**Submission on the concept paper for the CERD-CMW Joint General Comment/Recommendation on obligations of State Parties on public policies for addressing and eradicating xenophobia and its impact on the rights of migrants, their families, and other non-citizens affected by racial discrimination**

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**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 three years, GAATW 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 earlier research conducted in 2018 with self-organised groups of migrant women workers in India, Thailand, Mexico, Canada, Spain, South Africa and New Zealand. In addition, reference is made to ongoing research projects in Asia, Europe and Latin America. Links to the already published reports are included at the bottom of the submission.

**Submissions**

1. **What elements should a comprehensive and holistic public policy aimed at preventing and eradicating xenophobia in migrant-receiving societies have?**

A comprehensive and holistic public policy aimed at preventing and eradicating xenophobia in migrant-receiving societies must enshrine the equal treatment of migrants before the law, including the equal protection of their labour rights and access to social protections. Differential treatment in this area perpetuates the idea that migrants are somehow less deserving of rights protection, and fuels harmful stereotypes. Such stereotypes include that migrants are willing to work for less money and in worse conditions, or that migrants are a drain of the resources of a country (and so their access to social protection must be restricted). These stereotypes are extremely damaging and contribute to xenophobic attitudes.

A comprehensive and holistic public policy must also ensure that irregular migration is decriminalised. The criminalisation of irregular migration fuels xenophobia by sending the incorrect message that irregular migrants are somehow dangerous or pose a threat to society.

A comprehensive and holistic policy must also ensure that migrants have the right to and are encouraged to self-organise and form community groups, as well as to join unions alongside national workers. Our research has shown how self-organised groups of migrants have helped to facilitate the inclusion of migrants into their host communities not just by providing support to their own nationals, but supporting the community at large. The ability to organise across diverse social justice movements will also assist migrants to further challenge xenophobia at the policy and community level. Member states should promote collaboration and solidarity amongst diverse social justice movements and recognise the connection between different forms of oppression.

1. **How should xenophobia be addressed through an intersectionality lens? How should this policy be reciprocally complemented with policies directed to prevent and eradicate racism? Which measures should be put in place for ensuring a gender approach within a comprehensive policy against xenophobia and gender-based discrimination? Which measures should be implemented for intersecting xenophobia with other factors forbidden by the principle of non-discrimination, including age, gender, disability, sexual orientation, racial and ethnic origin, among others?**

Domestic laws on discrimination must include migrants. These laws must explicitly prohibit discrimination on the basis of gender identity, sexual orientation, nationality, ethnicity, or immigration status. In addition, avenues for legal redress for victims of discrimination must be accessible for migrant workers.

Any policy aimed at tackling xenophobia must also explicitly recognise that women migrants experience differing forms of discrimination based not just on their gender, but on other intersecting characteristics. Such a policy should therefore acknowledge the specific groups that are most at risk of experiencing xenophobic treatment in that particular country or region.

In an ongoing piece of research that we are carrying out with members in Europe, Asia, North America and Latin America, we are examining the discriminatory attitudes held towards migrant women by official decision-makers. Our preliminary findings reveal that xenophobic attitudes towards migrant women are based not just on a migrant’s nationality, but on her gender identity, race and ethnicity, parental status, and class. For example, migrant women from one ethnic group may be presumed to be sexually promiscuous or deceitful, in a way that migrant men from that group or migrant women from other ethnic groups are not. Conversely, migrant women from another ethnic group or carrying out certain low-wage work may be presumed to be vulnerable victims incapable of making choices for themselves. Policymakers must recognise the specific harms facing specific groups and promote social acceptance of those specific groups in order to meaningfully combat xenophobia and negative social attitudes towards them.

An intersectional lens must also go beyond the limited protected characteristics set out in international treaties, and extend to class and economic status in order to address the specific xenophobia levied towards low-wage migrants. For example, migrant domestic workers in many countries are excluded from the ordinary labour and immigration laws that are applicable to all other migrant workers. They are more likely to be prohibited from changing employers by immigration and labour laws, and are more likely to be subjected to worse labour rights protections, including a lower minimum wage and a higher number of maximum working hours than other migrant workers. This is a clear example of the way xenophobia intersects with class-based discrimination.

As a final point, to ensure that xenophobia is addressed through a truly intersectional lens, the people who are affected by xenophobia, and the organisations that represent them, should participate in policymaking, programme planning, implementation, and evaluation. They are the experts of their own lives and know best the extent and impact of xenophobia. Member states must recognise migrant women in all their diversity as key partners in their work to tackle xenophobia.

1. **Which practices could be included in the comprehensive policy against xenophobia in order to prevent the use of xenophobic narratives and strategies within election processes?**

In order to prevent the use of xenophobic narratives and strategies within election processes, migrants must be allowed to vote in local and national elections in their countries of destination.

The lack of representation of migrants, particularly migrant women, in assemblies and parliaments across the world is very visible. For example, in the European Parliament, less than 5% of MEPs belong to a racial or ethnic minority, and an even smaller proportion are from a migrant background. This sends a damaging message that elected representatives are not accountable to migrant constituents and can therefore attack migrants in the course of their campaigns.

By contrast, the situation in Ecuador is an example of good practice. Migrants' right to vote is guaranteed in the constitution with the sole condition that they have legally resided in the country for 5 years or more. In addition to this, Ecuadorians abroad are represented at their National Assembly (lawmakers' house) by six representatives who represent migrants' needs.

Migrants are political actors, not just subjects, and they need to be able to speak about their experiences and their own expertise in order to improve laws and policies to tackle xenophobia. The fact that in many countries migrants are prevented from voting, from standing as candidates, and from joining political parties, is therefore a huge barrier to tackling xenophobic narratives within election processes.

1. **Which practices should States promote at bilateral and regional level for preventing and eradicating xenophobia?**

Rights-based Bilateral Agreements (BLAs) and Memoranda of Understanding (MoUs) that govern labour migration between two countries can be an important tool for combating xenophobia, provided that the agreements are consistent with respect for migrants rights and do not contain any unfair restrictions on the rights of migrant workers.

In order to be effective, these MoUs and BLAs must make clear that the protections contained within them are binding on national institutions and actors in the countries of destination. We are aware of several cases where government authorities have claimed that the rights contained within an MoU or BLA are superseded by domestic legislation which affords lower protection. This has particularly been the case for MoUs and BLAs governing the rights of migrant domestic workers. Such practices severely undermine efforts to combat xenophobia against these groups of migrant workers.

In addition, States should promote at the regional and international level, ratification of key international instruments for the protection of the rights of migrant workers. This includes the UN Convention for the Protection of the Rights of Migrant Workers and their Families, ILO Convention 189, and ILO Convention 190.

**Research publications**

1. GAATW, “[Sustainable Reintegration – What do Women Migrant Workers in the South Asia-Middle East Corridor Say?](https://gaatw.org/resources/publications/1147-sustainable-reintegration#:~:text=It%20highlights%20gaps%20in%20the,society%20organisations%20working%20with%20them.)”, 2022
2. GAATW, “[Sex Workers Organising for Change: Self-representation, community mobilisation, and working conditions](https://gaatw.org/resources/publications/941-sex-workers-organising-for-change#:~:text=Beyond%20support%20for%20individual%20cases,in%20public%20and%20political%20life.),” 2018
3. GAATW, [“I spent many days on the road but I made it here: Socioeconomic inclusion of migrant and trafficked women in South America”](https://gaatw.org/resources/publications/1192-socioeconomic-inclusion-lac), 2022
4. GAATW, [“Of course people will hire the white person: Social and economic inclusion of migrant women in Vancouver, Canada”](https://gaatw.org/resources/publications/1175-canada-fpar-report), 2022
5. GAATW, “[Heroes, victims, or slaves? Workers! Strengthening migrant and trafficked women’s rights to inclusive re/integration in Southeast Asia and Europe,](https://gaatw.org/resources/publications/1254-sea-europe-research)” 2023