

**UN Women Submission[[1]](#footnote-1)**

**Concept Paper: CERD-CMW Joint General Comment on xenophobia**

Migrant women face various forms of racism, racial and ethnic discrimination, xenophobia and related intolerance at all stages of migration. These women face direct discrimination, including explicitly prejudiced and differential treatment. They also face indirect discrimination resulting from the implementation of seemingly genderblind and race-neutral laws and policies that have the effect of disproportionately harming migrant women. Migration governance has failed to adequately account for systemic racism, sexism, patriarchy and misogyny and the legacies of slavery and colonialism, among others, that are deeply engrained in the formulation and implementation of migration laws, policies and services. Yet because there is a severe lack of racial, ethnic and sex-disaggregated data and analysis on migrant women, much of the gender-based discrimination and racial inequalities that they experience are obscured or invisible.

Racism, sexism, patriarchy and misogyny and the legacies of slavery and colonialism, among others, underlie many of the factors that lead racially marginalized migrant women to leave their countries of origin. For instance, gender inequalities in countries of origin can prevent women from accessing the same economic opportunities as men, and as a result, poverty, unemployment or underemployment are common factors in someone’s decision to migrate. Racially marginalized migrant women, and particularly non-white migrants from the Global South, are increasingly becoming the principal wage earners in families and decide to migrate to meet this demand.

Upon arrival in countries of destination, racially marginalized migrant women bear the brunt of discriminatory social attitudes, pre-existing racist and sexist ideologies, and anti-migrant sentiments, which can hinder their ability to integrate into countries of destination. Further, in some countries, occupations in which migrant women dominate (in particular, domestic and care work) may not be considered as ‘work’ thereby depriving migrant women of legal protections, exposing them to a higher risk of labour exploitation and abuse. Moreover, migrant women often experience intersecting forms of discrimination, suffering not only gender-based discrimination, but also xenophobia and racism. Discrimination based on race, ethnicity, cultural particularities, nationality, language, religion or other status may be expressed in gender-specific ways.[[2]](#footnote-2)

Racially marginalized and minoritized migrant women face high rates of homelessness and a greater impact of criminalization due to racism and xenophobia, compounded by multiple and intersecting forms of discrimination, which are embedded in policies that affect their full enjoyment of human rights, including access to housing. This can exacerbate the impacts of:

* Physical, sexual and emotional abuse
* Systemic racism in medical services and healthcare, including sexual and reproductive health, maternal health, and mental healthcare
* Family separation due to racism or other discriminatory migration policies
* Limited or no access to social protection and other services

The Durban Declaration and Program of Action acknowledges the injustices of the past which manifest today and the need for measures to combat racism and related intolerances, by promoting social inclusion, equal access to resources and opportunities and other comprehensive recommendations for achieving racial justice globally.

Recommendations

* Promote the adoption and implementation of international frameworks, conventions and policies that protect and promote the human rights of racially marginalized migrant women and their communities, including the Durban Declaration and Programme of Action, adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Committee on the Elimination of Racial Discrimination, and the Committee on the Elimination of Discrimination against Women.
* Develop, implement and monitor migration laws and policies at all levels that recognize and address the multiple and intersecting forms of discrimination experienced by migrant women, including by offering visas granted based on colonial ties, as a form of reparative gender justice.
* Include racially marginalized migrant women as decision makers in the design and development of policies, especially those that are intended to protect and promote their human rights.
* Eliminate discriminatory regional and national migration policies and bilateral and multilateral agreements that reproduce existing structural barriers for migrant women, especially on grounds of gender, race and class.
* Ensure that data and policy analysis is informed by current and appropriate language and terminology relating to race, gender and migration, reflecting global, national and local experiences of racism, racial discrimination, xenophobia and related intolerance to inform comparability across countries and regions.
* Take measures to ensure that serious and extreme instances of hate speech and incitement to hatred are prohibited as criminal offences and brought for review by an independent court or tribunal.
* While affirming free speech, measures should be taken to challenge negative perceptions of migrants, including divisive language which categorizes ‘good and bad migrants’, references to migrants as ‘illegal’ and hate speech perpetuated through the media.

1. This submission draws on UN Women’s policy brief ‘[Racially marginalized migrant women: Human rights abuses at the intersection of race, gender, and migration.’](https://www.unwomen.org/en/digital-library/publications/2022/11/racially-marginalized-migrant-women) New York. 2022. [↑](#footnote-ref-1)
2. CEDAW General recommendation No. 26 on women migrant workers (CEDAW/C/2009/WP.1/R) [↑](#footnote-ref-2)