



Submission to the United Nations Special Rapporteur on the Human Rights of Migrants for the thematic report on revisiting migrants' contributions from a human rights-based approach

Global Alliance against Traffic in Women

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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 work to promote the rights of migrants and survivors of trafficking. 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.

Introduction

This submission will focus on questions 2 and 3 in the call for input. First, it will examine and analyse the ways in which the ability of migrants to self-organise facilitates greater inclusion and therefore greater freedom to contribute to society. Second, it examines how the failure of states and international organisations to implement feminist migration policies significantly hinders migrants' contributions and increases their vulnerability to human rights violations.

In this submission, when we discuss the contributions of migrants and the challenges they face, we seek to avoid any suggestion that migrants are *required* to contribute either economically, socially, or culturally to be deserving of rights protection. We wish to avoid the risk that by focusing on the “contributions” of migrants, a dichotomy is inadvertently drawn between “good” migrants, who contribute to society, and “bad” migrants who do not. This risk is particularly acute for women migrants. The strict gender roles that have been ascribed to women globally perpetuate harmful stereotypes about what a woman's contribution in life should be, which are usually linked to childrearing, sexual chastity, and caregiving. Women migrants who deviate from these stereotypes, risk being seen as not contributing in the right way and therefore as “bad” migrants.

Submissions

Question 2: What positive measures are implemented by civil society organisations and non-governmental stakeholders in maximising and optimising migrants' contributions? If so, please provide details.

Migrants are the ultimate experts in their own lives and when migrant women are afforded the right to organise, either as civil society organisations or as workers organisations, they have been able to maximise and optimise their contributions by tackling exploitative working practices and promoting their social inclusion at home and overseas. Migrant organisations create a space for migrant people to voice their concerns, take collective action against injustice, and participate in political and social life.

For example, the emergence of an international self-organised sex worker rights movement has been hugely significant for drawing attention to the human rights abuses faced by migrant sex workers and for combatting rights violations against sex workers in the course of migration, such as human trafficking. This has greatly enhanced the contribution sex workers are able to make to their communities. From Thailand to South Africa, sex worker-led organisations have assisted migrant sex workers to challenge exploitative working practices, and have rescued and assisted victims of trafficking they identify at their places of work.¹ Sex worker-led organisations have also played a key role in gaining recognition of the contribution migrant workers are making.²

Similarly, the self-organised migrant domestic workers movement has been integral to securing recognition of the contribution of migrant domestic workers at the international level (for example securing the enactment of ILO Convention 189 on Domestic Workers) and at the national level. Taking just one recent example of the ways in which self-organised groups of migrant domestic workers have maximised migrants' contributions - in the UK, our research partner, the Voice of Domestic Workers, together with a broader coalition of self-organised domestic workers, successfully campaigned for the removal of a discriminatory exemption from minimum wage for migrant domestic workers. From 1 April 2024 all migrant domestic workers in the UK are entitled to minimum wage. This will of course increase the "contribution" to the economy and labour market of the UK being made by migrant domestic workers but, more importantly, will protect the rights of migrant domestic workers' and enhance their sense of inclusion within society.

Self-organised groups of migrant women are also often providing vital support that strengthens the freedom of migrants to participate into society, filling the gaps left by governments. For example, in recent research carried out in Vancouver, Canada, it was identified that it is not the Government who is providing English

¹ For examples see GAATW, "Sex Workers Organising for Change: Self-representation, community mobilisation, and working conditions," 2018, pp. 33-36

² See for example how in Mexico in 2014, Brigada Callejera and the Mexican Network of Sex Workers through coordinated protests succeeded in gaining the recognition of sex workers (many of whom are migrants) as non-salaried workers in GAATW, "Sex Workers Organising for Change: Self-representation, community mobilisation, and working conditions," 2018, p. 37

classes to migrant women, but a community refugee organisation and a self-organised group of migrant sex workers (SWAN).³

Question 3: 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.

a. Sexist restrictions on women's freedom to migrate.

In countries of origin, sexist restrictions on women's right to migrate perpetuate harmful stereotypes and push women who migrate into exploitative situations. These policies also prevent women from being able to save and invest the money they have earned overseas. Some countries, such as Nepal, have an outright ban on women's labour migration to certain countries (in Nepal the ban is on migration to the Middle East), whilst others, like Bangladesh, Sri Lanka and India, impose age restrictions (for example, Bangladeshi women under 24 years old are not allowed to migrate).⁴ Some countries 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.⁵

Migration bans and age restrictions are paternalistic laws that are making women less safe, and significantly hampering the contributions that women can make to their societies at home and overseas. 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 unaddressed. As a result, women are forced to migrate using unofficial channels, rendering them more vulnerable to abuse and exploitation, and automatically excluding them from many support schemes for returnees.⁶

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. Under the Convention, States have a duty to remove restrictions on migration 'on the basis of gender, age, marital status, pregnancy, or maternity status' as well as to realise the right of equal access to employment opportunities for women.⁷

³ GAATW, 'Of Course People Will Hire the White Person': Social and economic inclusion of migrant women in Vancouver, Canada, 2022, at p.9

⁴ GAATW, "Sustainable Reintegration – What do Women Migrant Workers in the South Asia-Middle East Corridor Say?", 2022, p12-14

⁵ GAATW, "Sustainable Reintegration – What do Women Migrant Workers in the South Asia-Middle East Corridor Say?", 2022, p64

⁶ See GAATW, Sustainable Reintegration – What Do Women Migrant Workers in the South Asia-Middle East Corridor Say?, 2022

⁷ CEDAW General Recommendation 26

These sexist migration policies also perpetuate harmful cultural attitudes about the role of women in society by sending a clear and damaging message that women who migrate for work are doing something wrong. For many women workers, migration allowed them to gain a measure of agency and to start making a valuable contribution to their economy and society in a way that was not available to them within their families and communities. However, women’s contributions to their communities and families remain undervalued and upon return this new agency has often been met with disapproval and even violence by their home communities. Women have been accused of having been sexually impure or having transgressed religious or cultural norms whilst overseas.⁸ For instance, some returnees in Sri Lanka have reported that their partners were unhappy with the recognition and publicity their wives received and responded with violent and controlling behaviour.⁹ In Bangladesh, women have shared that their husbands had become obsessed with concerns about their “sexual purity” whilst overseas.¹⁰

b. Discriminatory immigration and labour laws in respect of gendered work sectors.

In countries of destination, the failure to recognise the sexist and discriminatory impact of restrictive policies towards sectors of work dominated by women, forces women into informal work arrangements and situations of exploitation, thereby hindering their contributions to and inclusion in society.

For example, in many countries in the world domestic workers are excluded from the ordinary labour and immigration laws that are applicable to all other migrant workers. Domestic workers 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.

Sex work is another sector where migrants face particularly restrictive policies. Even in countries where sex work is fully decriminalised like New Zealand, migrants are prohibited from working in the sector. This fuels the exploitation of migrant sex workers and their exclusion from society, and has led to instances of migrant workers being extorted by and sexually abused by clients who threaten to report them to immigration authorities.¹¹

c. The mistreatment of irregular migrants.

The emphasis on “orderly” and “regular” migration by Governments and international organisations further demonises migrant women who cannot migrate through regular channels, either due to sexist restrictions on particular work sectors, or sexist policies which restrict women’s migration. The rights of migrants must

⁸ GAATW, “Sustainable Reintegration – What do Women Migrant Workers in the South Asia-Middle East Corridor Say?”, 2022, p67

⁹ GAATW, “Sustainable Reintegration – What do Women Migrant Workers in the South Asia-Middle East Corridor Say?”, 2022, p31

¹⁰ GAATW, “Sustainable Reintegration – What do Women Migrant Workers in the South Asia-Middle East Corridor Say?”, 2022, p41

¹¹ GAATW, “Sex Workers Organising for Change: Self-representation, community mobilisation, and working conditions,” 2018, p. 92

be respected irrespective of the means by which they migrated, and the emphasis on “orderly” and “regular” migration should not be (mis)used to justify the further social, political and economic exclusion of migrants, and the denial of the contributions they are making to communities and economies.

The mistreatment of irregular migrants and the denial of opportunities for them to “regularise” their status also greatly impedes the contributions they are able to make by exposing them to a greater risk of abuse and exploitation, and making it extremely difficult for them to find decent work. Many 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.¹² In Canada, migrant women reported similar experiences with employers “taking advantage” of their vulnerability due to their precarious immigration status.¹³ One Southeast Asian woman in Germany described how she was made homeless and was often starving due to the precarity of the work she was able to find once her visa expired.¹⁴

Migrant women without a regular immigration status are also denied access to healthcare, housing and other vital public services, which again gravely impedes their ability to contribute to society. 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.¹⁵ 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.¹⁶ Whilst firewalls can help to mitigate against this, very few Member States have such firewalls in operation.

d. Racist and xenophobic policies which fail to recognise the skills and qualifications of migrants.

Also of significance, are racist and xenophobic policies which fail to recognise the skills, qualifications, and experience of migrant people. In our research into the experiences of Southeast Asian women in Europe, many women told us that they took up jobs that were below their education and work experience because their qualifications were not recognised in the destination countries.¹⁷ Similarly in Canada, 50% of the migrant women interviewed in our research felt that they did not have the right kind of education to enter

¹² GAATW, “I spent many days on the road but I made it here: Socioeconomic inclusion of migrant and trafficked women in South America”, 2022

¹³ GAATW, “Of course people will hire the white person: Social and economic inclusion of migrant women in Vancouver, Canada”, 2022

¹⁴ GAATW, “Heroes, victims, or slaves? Workers! Strengthening migrant and trafficked women’s rights to inclusive re/integration in Southeast Asia and Europe,” 2023

¹⁵ GAATW, “I spent many days on the road but I made it here: Socioeconomic inclusion of migrant and trafficked women in South America”, 2022,

¹⁶ GAATW, “I spent many days on the road but I made it here: Socioeconomic inclusion of migrant and trafficked women in South America”, 2022,

¹⁷ GAATW, “Heroes, victims, or slaves? Workers! Strengthening migrant and trafficked women’s rights to inclusive re/integration in Southeast Asia and Europe,” 2023

the mainstream Canadian labour market, in part due to the lack of accreditation and recognition of foreign education in Canada.¹⁸

Inadequate provision of interpretation and language training further hinders migrants' contribution. In Canada, English proficiency arose in our research as a key factor impacting inclusion for migrant women.¹⁹ In our research into the experiences of Southeast Asian women in Europe, nearly all women felt that knowing the local language was key to being able to contribute and feel included. For example, most of the women interviewed in Poland did not feel "integrated" due to insufficient knowledge of the Polish language. In France, one of the women observed that the "*French don't speak English very well, and when we are not speaking French, we can be or feel rejected by the medical services and also by the state and the administrative services*". In Germany, one Filipina woman shared that at the *ausländerbehörde* (immigration office) she was speaking English and the officer seemed to understand her but always replied in German, making it impossible for her to know what she was being told.²⁰

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?

GAATW makes the following practical recommendations:

1. **Member States and donors should invest in migrant women's organising:** Organising among women migrants leads to a reduced risk of exploitation and trafficking and is crucial in mitigating the exclusion and stigma that permeate migrant women's lives. Governments and donors must recognise the role self-organised groups of migrant women play in enhancing the inclusion of and contributions by migrants.
2. **Member States and UN agencies must formulate and implement feminist migration policies which combat sexist migration policies in both countries of origin, transit and destination.** At a minimum this should include the lifting of bans on women's migration, and the equal treatment in law and practice of migrant workers across all work sectors.
3. **Member States must simplify the process for recognition of qualifications held by migrants from other jurisdictions:** Destination countries need to simplify the process of recognising educational certificates and work experience from the home country.
4. **Member States and UN agencies should adopt a rights-based approach to all migrants, irrespective of the means by which they migrated:** A distinction must not be drawn between regular and irregular migrants for the purpose of respecting and realising their rights. All migrants, irrespective of migration status, should have the freedom to contribute to their host and home

¹⁸ GAATW, "Of Course People Will Hire the White Person: Social and economic inclusion of migrant women in Vancouver", Canada, 2022, at p.9

¹⁹ GAATW, "Of Course People Will Hire the White Person: Social and economic inclusion of migrant women in Vancouver", Canada, 2022

²⁰ GAATW, "Heroes, victims, or slaves? Workers! Strengthening migrant and trafficked women's rights to inclusive re/integration in Southeast Asia and Europe," 2023, pp. 27-28



communities. Firewalls must be established between public authorities to enable all migrants to safely report situations of abuse and exploitation and have access to life-saving public services.