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Office of the United Nations High Commissioner for Human Rights
United Nations Office at Geneva
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Switzerland

RE: CONTRIBUTION TO UN HRC REPORT 2024

The Alliance for Gender Justice in Migration (AGJM) is honoured to submit a contribution to inform the forthcoming report of the Special Rapporteur on the human rights of migrants to the 56th session of the Human Rights Council in June 2024.

ABOUT THE ALLIANCE

The Alliance for Gender Justice in Migration (<https://mwcbc.ca/alliance-for-gender-justice-in-migration/>), is a network of people with lived experience, academics, researchers, advocates, and service providers from across Canada formed to identify trends and promote policy solutions aimed at ending discrimination against women and gender-diverse migrants in Canada. Migrants are at the centre of the Alliance's policy development because the Alliance believes policy regarding rights and protections for undocumented migrants cannot be properly developed without their knowledge, understanding and expertise based on lived experience.

The Alliance is led by the Vancouver-based Migrant Workers Centre (MWC) (<https://mwcbc.ca/>) and is also composed of members from the following regional partner organizations in Canada:

- Manitoba: Manitoba Federation of Labour Occupational Health Centre (<https://ohcmb.ca/>)
- Ontario: Barbra Schlifer Commemorative Clinic (<https://www.schliferclinic.com/>)
- Quebec: Immigrant Workers Centre (<https://iwc-cti.ca/>)

The lead organization, Migrant Workers Centre (MWC), was founded in 1986 and was formerly known as the West Coast Domestic Workers' Association. MWC facilitates access to justice for migrant workers through the provision of legal information, advice, and representation. MWC provides public legal education and training to migrant workers and service providers across BC. MWC is also highly involved in law and policy reform work and test case litigation to advance fair immigration policy and improved labour standards, wages,



and working conditions for migrant workers. MWC envisions a society in which all workers are entitled to secure immigration status and access to fair, safe employment. MWC strives to advance the rights of migrant workers to equally participate in Canadian society and the Canadian economy.

RESPONSES TO CALL FOR INPUT

The Alliance has developed policy position statements on the topics noted below and would appreciate an opportunity to further expand on considerations and recommendations for all researched topics. For the purposes of this contribution, the Alliance has chosen the topic Gender-Based Violence.

- Regularization
- Employment Rights
- Reproductive Justice
- Sex Work and Migration
- Gender-Based Violence
- Closed Permits

Gender-Based Violence (GBV), which is harm directed against a person's gender, gender identity, gender expression, or perceived gender, can take physical, sexual, emotional, and economic forms. GBV can occur post-arrival in Canada for women and gender-diverse individuals with precarious immigration status. Their barriers are exacerbated by difficulties in accessing GBV legislations and policies due to systemic discrimination and unequal power relations. Canadian policy framework needs to be expanded to encompass an intersectional lens of GBV through social, legal, and economic inequities and respond with a national strategy to address women and gender-diverse migrants' realities and needs.

KEY QUESTION # 4: What obstacles are there in law and practice which hinder the realisation and/or recognition of migrants' contributions in communities of origin, transit and destination? Please provide details, which may include, but are not limited to, development and/or implementation of legislative, policy and institutional frameworks as well as public discourse.

- The Canadian government has recognized GBV as a major factor contributing to the marginalisation of women in Canada. They have responded with initiatives such as It's Time: Canada's Strategy to Prevent and Address Gender-Based Violence in 2017 (Government of Canada, n.d. a) and the National Action Plan to End GBV in 2022 with the aim of creating a coordinated response to addressing the root causes of Gender-Based Violence in Canada (Government of Canada, n.d. b). With the current focus on GBV, the Alliance for Gender Justice in Migration aims to highlight the ways that women and gender-diverse migrants



with precarious status experience GBV in Canada. Women and gender-diverse people with precarious status experience GBV from a variety of sources, however, legislations and policies meant to offer protection from GBV are largely inaccessible to them due to lack of status, linguistic barriers, lack of a culturally sensitive approach and knowledge gaps amongst other reasons (Hourani et al., 2021).

- Bringing these important perspectives to the table will help the Canadian government create policies and procedures that are truly inclusive and meaningful to women and gender diverse individuals of all statuses (precarious and undocumented included) in the efforts to end GBV. It is essential that the Canadian policy framework be expanded to encompass an intersectional lens of the structural violence (e.g., in the form of social, legal, and economic inequities) that women and gender-diverse migrants encounter and to respond with a national strategy that addresses state/institutional violence, which deeply affects their everyday realities and needs. Such coordinated and intersectional efforts are crucial as experiences of GBV have long-lasting effects on this population as well as the families and communities within which they are embedded within Canada.
- Women and gender-diverse individuals with precarious or no status who have experienced GBV often do not seek help due to fear of legal repercussions that can result in detention, deportation, family separation, and loss of financial and other resources. The lack of protection leaves them vulnerable to GBV at the hands of sponsors, employers, and others. Thus, the laws that affect their lives produce and/or allow instances of various forms of GBV to continue.
- Women and gender-diverse individuals whose residency status is dependent on their partners are at high risk of Intimate Partner Violence (UN Women, 2021). They may face manipulations tied to their immigration status and are often unable to leave their abusers due to the fear of jeopardising their immigration claim if they were to separate from their sponsor and become undocumented, as well as deportation threats and fear of being unable to secure work and getting access to services and resources (Tabibi et al., 2018)
- Sectors, such as care work and farm work, are generally excluded from provincial Employment Standards and lack sufficient protection against exploitation and abuse. As many women and gender-diverse migrant workers are involved in such excluded sectors, they experience various forms of GBV and sexual abuse by their employers and coworkers, heightened surveillance and restrictions with regards to their social and sexual activities and barriers to accessing reproductive health services (Cohen & Caxaj, 2018; Encalada Grez,



2018; Mojtehdzadeh, 2020; Wadehra, 2021). This is exacerbated in cases of a closed work permit which ties them to a single employer who is able to take advantage of their structural vulnerability.

KEY QUESTION #6 How can we raise awareness, rethink, and change the way migration is spoken about, especially when harmful narratives on migration are inserted into the public discourse and politicised?

- The definition of what constitutes a ‘genuine’ victim of GBV needs to be further defined to prevent Westernized and biased notions that obstruct access to justice. For example, significant flaws have been found to exist with the Vulnerable Worker Open Work Permit Program (VWOWP) related to interpretations of what constitutes abuse by immigration officers, a lack of or incorrect consideration of evidence (Aziz, 2020). Thus, women and gender-diverse individuals with precarious status and suffering from GBV may experience various barriers in accessing help.
- Research has pointed to the ways in which conditions that result in downward mobility in countries of destination may increase strain on family relations, which can lead to or contribute to incidences of family violence in immigrant communities (Freedman et al., 2022). Social Isolation, financial stress, discrimination, restrictions, and lack of privacy coupled with insufficient social and mental health support for newcomers may contribute to tensions and, thus, exacerbate use of violence in the household (Women’s Refugee Commission, 2014). In addition, the pandemic has heightened the pre-existing crisis of Gender-Based Violence (Goldthorpe & Mayor, 2021). Without a broader structural conceptual understanding of GBV, more ‘narrower’ notions can often be employed by legal and policy frameworks. These narrow notions often perpetuate stereotypes of foreign ‘persecutory cultures’ by feeding directly to culturalist interpretations and indirectly to anti-immigration discourses, all which can lead to an overall weakening of the anti-violence agenda (Freedman et al., 2022).
- Women and gender-diverse immigrants with precarious status, as a group, face additional barriers to disclosing or leaving abusive situations compared to those with Canadian citizenship. In general, the domestic violence system relies on a criminal justice model. Many women and gender-diverse migrants are concerned that engaging with this system means jeopardising their own or their partner’s immigration status, housing, employment, and healthcare (Hourani et al., 2021). Thus, they are trapped in abusive situations by a combination of interpersonal and institutional threats.



KEY QUESTION #7: What practical recommendations would you propose in order to effectively address these ongoing challenges and protect migrants' human rights in origin, transit and host communities?

- Create new pathways to permanent residency for all, including for undocumented women and gender-diverse people. Immediate access to permanent residence for those experiencing Gender-Based Violence and abuse is needed.
- Establish legislative reform of immigration policies to scrutinise withdrawals of sponsorship. Empower survivors of violence to take charge of their own immigration process.
- Empower women and gender-diverse migrants in precarious employment situations with protections. End the use of restricted work permits in favour of open work permits to increase labour market mobility and reduce power imbalance. In addition, exemptions under Employment Standards could be discontinued for sectors such as agriculture and hospitality which have concentrated high numbers of racialized migrant workers. Alongside a more proactive and less compliant-driven enforcement system, increased repercussion for recruiters and employers involved in GBV actions, including larger fines and more serious sentences, are necessary.
- Provide resources to investigate and prosecute perpetrators and offer support to migrants experiencing GBV, including accessible legal and support services, health care, housing, as well as financial support in the form of government assistance. It is also essential to provide educational resources on support available and to ensure there is adequate separation between public service provision and immigration enforcement activities to mitigate fear of immigration status consequences.
- Implement an anti-oppressive approach that centres anti-racism, anti-sexisms, anti-trans and anti-homophobia when shaping reforms and policies through consultation with GBV victims. Implement a culturally sensitive and trauma-informed approach when providing training to immigration officers and service providers, and emphasize the inclusion of diverse lived experiences in public messaging and programs..



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