise one’s migration status were temporarily halted, which caused many migrants to be denied access to the Brazilian Health System, which is ordinarily free and universal for Brazilians and foreigners alike.[[11]](#footnote-11) This was similar to the situation in Germany where the digitisation of immigration services during the pandemic slowed down processes for renewing and obtaining residence permits, forcing migrants to live in an undocumented limbo.[[12]](#footnote-12)

3.1.3. Migration bans

Discriminatory migration bans that aim to restrict women from migrating overseas for work continue to persist in many countries across the world. These bans are rooted in paternalistic attitudes that, far from protecting women, expose them to a greater risk of trafficking and other forms of exploitation.

In many parts of the world, the regulatory frameworks governing women’s migration have swung back and forth between restrictive bans and liberal, permissive policies.[[13]](#footnote-13) Some countries, like Bangladesh, Sri Lanka and India, impose age restrictions (for example, Bangladeshi women under 24 years old are not allowed to migrate),[[14]](#footnote-14) whilst others have also banned migration for certain types of jobs in a way that disproportionately impacts women. For example, Nepali citizens are prohibited from working overseas as domestic workers. This disproportionately impacts women who are more likely to work in these jobs.[[15]](#footnote-15)

There is clear evidence from all four of these countries, that irrespective of the restrictions in place, women will continue to migrate using unofficial channels. This is because the strong socioeconomic factors that encourage women to look for work overseas remain unchanged and unaddressed.[[16]](#footnote-16) As a result, women are forced to seek irregular migration channels through the help of smugglers and traffickers, thus making them more vulnerable to abuse, exploitation, and debt bondage. These bans and restrictions also mean that women miss the same pre-departure training as the migrants who travel through the state-approved recruitment agencies, and therefore miss vital information about their human and labour rights. These gendered restrictions are also a form of discrimination and contravene States’ obligations under the Convention on the Elimination of all Forms of Discrimination against Women.[[17]](#footnote-17)

3.2. Member States are failing to combat harmful stereotypes and stigma towards migrant women

3.2.1. Harmful cultural attitudes

For many women workers, migration allows them to gain a measure of independence in a way that was not available to them within their families and communities. However, in many Member States, women’s contributions to their communities and families remain undervalued and upon return this new agency is met with disapproval and even violence by their home communities. For instance, some returnee migrant women in Sri Lanka have reported that their partners were unhappy with the recognition and publicity their wives received from having earned money abroad and responded with violent and controlling behaviour.[[18]](#footnote-18) In Bangladesh, women have shared that their husbands had become obsessed with concerns about their sexual purity.[[19]](#footnote-19)

Not only are governments failing to address these harmful cultural attitudes, but the restrictions on women’s freedom to migrate described above reinforce these patriarchal norms. Migration bans and restrictions send a clear and damaging messaging that women who migrate for work are doing something wrong. At the extreme end, this social stigma has inhibited the ability of returnee women to access employment in their home community, as well as forced them to remigrate due to feeling socially ostracised from their home community.

3.2.2. Victimisation

In many Member States, the only route for migrants to secure a legal migration status is dependent on the individual’s identity as a victim. Migrant workers have described how they are forced into a “victim” or “villain” narrative where they are unable to gain a regularised status until their exploitative employment situation has deteriorated to the point of enslavement.

For example, domestic workers who have experienced exploitative working conditions in the UK have described their frustration at the fact that the only way they can continue to live and work in the UK is if they prove that their abuse and exploitation reached the extreme of “modern slavery,” “I *should be recognised as a worker and not a victim. Domestic work is decent work. We are a profession and we are looking after the elder people and families*”.[[20]](#footnote-20)

The narrowing of pathways for migrants to remain and access the labour market is therefore perpetuating stereotypes about the vulnerability and victimhood of migrant women, at the expense of their sense of independence, strength and dignity.

**4. Recommendations**

GAATW recommends that Member States:

1. Abolish tied-visas and temporary labour migration schemes: Tied-visas and temporary labour migration schemes force migrants to endure exploitative and abusive employment conditions for fear of losing their immigration status if they try and escape.
2. Establish regular labour migration pathways: Migration restrictions do not prevent people from migrating, but only contribute to more migrants living and working without a regular immigration status. Destination countries must therefore create more regular and long-term pathways for migrant workers to fill shortages in their labour markets.
3. Create firewalls between public authorities: The lack of firewalls between on the one hand, law enforcement, healthcare and other public services, and immigration authorities, on the other, prevents migrants from reporting situations of abuse and exploitation and prevents their access to life-saving public services, particularly during emergencies such as the COVID-19 pandemic.
4. Give asylum seekers and potential victims of trafficking the right to work: Denying asylum seekers and potential victims of trafficking the right to work results in their social isolation, exposes them to a risk of further rights violations, and hinders their recovery from trauma.
5. Facilitate integration between local and migrant communities: Member States must combat racism, xenophobia and negative social attitudes towards undocumented migrants by, for example, facilitating interactions between local and migrant communities, promoting evidence-based information about migration, and punishing xenophobic speech in the media and policy discourse.
6. Ensure labour protections for all workers: The lack of labour protections in law and in practice, in informal sectors like domestic work, increase the risk of abuse and exploitation and undermine Member States international human rights obligations. Member States must implement strategies that will empower migrant workers to improve their labour conditions, such as creating opportunities for unionisation, and increasing access to education, as well as well-paid and long-term jobs.
7. Lift discriminatory restrictions on women’s migration for work: Migration bans only increase the risk of trafficking and other forms of exploitation. Member States should instead focus efforts on promoting safe channels for migration and fair recruitment practices.
8. Invest resources into public awareness campaigns that tackle harmful attitudes towards migrant women: These campaigns should be at the grassroots level and highlight the valuable contributions made by migrant women workers, both in their home countries and overseas. The campaigns should aim to combat harmful misogynistic and paternalistic attitudes about women’s role in society, and must also take into account the particular forms of race, ethnic and class discrimination that are experienced by different groups of migrant women.

1. GAATW, “Sustainable Reintegration – What Do Women Migrant Workers in the South Asia-Middle East Corridor Say?”, February 2022, available at: <https://www.gaatw.org/publications/Return_Reintegration_SA-ME.pdf> [↑](#footnote-ref-1)
2. FLEX and SEEAC Joint Blog, “International Migrants Day 2022: A Call for Stronger Protection for all Migrant Workers,” 18 Dec 2022, available at: <https://www.labourexploitation.org/news/international-migrants-day-2022-call-stronger-protection-all-migrant-workers> [↑](#footnote-ref-2)
3. GAATW, “Heroes, victims, or slaves? Workers! Strengthening migrant and trafficked women’s rights to inclusive re/integration in Southeast Asia and Europe”, 2023, available at: <https://www.gaatw.org/resources/publications> [↑](#footnote-ref-3)
4. GAATW, “Heroes, victims, or slaves? Workers!” [↑](#footnote-ref-4)
5. GAATW, “I spent many days on the road but I made it here: Socioeconomic inclusion of migrant and trafficked women in South America”, September 2022, available at: <https://www.gaatw.org/publications/SouthAmericaSocioeconomicInclisionReport.pdf> [↑](#footnote-ref-5)
6. GAATW, “Of course people will hire the white person: Social and economic inclusion of migrant women in Vancouver, Canada”, 2022, available at: <https://www.gaatw.org/publications/Canada_FPAR_Report.pdf> [↑](#footnote-ref-6)
7. GAATW, “Heroes, victims, or slaves? Workers!” [↑](#footnote-ref-7)
8. GAATW, “Heroes, victims, or slaves? Workers!” [↑](#footnote-ref-8)
9. GAATW, “Heroes, victims, or slaves? Workers!” [↑](#footnote-ref-9)
10. GAATW, “Heroes, victims, or slaves? Workers!” [↑](#footnote-ref-10)
11. GAATW, “I spent many days on the road”. [↑](#footnote-ref-11)
12. GAATW, “Heroes, victims, or slaves? Workers!” [↑](#footnote-ref-12)
13. GAATW, “Sustainable Reintegration”. [↑](#footnote-ref-13)
14. GAATW, “Sustainable Reintegration”. [↑](#footnote-ref-14)
15. GAATW, “Sustainable Reintegration”. [↑](#footnote-ref-15)
16. GAATW, “Sustainable Reintegration”. [↑](#footnote-ref-16)
17. CEDAW General Recommendation 26 [↑](#footnote-ref-17)
18. GAATW, “Sustainable Reintegration”. [↑](#footnote-ref-18)
19. GAATW, “Sustainable Reintegration”. [↑](#footnote-ref-19)
20. GAATW, “Heroes, victims, or slaves? Workers!” [↑](#footnote-ref-20)