

**Sixth Informal Thematic Session of the Global Compact for Safe, Orderly and Regular Migration
“Irregular migration and regular pathways, including decent work, labour mobility, recognition of
skills and qualifications and other relevant measures”
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PANEL 2: Decent work and labour mobility

Expert Panelist Speaking Notes:

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We know that women account for roughly half of the 244 million migrants worldwide. Women are increasingly migrating primarily for the purposes of work, with women migrant workers (WMWs) estimated by the OECD to be 42.3 per cent (or 25.7 million) of all labour migrants in 100 countries it considered (OECD, 2016); and this is an incomplete and conservative estimate. Importantly, migration represents opportunities for employment for WMWs – as noted in the thematic brief, migrant women have a higher labour force participation rate (67%) than non-migrant women (at 50.8%).²

Despite the feminization of migration, migration governance tends to be “gender-blind” – ignoring the gendered realities and risks for women migrant workers (WMWs), and leaving the gender inequality inherent in this regime unaddressed.³

Access to migration pathways that lead directly to permanent residency are often limited for women, who may lack credentials or capital necessary to meet selection criteria due to inequality in countries of origin, among other factors. Those that can, access temporary “regular” labour migration pathways, which tend to channel women into gendered occupations, such as caregivers, cleaners, service/sales clerks, and entertainers, occupations that are typically low skilled, low waged, with high levels of precarity, and low levels of social protection – often in sectors without consistent collective bargaining rights (agriculture, carework). Temporary labour migration visa schemes also tend to embed prolonged family separation, and can have financial and social costs that can resonate for future generations.

Managed bilateral labour migration agreements (BLAs) and Memoranda of Understanding (MOUs) have become state’s preferred options to maintain orderly flows of such forms of labour migration, but remain largely gender-blind and neglect human rights concerns (e.g. of the some 300 bilateral agreements worldwide very few address rights or social protection despite considerable efforts by countries such as Philippines to use BLAs to address rights violations for citizens abroad).⁴ Despite the opportunities they

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² http://refugeemigrants.un.org/sites/default/files/ts6_issues_brief_0.pdf

³ Hennebry, J. L., McLaughlin, J., & Grass, W. (2017). Women Migrant Workers’ Journey Through the Margins: Labour, Migration and Trafficking. UN Women. <http://www.unwomen.org/en/digital-library/publications/2017/2/women-migrant-workers-journey-through-the-margins>

⁴ See: ILO (2015); Bilateral Agreements and Memoranda of Understanding on Migration of Low Skilled Workers: A Review

http://www.ilo.org/global/topics/labour-migration/publications/WCMS_385582/lang--en/index.htm; Hennebry, J. L., Grass, W., Williams, G., Williams, K., Chikanda, A., Walton-Roberts, M., & Crush, J.(2015). Bilateral Labour Migration Agreements, Development and Trade: Complexity, Contradiction and Coherence. Waterloo.

present for enhancing access to regular pathways and enhancing international co-operation, they often limit mobility rights in countries of destination, and lock women migrant workers into gendered occupations characterized by deskilling, poorly protected labour rights, and high risk of exploitation and abuse; often with employer tied work permits. In this case many migrant workers, particularly those on employer-tied visas or subject to naming systems face significant barriers in accessing rights due to fear of loss of employment. Their use also perpetuates the normalization of the high skill/ low skill divide where the former have rights and the later are the backbone of globalization providing sectors with flexible labour. In this way some bilateral labour mobility agreements are not a solution (in terms of providing safe and regular pathways) but actually part of the problem. Indeed, we need to ensure that regular pathways through temporary labour migration do not undermine decent work.

Adding layers of precarity and risk for migrants, the current labour migration regime embeds for profit recruitment agents, which heighten costs, and exposure to exploitation and abuse. While initiatives like IOM 's IRIS provide levers and incentive structures to get important actors on board⁵, they must not be used as a alternative to international human rights law or as a alternative to regulation. The ILO's fair recruitment initiative provides guidance for states here, as does SDG indicator 10.7.1. on abolishing, worker-paid recruitment fees and related costs in favour of an employer-pays model, as well as UN Women's Expert Recommendations for Addressing Women's Human rights in the Global Compact for safe, orderly and regular migration⁶ (See: Recommendation # 5.10).

Factors contributing to gendered risks can be traced to persistent structural issues in countries of origin, transit and destination, yet most efforts at addressing such issues have focused on tweaking existing migration policy and border security regimes (often resulting in heightening risks and curtailing rights (e.g. such as the use of emigration bans introduced like Nepal by countries of origin; or denial of entry), rather than addressing root causes within the system.

The irony is that many women migrate because of gender inequality, lack of access to decent work, and social protection gaps, - leaving their unpaid carework to other women caregivers while they fill care deficits worldwide. All the while the assumption of such structures is that the mere act of migrating will lead to women's economic empowerment, development and economic growth - but this neglects the risks and challenges toward realizing decent work.

Decent work for women migrants means changing structures that devalue and deskill them, it means ensuring access to rights and social protections across all stages of migration (in countries of origin, transit and destination), access to health care (including reproductive health), collective bargaining rights(across all occupations, including those that have traditionally been denied in sectors where they are concentrated), it means work without violence or exploitation, it means work free of gender discrimination and segmentation.

So how do we get there?

First, it is important to recognize some current realities with respect to gender, migration and decent work: 1) that gender inequality is both a driver of migration and a continued outcome of the way international migration is governed; and factors such as the care economy structure migration; 2) that restrictive and gendered pathways for regular migration have negative impacts for women migrants (such as pushing them into irregular pathways, heightening risks of exploitation; deskilling; long term

⁵ See: <http://iris.iom.int/>

⁶ UN Women (2016). Recommendations for addressing women's human rights in the global compact for safe, orderly and regular migration. New York. <http://www.unwomen.org/en/digital-library/publications/2017/3/addressing-womens-rights-in-global-compact-for-migration>

health consequences); and, 3) that categorization and measurement of migration has uneven consequences –and many are deleterious for women.

We need better data: missing data equals missing women. Methods of data collection and measurement serve to categorize migrant flows, and are often used to determine migrants' access to services, or which rights and protections they may be granted by which governing bodies; they are also used to shape policies and practices of governing which can directly affect migrant rights. Data are simultaneously creating protection gaps in some spaces, while closing them in others. The kind of information one has and how it is used or shared, has wide ranging consequences, both positive and negative. In this context missing data is particularly important. Generally there is incomplete and inconsistent data on labour migration and indicators of decent work, and it is not all sex-disaggregated. Further, some data are not being collected and shared that would be valuable toward ensuring decent work for WMWs (e.g. access to services, accidents or injuries experienced by MWs, labour disputes, work permit denials, entry refusals, return, informal work, policy monitoring, etc.).

Next we need to look to some major touchstones that are well established to guide us and we need to use them. Such as CEDAW (and GR No. 26), CERD, ICRMW, UN Women's Expert Recommendations, etc. There are also numerous detailed recommendations in Issue brief #6 which I will not repeat, but indicate my support for. Further, throughout these consultations there have been innovative policy ideas and innovations bubbling up that will make much needed headway to address some challenges. However, we can get lost in the details trying to tweak the existing system – it becomes hard to see the forest through the trees - and I'm concerned our efforts will do nothing to shake up the status quo unless we rethink some fundamentals and begin to think a bit more creatively.

While some bilateral agreements and regional partnerships can provide examples of good practices, such as the Philippines- KSA agreements, among others,⁷ BLAs will not inherently enhance rights nor will the global patchwork of BLAs address the systemic gender biases and discrimination embedded in the current labour migration regime. Bilateral and regional co-operation agreements must integrate human rights and social protection considerations, and not solely labour market needs. BLLAs must not be used as a work around or alternative to international human rights law (IHRL) – but rather must embed IHR principles and gender-responsiveness, and must be based on long term labour market dynamics. Where possible, BLAs should also embed social protection portability and joint liability schemes. Some productive alternatives include skills registries or exchanges, multi-year work visas with family reunification and access to permanent residency, comprehensive immigration systems which consider labour market dynamics at all skill levels and gender-responsive pathways that provide direct access to permanent residency for all migrants.

Some strategies to achieve practical change include:

1. The GCM must reaffirm and make better use of the existing IHRL and UN infrastructure. For example, CEDAW has 99 signatories and 189 parties– this is a sign of will, but they are also binding, and are therefore important levers. Such instruments, and the Treaty Bodies also provide resources and guidance for states regarding implementation approaches. There is a need to enhance communication across Treaty Bodies in order to ensure gaps between frameworks are addressed, such as using LOIPR to refer to one another, or to embed reference to the SDGs, ILO frameworks, etc.

⁷ See: Agreement on Domestic Worker Recruitment between the Ministry of Labor of the Kingdom of Saudi Arabia and the Department of Labor and Employment of the Republic of the Philippines (<http://www.poea.gov.ph/laborinfo/agreement.html>).

2. Establish new or support existing mechanisms focused on the enhancement of gender responsiveness of the GCM and resulting implementation:

- 1.1. Embed gender responsive language in all texts pertaining to the GCM and subsequent implementation initiatives and documents;
- 1.2. Create subcommittee or taskforce to focus specifically on gender responsive policy coherence and communication across committees and entities to collectively support, monitor and evaluate the GCM outcomes going forward;
- 1.3. Develop and utilize existing gender analysis and assessment requirements (such as the GBA+ used in Canada⁸) including for multi/bilateral labour agreements between states prior to their establishment, as part of the negotiation process. This process could be carried forward by states with the joint guidance of the CEDAW Committee and CMW, the ILO and the IOM. Utilize existing review processes such as the LOIPR used by Treaty Bodies;
- 1.4. Formulate a new review process through the GCM that considers the gendered drivers of migration, the elimination of restrictive and gendered pathways for regular migration for women, the protection of the labour and human rights of women migrants as indicators operationalized in a scoring or reporting process that is transparent.

3. Actively involve CSOs in processes outlined above, especially WMWs organizations and advocates. In particular, work with CSOs to develop guidelines, administer, and monitor programs and policies resulting from the GCM. CSOs can also play an important role connecting communities in order to tackle perception and stereotypes (e.g. providing media trainings), and must be supported financially and politically with concrete infrastructure for change.

The GCM is an opportunity to rethink how we govern mobility – it is not just state sovereignty that is at stake – it is about reconfiguring the system to reflect realities of global labour markets and value chains, including care economy; to include gendered costs, drivers and outcomes of migration. The GCM must encourage states to recognize that the gendered experiences and practices of migration require gender-responsive governance, not greater securitization or restriction.

⁸ See: <http://www.swc-cfc.gc.ca/gba-ac/index-en.html>