

ISSUE 4

Realizing the human rights, including labour rights, of women migrant workers

The [GCMGender] Guidance Note series, presented by the Expert Working Group¹ for addressing women's human rights in the Global Compact for Migration (GCM), identifies key challenges in migration governance whilst providing clear and concrete guidance on how to ensure that the human rights of all women and girls in migration are at the core of the GCM, through the development and implementation of gender-responsive and migration policies in accordance with international human rights frameworks. Further guidance is elaborated in the Expert Working Group's recommendations for addressing women's human rights in the GCM: <http://www.unwomen.org/en/digital-library/publications/2017/3/addressing-womens-rights-in-global-compact-for-migration>

KEY CHALLENGES

Realizing Labour Rights

- Ensuring that national administrative, civil and labour laws provide women migrant workers in all their diversity, including domestic workers, with the same rights and protections extended to all workers.
- Ensuring non-discrimination and equality of treatment of women migrant workers, in particular women migrant domestic workers, in the promotion and protection of their labour rights.
- Ensuring women migrant workers' access to standard employment contracts that are free, fair, consensual, transparent, enforceable, in language and formats that migrant workers understand, with full access to redress mechanisms, regardless of migration status.
- Ensuring protection from forced labour, including trafficking in persons, guaranteeing freedom of movement, access to identity and travel documents, and the right to change employers.

Right to Freedom of Association, to Organise and Collective Bargaining

- Removing barriers that restrict the ability of women migrant workers, including migrant domestic workers, to form and join trade unions and engage in collective bargaining, regardless of migration status.
- Supporting dialogue and cooperation among different types of workers' organisations and civil society organizations to promote and strengthen women migrant workers' voice and representation.

Safe and Secure Working Environments

- Ensuring adequate, independent monitoring of working conditions for migrant women by the competent authorities or duly authorized bodies, including labour inspection services.
- Providing clear guidelines and regulations on occupational safety and health, including provisions against violence and harassment, including sexual harassment and gender-based violence, in the workplace.
- Ensuring safe and secure working environments, including within private homes, and guaranteeing full access to redress mechanisms.

Access to Social Protection and Benefits

- Providing social protection policies that address the difficulties migrant women, including those with disabilities, face in accessing social security because of *inter alia* eligibility requirements, cost and time constraints, limitations in portability of social security, exclusion from coverage in national legislation, informality of employment, restriction in contingencies covered, exclusion due to language barriers and inaccessible formats, isolation, lack of information and fear of immigration enforcement.
- Ensuring access to maternity protection for women migrant workers and prohibiting mandated pregnancy testing prior to departure, upon arrival or during employment.
- Providing full access to employment injury benefit, disability, long-term illness, death benefits and supplementary insurance schemes for women migrant workers and their families in the case of occupational injuries or accidents, irrespective of migration or residence status; ensuring portability of these benefits.

KEY ACTIONS

Legislate

- Extend coverage in national labour law to all the sectors in which migrant women work, whether in the formal or informal economy, in particular domestic work.
- Adopt laws and policies that prohibit sexual, gender and disability-based violence, discrimination and harassment in employment and occupation and that promote equality of opportunity and treatment.
- Develop or enact social security agreements that coordinate social security schemes across two or more countries; that include equality of treatment between nationals and non-nationals; and that provide access to, maintenance and/or portability of social security entitlements. Explore community-based mechanisms when implementing social protection schemes for migrant workers.
- Establish policies to ensure migrant women have equal access to maternity protection and sick leave.
- Establish minimum standards for the provision of suitable accommodation for migrant workers, taking into account gender and disability considerations.
- Strengthen laws and policies against wage discrimination and promote equal pay for work of equal value.
- Create regular migration pathways for both skilled and low skilled workers, ensuring that the right to reside is independent of an employment contract, and without distinction of any kind.

Build Capacity

- Build capacity of labour inspectorates and other competent bodies to undertake gender and disability-responsive monitoring and enforcement, including through labour inspections.
- Build capacity of employers to provide safe and accessible workplaces and accommodation for women migrant workers.
- Build capacity of workers' organisations to reach, mobilise and organise women migrant workers, in particular in high risk sectors.
- Build capacity of the judiciary to enforce legislation and enhance access to justice mechanisms and services, including legal aid, accessible to women with disabilities and tailored to migrant women's needs.
- Ensure access to accurate and accessible information about jobs available in countries of destination and related competencies and skills required.

Address Negative Perceptions and Attitudes

- Undertake public campaigns to challenge negative perceptions and attitudes towards migrant workers, in particular women migrant workers. Publicize their contributions to economies and societies of destination and origin, including contributions made through global care work.
- Promote efforts to professionalize, formalize and recognize the value of care work, including domestic work.