

Human Rights Protections Applicable to Women Migrant Workers



A UNIFEM Briefing Paper

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Development Fund for Women



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United Nations Development Fund for Women
304 East 45th Street
15th Floor
New York, NY 10017
www.unifem.org

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Introduction: Feminised Labour Migration in the Context of Globalisation¹

Globalisation has ushered in increasing migration for labour For women, these trends spell increased vulnerability to exploitation and abuse.

The International Labour Organisation estimates that there are between 80 and 100 million migrant workers in the world today. Women account for a significant portion of these workers, and in some countries they make up more than half of the migrant worker population. Indeed, many analysts speak of the increasing feminisation of migration. This feminisation results from a number of global forces in which gender roles and sex discrimination are intertwined with globalisation.

Trends contributing to this process include: the growing demand for labour in fields dominated by women (especially the service sector); the lower cost of production when labour-intensive tasks are shifted to women migrant workers; and the sex-stereotyping of large business enterprises and governments that may see women as cheap, temporary, or supplemental labourers whose “docile” nature makes them easily exploited. Other forces are more regional, including changes brought about by the oil booms in Western Asia, where the employment of foreign domestic workers has become a status symbol, country-specific labour shortages in sectors dominated by women, and the increasing participation of women in the labour market in newly industrialising countries.

From the perspective of women seeking work, a wide variety of factors combine to make border-crossing an attractive, acceptable, or – in desperate circumstances – the only viable option. For example, in countries where structural adjustment policies and privatisation have been imposed, broad cuts to the public sector often have a disproportionate impact on women, who make up a sizable proportion of the lower-level public sector jobs in many countries. Unemployment and cuts in social services may send such women abroad in search of new opportunities.

In other places, women flee conflict or the aftermath of conflict, or cross borders for personal security, fleeing violence and abuse.

Most job opportunities for women migrants are in unregulated sectors, including domestic work, informal/"off the books" industries or services, and criminalised sectors, including the sex industry. This means that even women who cross borders legally may find themselves in unregulated – and often irregular – work situations. In addition, the majority of opportunities that offer legal channels of migration are in male-dominated sectors such as agriculture and construction work, putting women at a great disadvantage. The ILO explains that "the demand for foreign labour reflects the long term trend of informalization of low skilled and poorly paid jobs, where irregular migrants are preferred as they are willing to work for inferior salaries, for short periods in production peaks, or to take physically demanding and dirty jobs."²

In summary, globalisation has ushered in increasing migration for labour at the same time as it has resulted in decreasing regulation of the labour market, growth in the informal sector, and the emergence of new forms of exploitation. In the midst of these trends, many governments are tightening migration controls. This interplay of competing incentives sets the scene for exploitation of those most desperate: irregular border-crossers, those in the informal sector, and the poor. For women, these trends spell increased vulnerability to exploitation and abuse, and continuing inequality with men.

This briefing paper will examine some of the specific types of discrimination and abuse women migrant workers face, focusing particular attention on the plight of women domestic workers. It will examine human rights standards relevant to these abuses, and suggest some of the steps states may be obliged to take under these treaties. While the negative consequences of globalisation cannot

be contained by any one state, all have responsibilities to ensure the rights of those under their jurisdiction are respected. Indeed, in a world of increasing interdependence, the protection of women's rights must be a global endeavour.

Purpose and Approach

This briefing paper is intended to provide some tools for human rights advocates working to advance the rights of women migrant workers. It examines a set of concerns facing women migrant workers – with an emphasis on women in domestic service – using the five most relevant³ major human rights conventions: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Social, Economic and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), and the International Convention on the Protection of the Rights of All Migrant Workers and their Families (MWC).

These standards are discussed together for two main reasons. First, it is generally the case that more than one of the treaties will be in force in any given country. This means that the different standards will together inform the state's approach to protecting the rights of women migrant workers. Second, the practice of the treaty bodies shows that there is considerable similarity in approach when it comes to women migrant workers. This makes sense, in part due to the overlapping norms embodied in the different conventions, and in part because of the normative effect of the broad ratification of the main treaties.⁴

This briefing paper examines the web of international norms that has been woven to protect women migrant workers in relation to the following topics:⁵

1. Exploitative terms of work – pay, hours and contracts.
2. Restrictions on the freedom of movement.
3. Labour market discrimination against women.
4. Dangerous and degrading working conditions.
5. Gender-based violence in the workplace.
6. Gendered forms of racism and xenophobia against women migrant workers.
7. Restrictions on migrant women's ability to organize for their rights.

After giving a brief overview of the issue concerned, each section will discuss the provisions of the treaties relevant to the violations under discussion, followed by examples of steps states may be required to take to ensure women migrant workers can enjoy their human rights. These measures are derived from treaty provisions, General Comments or Recommendations, and concluding comments and observations of the treaty bodies. The applicability of the various measures to any given state will depend on a number of factors, including: the ratification status of the relevant treaty and any reservations entered; the extent to which the relevant rights are already realized within the state; and the specific conditions in which women migrant workers find themselves in the state.

A more complete legal analysis of the issues presented in this document may be found in its companion document, *Human Rights Protections Applicable to Women Migrant Workers: A UNIFEM Legal Analysis*, also published by UNIFEM.⁶