



Asia Pacific Forum on Women, Law and Development

NGO in consultative status with the Economic and Social Council of the United Nations

APWLD¹ Submission to the Special Rapporteur on the Human Rights of Migrants

Beyond remittances, host and origin countries benefit from women migrants' work and contribution, while women migrants themselves navigate precarity caused by lack of social protections, devaluation of work, neoliberal policies and human rights violations. Despite legal obstacles that invisibilise their work, migrants' rights organisations and migrants themselves have been organising, researching, mobilising and contributing to the creation of coherent laws and policies for migrants' rights and welfare. Our Feminist Participatory Action Research (FPAR)² as well as the experiences of our members have discerned gaps in States' policies and measures, while providing recommendations in response to the guiding questions in the [call for inputs](#).

Migrants' contributions

Social contributions

Distinct from their financial remittances, migrants' societal impacts, including the transfer of practices, social capital, skills and knowledge remain hidden and unmeasured. Women migrants' networks, knowledge and entrepreneurial spirit also translate directly to increasing food diversity, and enriching the cultures of host countries. Based on the experiences of APWLD members of Kabar Bumi, Indonesian women migrants in destination countries such as Hong Kong and Taiwan, contribute to cultural exchanges by transferring their knowledge and practices of cultural openness and diversities.

Women Migrants' Political contributions for Policy Frameworks and Measures by States

Migrants and migrants rights organisations play a crucial role in ensuring the exercise of their human rights, fundamental freedoms and the rights of others. They achieve this by organising, mobilising and collecting evidence for advocacy to improve the policy and practices of the States. Their intervention in policy discussions at national and international levels contribute to the improvement of policies and measures taken by the states. Their contribution to justice and social change, as well as in providing services, knowledge and skill for migrants to organise themselves and support other migrants was often overlooked while the government/ academia always only emphasise on remittance and the labour force. Some of the examples of organising and mobilising through Feminist Participatory Action Research (FPAR) are evident in the case stories below.

¹ The Asia Pacific Forum on Women, Law and Development (APWLD) is a feminist, membership-driven network with 295 members which represents diverse women's rights organisations and advocates from 30 countries and territories in Asia and the Pacific. APWLD is working closely with its members and partners in advancing women's human rights and development justice.

² <https://apwld.org/feminist-participatory-action-research-fpar/>



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Indonesia - Local government measures for monitoring and protection

In Indonesia, Solidaritas Perempuan Sebay Lampung's (SPSL) FPAR identified Margototo village government in Lampung Province, which had drafted a village regulation for the protection of migrant workers. Through the FPAR, women migrant workers submitted recommendations for developing gender-responsive and equitable policies and service programs for women migrant workers at the village level. Although this village-level regulation is yet to be formally enacted, in practice, the village government has provided services to the community, including information on safe migration and preventing human trafficking by conducting outreach to the community during events. The village government has disseminated information with an informal approach such as during community religious activities and festivals. They also created a village WhatsApp group containing migrant workers from Margototo village who were working abroad as a monitoring tool if something happened to migrant workers abroad. Similar efforts are underway for Giriklopomulyo and Sumber Gede Villages in Lampung Province too.

Nepal - Interventions towards reintegration of returnee women migrant workers at the local level

In Nepal, through the FPAR conducted by Women's Rehabilitation Centre (WOREC) together with returnee migrant women (RMW), the Mayor of Barahachetra Municipality committed to endorse the reintegration programme for returnee migrant workers on their annual plan. Throughout the FPAR, they analysed the policy gap on the reintegration process, submitted a demand paper, and had dialogue with the local government demanding proper and holistic socio-economic reintegration programs and a plan at local level. In the dialogue, SBK, a RMW member spoke about the issues faced by RMW and demanded the local government to fulfil the right to dignified life, acknowledge their skill and work and plan for socio-economic reintegration. In another district, FPAR by National Indigenous Women Forum (NIWF) with indigenous returnee migrant women (IRMW) in Chautara Sangachowkgadi Municipality facilitated a dialogue between the IRMW with the Ward Office and Municipality, where the IRMW delivered their queries and concerns, demanding the social reintegration programme for IRMW at the local level. Consequently, both the Ward Office and Municipality committed to allocate a budget heading accordingly for the social reintegration programme for IRMW.

Gaps to be addressed - Local government authorities have not established specific policies and regulations dedicated to the reintegration of returnee migrant workers. Based on NIWF and WOREC's findings that disaggregated data on RMW are missing - particularly on caste



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and ethnic composition which contribute to invisibilisation of indigenous women migrants.³ Such information gaps have a detrimental impact on the government's ability to effectively strategise and respond to the challenges faced by women in the workforce.

Obstacles and Barriers to Realising Women Migrants' Rights

Forced migration in the neoliberal context

Undoubtedly, worsening states of unemployment and underemployment caused by the continuing rampage of neoliberal policies have fostered forced migration practices and trapped people in the migration cycle. The lack of decent work opportunities, limited access to basic services, impoverishment, violence, land and resource grab, conflicts as well as climate crisis have forced people to flee from their home origin for safety and to secure a sustainable livelihood for themselves and their families. These deep-rooted structural causes of migration are inseparable from the neoliberal development model which overrides the state obligation to respect, protect and fulfil human rights and comply with international labour standards. Governments minimise public expenditure and simultaneously provide tax concessions to the wealthy, and accumulate foreign debt. Privatisation of basic services increases the role of the private sector, which ultimately contributes to the commodification of people and services. The commodification of migrant workers, and the trade and investment agreements that weaken the labour standards enforce migration. It is on this foundation that discriminatory policies and structures against migrants are built.

ER, a returned migrant women member of SPSL FPAR stated, "*The violence experienced by women migrant workers has been experienced by women migrant workers from the start of departure, placement to return. If we can choose, we don't want to work abroad because the work is hard, the risks are big, and the pay isn't much. Hopefully in the future, even if you have to work abroad, we hope that no one will experience violence either physically, verbally or psychologically.*"

Discriminatory Policies and Practice Against Women and Migrants

Women migrants face discrimination because of multiple marginalities, both from laws and policies as well as in practice. Labour law, social security, access to justice and basic services are often not applicable to women migrant workers and domestic workers in many countries because of their intersecting identities as migrants, women and informal sector workers, Women largely work in the informal sector associated with gendered duties, such as care

³ Report on the situation of indigenous peoples in Nepal, https://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-34-Add3_E.pdf 20 July 2009.



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work. Further, both international and internal women migrants, have no or limited access to basic services due to their status as migrants.

1. Caste discrimination

In Nepal, WOREC's findings indicate that women, particularly from the Dalit community and economically disadvantaged backgrounds, experience multiple layers of discrimination in various aspects of community life, including in access to education and financial opportunities, which forced them to migrate to seek for a decent life. The research reveals that the practice of untouchability persists in communities, and women, who are more engaged in household chores and community activities, bear a disproportionate impact of this. This is also buttressed by the FPAR of National Alliance of Women Human Rights Defenders in Nepal, in 2019-2021, where it was found that caste based discrimination combined with sexual harassment disintitled internal migrants in Nepal from their basic human rights.⁴

2. Gender discrimination

WOREC's FPAR also highlights that women's sexual and reproductive health rights (SRHR) are violated due to deeply rooted societal norms and patriarchal concepts. Early marriages, pregnancies, and son preferences contribute to the deteriorating health of women. Further, lack of access to health facilities in the destination country and after returning to the origin country lead to a further violation of SRHR. Reflecting on the sexual stigma associated with women migrants, one FPAR member, Sita, questioned "*why (does) society judge women's character based on their work instead of recognizing their contributions.*" The reasons for returning to Nepal also displayed gender-specific patterns, as 41% women (out of 109 respondents from Barahachetra Municipality) cited challenges in balancing work and personal life, compared to only 6% who mentioned the completion of a work contract. Following that, 88% of RMWs reported being currently unemployed after returning. Societal perceptions towards women seeking foreign employment have been negative, as 34% of respondents believed that society generally does not appreciate this choice.

In Kyrgyzstan, based on the FPAR of Ravnje Prava, an internal migrant from Ak-Zhar area said, "*Many of us, women internal migrants, face more significant challenges in finding work compared to men, mainly due to childcare and household responsibilities...Moreover, employers usually prefer hiring men over women. This bias stems from concerns that unmarried women may soon marry and leave the job, while married women may take maternity leave, posing additional costs and the need to find a replacement employee for the employer.*"

Approximately 42% of internal women migrants as part of the FPAR in Kyrgyzstan reported not being hired because employers believed they would be unable to perform their job well,

⁴ Recognising and Protecting the Rights of Internal Migrant Domestic Workers, available at <https://apwld.org/wp-content/uploads/2022/01/NAWHRD-final.pdf>.



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as they would likely be distracted by household chores and childcare duties. Additionally, 20% of respondents stated that employers refused to grant them sick leave, while 15% reported being denied employment solely because they were women as employers prefer to hire men to avoid providing benefits such as maternity leave and social packages. Furthermore, 12% of women surveyed mentioned that employers refused maternity leave. The lack of a robust monitoring mechanism for labour law compliance allows employers to continue violating labour laws with impunity, further exacerbating the challenges faced by internal women migrants.

3. Discrimination due to migrant status

In Taiwan, Serve the People Association's (SPA) FPAR has revealed the limitation within the 2008 Labour Insurance Act amended in 2021 (the Act), where domestic workers by default, do not have labour insurance and are not covered under the Act. While women migrant workers employed in the industrial sector are covered under the Act they are not informed about this and so fail to claim it. Understanding the requirements and procedures for claiming benefits is often challenging, particularly for those with limited language proficiency coupled with the financial costs of travel, documentation and other associated expenses, making it inaccessible for women migrant workers. The Act also provides a lump-sum old-age benefit for insured persons with service under 15 years. They can access this one-time payment on attaining the retirement age which has been gradually increased from the present 60 years to 65 years from 2026 onwards. The requirement that they have to personally travel to Taiwan to apply for it, has meant that despite being eligible, migrant workers do not have a viable and accessible means to apply for it while most of the migrant workers work within a limitation of 2-years of contracts.

In Kyrgyzstan, the majority of internal women migrants are engaged in the informal economy and informal employment, lacking official labour contracts and the accompanying benefits stipulated by the labour code of Kyrgyzstan. A staggering 90% of internal women migrants surveyed reported not having an employment contract with their employer. Among the respondents, 5% indicated having an employment contract, while another 5% stated that their employer refused to enter into such a contract.

4. Ethnicity

The FPAR conducted by Women's Regional Network (WRN) India reveals the realities of internal women migrants from the North-East region. Long standing ethnic conflicts along with heavy militarisation in the area, political instability and neglect, and resource exploitation create conditions for women to migrate from this region. Additionally, the distinct appearance of individuals from the North-East, along with different language, religion and cultural practices lead them to being singled out, targeted and hypersexualised. Homeowners refuse to have women from the North East as tenants, and those who do accept them, charge exorbitant rent or provide no rental agreement. This is starkly different from



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how they treat people from other Indian regions. Lack of information and knowledge often leads women migrants to be scammed and tricked in the form of arbitrary price hikes, harassment, and eviction without proper notice. Additionally, local differences in identification proof, and lack of documentation have prevented women migrant workers from accessing necessary resources like food rations through the public distribution system, pension, and rental agreements in the city. MM, a woman migrant from Manipur living in Delhi, mentioned during the FPAR ‘...If you ask around, 80-90% of us here don’t have rent agreement. They don’t want to give. I cannot get my gas connection because they ask for ration card or electricity bill. I don’t have. For ration card I need rent agreement. I have to pay extra and buy cylinder in black. I have lived in Delhi for so long but still I face this.’

Lack of access to information and safe and just migration pathway and options

States often do not provide adequate information to women migrants on safe migration pathways or capacitate them to exercise their right to safe migration, and this makes them vulnerable to higher risk of irregular migration.

In Indonesia, for instance, SPSL documented that about 72% of the women (out of 50 respondents in east Lampung) used brokers’ services for the departure process and brokers remain a preferred means to seek employment abroad. The practice of using a broker places women in a more vulnerable position and at a higher risk of migrating irregularly or being caught in human trafficking. SPSL’s survey reported women migrants experiencing rights violation at the destination country, from not being able to shower, unregulated work hours, unable to practice their religion, lack of leave and excessive workload to extreme cases where they face violence and abuse at the hands of the employer. To repatriate, women migrants must face a salary deduction equivalent to three months of work. Upon return, there is no reintegration programme, and the burden of finding employment is on the individual. Thus, they re-enter the cycle of limited employment.

In Nepal, FPAR by NIWF also documented experiences where women were in reality ‘sold’ to their employers which directly means they were trafficked and had migrated irregularly. S.L., IRMW from Chautara District disclosed, ‘From my own experience, I came to know that the Sahu (employers) had paid 3,000 dollars to buy me to work. I asked why they paid such a large amount and they replied that it was to buy me. The money was consumed by the broker alone.’ Women migrants continue to experience irregular migration practices due to lack of access to information and safe migration pathways. The research revealed the lack of awareness among IRMW about government programs and opportunities, exposing a substantial gap in information accessibility at the grassroots level. Merely putting up notices without adequate information about the program is ineffective.



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No sustainable reintegration policies and programme

Most of the reintegration programmes provided by governments only address immediate problems and need of returned migrants and are unable to secure lasting social and economic stability nor to improve their life. This is one of the major reasons for women migrants forced to re-migrate over and over again, even after facing issues/cases of human rights violation in the destination countries. Sustainable reintegration programme should touch not only on immediate assistance for survival, but also to capacitate and build social capital for returned migrants to secure their life and livelihood without falling back to forced migration.

Contradicting assertions of widespread improvement in the situation of women migrants in Nepal, empirical data through FPAR present a more nuanced reality. NIWFs' FPAR revealed, most IRMWs confronted restricted job opportunities, lacked savings and proper financial management, and didn't pursue skill development after returning, highlighting challenges in their economic reintegration. This highlights a disconnect between actual experiences and claims made by key stakeholders regarding the economic situation of IRMW. While some made modest progress, many encountered ongoing struggles in achieving sustained economic stability post-foreign employment. Reflecting on the same harsh economic conditions as previous, they are compelled to re-migrate. Similar results also came from the survey of WOREC inquiring about their employment status upon returning to Nepal, 88% out of 109 returned migrants (60% of the total respondents were women) reported being currently unemployed.

Conclusion and Recommendations

The realities of women migrants should be spoken out by the women migrants and their families themselves, with their own narratives. Spaces for women migrants should be provided within the international forum. They should be able to be informed and participate in the political discussion related to migration to share their knowledge and experiences as well as their particular situation and deliver their recommendations. While women migrants have limited access to information and participation, their families and advocates as well as migrant rights organisations/activists should not be prevented from speaking up. We need to call on as many (including mainstream media and politicians) to pay attention to women migrants narratives and amplify those, and continue the effort for awareness raising for the improvement of migration policies and practices. Our recommendation for actions and measures to be taken at the national, regional and international levels should be able to:

1. Address the structural causes of forced migration
 - o States should eliminate all adverse drivers and structural factors that force people to leave their country of origin, including by ensuring decent work, living wage and education opportunities, development of local agriculture or livelihood, poverty



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- o eradication, free from violence, rule of law, and protection of human rights and fundamental freedoms, including women's bodily autonomy and rights.
 - o States should ensure that economic policies, as well as trade and investment agreements interested in facilitating the mobility of capital, must not be used to create migration for work that undermines international human rights and labour standards.
2. Ensure safe and just migration pathways and options for the the full protection of women migrant workers and their families
 - o Regulate and monitor recruitment agencies and immigration officials, as well as penalize erring officials and entities. States must also ensure that recruitment agencies, brokers and employers can be held accountable; confiscating documents must be made illegal with strong sanctions for violators; migrants must have the freedom to change employers, migrant workers must be afforded freedom from retaliation by employers & brokers and migrant workers must have access to effective and timely justice remedies.
 - o Abolish restrictive laws as well as migration policies that pose barriers to mobility and criminalise migrants and make them more vulnerable to exploitation in destination countries, in order to eliminate barriers to safe migration for women migrants.
 - o Develop a data system that can track and document migration flow and blacklisted the illegal and irregular recruitment agencies for the protection of women migrants and their rights.
 3. States should adhere to international human rights and labour standards for the protection of women migrants, including ensuring access to basic services, such as education, health, housing, and social welfare.
 4. States should sign, adopt and ratify treaties and convention related to women and migration to ensure the rights and safety of women migrants, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, ILO Convention 190 on Eliminating Violence and Harassment in the World of Work, and ILO Convention 189 on Decent Work for Domestic Workers
 5. Ensure access to information for women migrants on safe and just migration pathways and options as well as on migration governance and policies making process, and ensure their meaningful participation in the migration forum and their representations in the decision making processes at the local, national and international levels.
 6. Acknowledge the rights of and unique challenges faced by indigenous women migrants as well as internal migrants within the international migration governance and policies



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7. Specific recommendations for UN Special Rapporteur on the human rights of migrants to act upon:
 - o Develop materials/guidelines to guide states in adhering to the international human rights standard with specific focus on migrants and develop practical gender-sensitive, responsive, and transformative guidelines for states to comply with those standards
 - o Ensure more frequent consultations with the grassroots civil society organisations working with women migrants and their communities to strengthen the connection between UN mandate holders and migrants.