

# MIGRANT, REFUGEE

## and undocumented women's rights

### Lead

Jennifer Kamau (International Women's Space), Jelena Hrnjak (Atina), Luciana Davies (Mujeres Con Voz), Silvina Monteros and Tatiana Retamozo (Network of Latin American and Caribbean Women), Gea Meijers and Cristina Reyna (WIDE+)

**Contributors** Daniela Colombo, Natasa Dokovska (Journalists for Human Rights), Alice Lucas (Refugee Rights Europe), Frances Timberlake, (the Refugee Women's Centre), Katrine Thomasen (Center for Reproductive Rights), Tatiana Chebac (Law Centre of Advocates), Tanja Gohlert, (Global Call to Action Against Poverty (GCAP)), Ann-Marie Wilson (28 Too Many), Beatriu Masià, Tamaia (Anawanti network), Laura Sales Gutiérrez (Surt Foundation / Anawanti network)

Migrant women include female refugees, undocumented workers, trafficked, women on the move and children of migrant women. There is no abstract migrant woman. Each woman is unique and can face additional barriers or discriminations, for example because of their age, ethnicity, their status for example as a widow or as a single women refugee traveling through Europe and other intersections. When we refer to migrant women here, we mean all these different women, without spelling out each time the different intersections and groups of migrant women (meaning refugees, etc.).

In the preparation and during the UNECE Women's Civil Society Forum this working group concluded with the following recommendations that came out of a larger group discussion (these recommendations are not repeated in the detailed review):

- We all agreed that **migrant women face racism in their treatment by institutions**, such as immigration offices or social workers, but also when they work or want to access work. Strict measures and penalties should be taken on racial profiling; the deconstructing and addressing institutional and structural racism is our first recommendation.
- **Migrant women face exclusions not only from the legal system due to their status, but also from political rights.** Ensuring women's access to political rights is not only about formal regulations, but also about ensuring participation of migrant women and enabling transparent structures for self-representation of migrant women in decision making processes.

- **The routes of refugee and migrant women who are on the move are very dangerous**, in which women face huge risks of exploitation and abuse or lack of decent living conditions. The governments should do much more to secure adequate safety and security measures for those who are at camps, ‘hotspot’ centres and other ad hoc transit points in Europe. Government must ensure access to their rights when they suffer violence regardless of their status. Because of severe laws on asylum (for example Dublin Regulations), a lot of women are forced to choose to live undocumented, which increases their vulnerability to sexual exploitation and other forms of exploitation (being exposed to criminal networks). **Governments should fully implement the Istanbul convention on addressing Violence against Women and as well as CEDAW convention; and in some cases, governments should sign and ratify the Istanbul Convention.**
- **Residential citizenship** should be given to all children of migrants after a short time of arriving in the UNECE countries or when they are born in these countries.
- **Migrant women that report abuse and exploitation** in their formal or informal workplace should be protected from any deportation or other sanctions resulting from their witness report.



## Structural barriers and negative trends

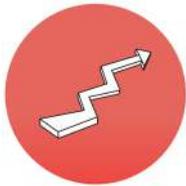
**A central injustice is the unequal citizenship status** in which many migrant women are trapped, by either having no status or a status that provides limited rights. Sometimes the legal status could offer protection, but the governing bodies or women are unaware, unable (language) or unwilling (in case of some governing bodies) to protect the migrant’s rights.

We see the following common threads of breaches and/or abuses of women’s migrant rights that are not or only partially addressed through law, policy and its implementation:

- **Violence against migrant women.** In addition to what is already mentioned, migrant women are also vulnerable due to limits in laws protecting domestic migrant workers, for example the law in Spain on Violence Against Women in domestic situations comes with a deportation from the country in case a claim of a migrant women without a permanent residence of violence in a court case leads to a no-guilty verdict for the person accused of the crime.
- **Migrant women face barriers in accessing basic services and public goods** that are affordable and adequate which is the result of many factors.
- **Migrant women’s sexual and reproductive rights are often breached.** In many countries undocumented migrant women are excluded from access to affordable and

quality sexual and reproductive health care due to a range of legal and policy barriers as well as language, cultural and other barriers. Some important legal barriers are severe laws on asylum (Dublin Regulations) that force a lot of women choose to live undocumented, which increases their vulnerability to sexual exploitation and other forms of exploitation (criminal networks). Excluding women from access to adequate reproductive health care, in particular throughout pregnancy, and specialist FGM clinics and aftercare, exposes women to increased risks to their health and lives.

- **Migrant women face exclusions** not only from the legal system due to their status, but also from political rights. One example is provided in Spain where not even 1 % of non-EU foreigners can vote for the municipal elections.
- **Migrant women face a multifaceted racism** in their treatment by institutions, such as immigration offices or social workers, but also when they work or want to access work, or through media stereotyping.



## Progress on implementing the Beijing Platform for Action

- Governments in the regions should do more to achieve progress on Sustainable Development Goals 8.8 that stresses **the right to decent work** in particular for women migrants and those in precarious employment.
- The BPfA calls for the implementation of the Protocol 29 relating to the Status of Refugees, **including persecution through sexual violence or other gender-related persecution, as well as to provide access to specially trained officers, including female officers, to interview women** regarding sensitive or painful experiences, such as sexual assault and FGM. There are still significant gaps in the region in fully implementing this protocol.
- International human rights law and standards unequivocally affirm that **human rights are universal and apply to everyone, including non-nationals**. They should be applied and in particular **CEDAW General Recommendation 26 should be implemented** in law, policy and practice Furthermore, governments have made commitments in the context of the SDGs to ensure universal access to reproductive health care, including maternal health care, in order to improve gender equality and reduce maternal mortality and morbidity. This should be ensured for migrant women as well.



## Recommendations beyond Beijing+25

We subscribe to the [Marrakech Women's Rights Manifesto](#) with its recommendations on Participation, Non-Discrimination, End to Violence, Safe Pathways, Labour Rights, Rights at International Borders and Equitable Development.

### In terms of political and civic rights we call for:

- **Residential citizenship** that allows full access to exercise active and passive suffrage. Full citizenship rights should be provided to all children of migrant women born in the country of residence and for migrant women after a short time of arriving in the UNECE country.
- Enabling citizenship includes aspects such as making sure institutions with a public purpose are opened during times that allow the participation of migrant women who work in the paid domestic sector or have family or care responsibilities.
- Public bodies should also promote the inclusion of migrant women within their institutions, in particular they should **create and assure inclusive and transparent structures for self-representation in decision-making processes** at all levels of policy and decision making, including national, regional, and international governing bodies.
- Governments should **recognize and offer financial support to migrant women's associations and self-organized community groups of women** that mobilize their own time and resources to take part in political life, or provide support to the (for example economic) integration of migrant women. Provided support should enable migrant women to give structure to their own civic and political priorities. An example of a good method is the co-sponsoring or doubling of funds raised by migrant women.
- States should promote norms & values of **tolerance, peaceful and harmonious coexistence, anti-discrimination, etc. in their institutions, esp. education, and through culture**. In order to do this, states should make available more financial resources to implement:
  - [The OCHR Declaration on Race and Racial Prejudice](#), international instruments adopted by UNESCO, on Education, and (international) Cultural Co-operation.
  - In particular: judicial and policies bodies should be sensitized. **Racist profiling and raids should be eradicated.**
  - States should include an **intersectional approach** on all levels and all services and programmes provided to migrant women.
  - States should ensure the rights of migrant children, providing them a good life with their parents without separating them as a result of residence issues.

### **In terms of gender based violence we demand:**

- In accordance with the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, states must take necessary measures to **end violence against women in displacement** on the European and Central Asian soil and **ensure access to support for survivors of violence, regardless of their legal status.**
- **States should sign and ratify the ‘Council of Europe Convention on preventing and combating violence against women and domestic violence’ (the Istanbul Convention).**
- A comprehensive approach should be followed to end to **Female Genital Mutilation (FGM)**. This policy should not only be punitive but also promote prevention and reparation, including offering free reconstruction of organs in the public health system.
- **End the practices of child, early and forced marriages**, which requires in some UNECE countries increasing the minimum age of marriage.
- **Closure of Foreigner Internment Centres:** no women should be detained against her will as a result of being on the move.
- Make asylum procedures simple and short, as much as possible. The threat and experience of Gender Based Violence should be enough to get an asylum.
- All reception facilities and asylum processes must be resourced by states in a way that enables them to respond to gender-related needs, as well as provide a dignified livelihood, It should include safeguarding mechanisms for women and girls against, among others, violence.
- **States should ensure the access to services, to the legal system** in order to ask for justice and the police for migrant women victims of sexual and gender based violence, without any discrimination, and combat the sexual and gender based violence against migrant women.

### **In terms of employment we demand:**

- **Signing and ratification of ILO Convention 189** on decent work for domestic workers for those countries that haven't done it. As well as **ILO Convention 97** on migration for employment and **ILO Convention 143** on migrant workers. Implementing standards includes labour inspection in sectors where migrants, particularly women migrants, are employed.
- **A minimum wage** that allows for a minimum decent livelihood should be provided and enforced for all types of labour provided, including and especially for migrant domestic workers, women working under cultural programmes such as being an au-pair in Denmark, workers in precarious forms of service provision, etc.
- **Migrant women that report abuse and exploitation in their formal or informal work should be protected** from any deportation or other sanctions resulting from their witness report.

- The adoption of public policies that guarantee the right to decent care for its citizens, as well as those that guarantee decent working conditions for those who carry out care work.
- States should establish a mechanism that allows for an easy recognition of the level of education of migrant women.
- States should create a decent labor conditions and better regulations on domestic work especially for women who are working for 24 hours per day. Domestic workers shouldn't be discriminated against by law.
- States should sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

**In terms of health we call for:**

- Public and **Universal Health care** for all migrants, especially women, girls and boys regardless of their legal status, including those needed HIV treatment. This means the elimination of user fees and conditionalities.
- Address systemic barriers that may impede migrant women's access to services. These include discriminatory laws and policies, gender stereotypes, negative social norms and attitudes, harmful practices, and women's lack of autonomy and decision-making power over their health and rights, including their sexual and reproductive health and rights. States should also remove reporting obligations on health care providers or other public authorities to ensure that undocumented migrant women who seek access to health care are not reported to immigration or criminal justice authorities.
- The involvement of associations and groups of immigrants in awareness raising and prevention activities and in the design of specific policies aimed at victims of gender-based violence, and other programmes offering support and healthcare.
- **Training in interculturality and intersectionality** to public service personnel (legal, social, psychological, medical, etc.)
- States should ensure **the basic living standards of all asylum seekers.**