



WOMEN'S LABOUR MIGRATION - AN OVERVIEW FROM MEXICO, MOLDOVA AND THE PHILIPPINES

SUMMARY

UN Women's project "Promoting and Protecting Women Migrant Workers' Labour and Human Rights: Engaging with International, National Human Rights Mechanisms to Enhance Accountability" is a global project funded by the European Union (EU) and anchored nationally in three pilot countries: Mexico, Moldova, and the Philippines. The project promotes women migrant workers' rights and their protection against exclusion and exploitation at all stages of migration. One of the key results of the project has been the production of high-quality knowledge products. These have provided the foundation of the project's advocacy and capacity building objectives. This Brief draws from the project's knowledge products and provides an overview of the key situational and policy concerns for women migrant workers in each of the three pilot countries.

Introduction

In recent years, there has been an increase in the autonomous migration of women for work. This feminization of migration generally refers to the increase in the autonomous migration of women, but it also encompasses the sectors within which many women migrants work. These sectors are traditionally often associated with specific gender roles. Although many migrant women are highly skilled and well educated, employment restrictions for certain migrants, coupled with de-skilling in gendered labor markets, can impact on women's job prospects. Subsequently, many migrant women are channelled into low-skilled and precarious jobs in manufacturing, agriculture, small-scale enterprises, as well as in the care sector including nursing, elderly and child care, as well as domestic work.

The complex interactions between work and migration produce very particular outcomes for women migrant workers. The three pilot countries

from the project – Mexico, Moldova, and the Philippines – will be used to provide examples of situational and policy concerns that women migrant workers are facing, which in turn can inform global, regional and local policy making.

Country profiles

Mexico

Mexico is considered as a country of origin for migrants, with approximately 10 per cent of its population living abroad in 2010. However, it is also increasingly being recognised as a country of transit and destination; between 2000 and 2010, the number of migrants in Mexico rose from 499,000 to 726,000.¹

As a country of destination, Mexico's southern border has witnessed increased flows of women from Central American countries. In the southern state of Chiapas, for example, 55 per cent of people born in another country are women. Migrant women are mainly young, of working and

¹ World Bank (2010). Bilateral Migration Database, Bilateral Migration Matrix 2010, and Annual Remittances Data.

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reproductive age, and have high rates of illiteracy. Women migrants in Mexico are commonly in situations of irregular residence and labour status and employed on an informal basis, with 70 per cent of women migrant workers employed in the domestic sector.² In Chiapas, about half (49 per cent) of women migrants born in Guatemala are engaged in domestic work with 15 per cent working in agriculture. Among the Honduran migrant women population in Mexico, 42 per cent are traders and 37 per cent are in domestic work, while for El Salvadorian women migrant workers 65 per cent work in domestic service.³

Many irregular migrant women from Central America are remaining in Mexico, either by intention or due to truncated labour migration routes that have resulted from increased security and border control along Mexico's northern border with the US. Consequently, Mexico is having to consider new ways of addressing its growing irregular migrant community.

Moldova

In 2013, 24 per cent of Moldova's population lived abroad.⁴ The significant yet steady rate of out migration has resulted in a negative projected population growth for the year 2050. Nevertheless, this high rate of emigration is coupled with a rise in remittance flows which have increased seven-fold in the last 20 years. By 2015, remittance flows reached 1.533 billion USD, representing 23 per cent of the Gross Domestic Product (GDP).⁵ Of those people migrating for work, women

accounted for almost 40 per cent as of 2014.⁶ This could be a result of women's relatively low inclusion in the labour market, unequal salaries to their male counterparts and the high number of migrant women (80 per cent) attempting to escape violence.⁷

On average women migrants tend to be engaged in longer-term emigration; while men are more likely to be involved in short-term labour migration.⁸ The main countries of destination for migrant women from Moldova are Italy, Greece, Israel and Turkey, with 43 per cent working in the domestic sector and 59 per cent engaging in unskilled work. A large proportion of migrant women from Moldova are over 30, as younger women commonly remain in Moldova to act as primary carers for children. However, youth migration is increasing due to political and economic instability as well as social grievances.⁹

Moldova has, for a long time, been seen as a country of origin for trafficking. As such, national migration policies have been focused heavily on improving the safe recruitment of women, and increasing access to accurate information on migration opportunities and the rights of women migrant workers. Visa liberalisation with the EU in 2014 and the implementation of relevant Council of Europe conventions has helped to drastically reduce rates of trafficking.¹⁰

Philippines

² UN Women (2016). "Women Migrant Workers' Journey through the Margins: Labour, Migration and Trafficking." p. 56.

³ Instituto para las Mujeres en la Migración (2014). *Las Trabajadoras Migrantes Centroamericanas en Chiapas: Recomendaciones de política pública para garantizar el ejercicio de sus derechos*. Entidad de las Naciones Unidas para la Igualdad Género y el Empoderamiento de las Mujeres, ONU Mujeres.

⁴ World Bank, 2016. *World Development Indicators. World Databank*.

⁵ Ibid.

⁶ National Bureau of Statistics (2014). *Labour migration in Moldova, 2014*.

⁷ UN Women (2016). "Women Working Worldwide: A Situational Analysis of Women Migrant Workers." p. 55.

⁸ Vremiş, Maria, and others (2012). *Extended Migration Profile of the Republic of Moldova 2005-2010*. Chisinau, Republic of Moldova: International Organization for Migration, p. 29.

⁹ UN Women (2016). "Women Migrant Workers' Journey through the Margins: Labour, Migration and Trafficking." p. 39.

¹⁰ GRETA (2016). *Report concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Republic of Moldova*.

The Philippines is one of the world’s top countries of origin for migrant workers. It is estimated that as of December 2013 there were 10.4 million Filipinos abroad in more than 200 countries and territories around the world.¹¹ In the past two decades, an annual average of 172,000 Filipino women migrant workers were deployed overseas as new hires. Filipino migrants send annual remittances amounting to eight to ten per cent of the GDP, making the Philippines among the top three remittance receiving countries in the world.¹²

Filipino women migrate primarily to China and the Middle East, with domestic work and nursing dominating the low-skilled and professional sectors respectively. Nevertheless, the de-skilling of migrant women remains a significant issue with many Filipino women who have trained as nurses or teachers migrating to work in low-skilled sectors.

The Philippines has long since been considered a model in migration management due to its history of state-sponsored overseas employment, including for women. However, budgetary and resource constraints have undermined the government’s capacity to assist women migrant workers in destination countries, meaning that abuse and exploitation continue to be experienced by migrant women abroad.

Main factors that lead to women’s labour migration

Women migrate for a wide range of reasons, including, inter alia poverty, lack of employment options and to flee violence in countries of origin. Additionally, greater economic opportunities and increased access to human rights in destination

countries may act as incentives for migrant women.

For example, women from El Salvador, Guatemala and Honduras commonly migrate to Mexico to escape the violence in their countries of origin, but their choice of destination country may also be guided by the possibility of better wage opportunities in Mexico.

In Moldova, 80 per cent of poverty is found in rural areas, and rural women have few employment opportunities, low salaries and face labour discrimination. Moldovan women are often influenced to migrate based on their social networks and chain migration, commonly following the labour migration pathways set by family and friends.

In the Philippines, a lack of adequate employment opportunities has meant that, over the past decade, only 40 per cent of women were in paid employment. This makes migration a necessity for many women. Moreover, the Philippines has a legacy of State-sponsored women’s mobility with migration into ‘feminised’ labour sectors being promoted as an opportunity for women.

As demonstrated in these examples from pilot countries, the factors leading to women’s labour migration can vary among countries. Migrant women are not a homogenous group and, as such, policies must be shaped with an understanding of specific migrant populations if they are to promote and protect the rights of all women migrant workers.

Discrimination against migrant women

¹¹ This is a stock estimate collected by the Commissions for Filipinos Overseas from the Philippine Overseas Employment Administration (POEA), embassies, and the Department of Foreign Affairs (DFA). POEA collects data on outflows or deployment of temporary or contract-based migrants.

¹² World Bank (2014). “Migration and Development Brief No. 22: Migration and Remittances: Recent Developments and Outlook.” p. 4.

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Discriminatory laws in destination countries and gendered perceptions of migrant women's capabilities limit the job prospects of women migrant workers. Largely, this results in women migrating into feminized and informal sectors which tend to pay less, provide less social protection and commonly correlate with women migrating through irregular channels.

In Mexico, Central American women migrant workers live and work in extremely vulnerable conditions at Mexico's southern border. Most work is on an irregular basis in the informal sector, without any legal documents. Their exposure to vulnerable conditions is accentuated by the multiple intersections of discrimination that they face, including, inter alia, race, ethnicity, socioeconomic conditions, nationality, age, migration status and gender. These factors combined, limit the ability of these women to access their right to free movement, health services, education and family reunification, to name a few.

Ramifications of discriminatory policies often extend to migrant women returning to their countries of origin. In Moldova, due to a complex national system, and a lack of bilateral agreements with countries of destination, women returning after working outside of Moldova face difficulties transferring and accessing their social protection contributions, including pensions.

Many Filipino nurses experience discrimination when their professional qualifications and certifications are not recognized in destination countries. This frequently leads to the de-skilling of women migrant workers, who find themselves in employment below their skill level.

Abuse and exploitation, illegal recruitment, contract substitution and debt bondage continue

to be experienced by domestic workers from all three countries. This is the result of discrimination which allows the domestic work sector and domestic workers to be viewed in non-labour terms; compounded by the conditions women migrant domestic workers face in the private homes that also act as their workplaces.

Services for women migrant workers

In Mexico, the *Programa Paisano* which was established by the INM (the National Institute of Migration) ensures a dignified and lawful treatment of all those entering, transiting through or leaving Mexico and reduces incidences of mistreatment at the hands of public officials. The INM is the only government body authorised to request papers and determine migration status, which means no migrant should be denied access to necessary medical treatment. The *Grupos Beta* – which is an associated organisation and receives funding through the INM – support the protection and defence of the rights of all migrants irrespective of immigration status and this is underwritten in law by Article 71 of the Migration Act.

Through the National Employment Agency and its territorial branches, the Moldovan Government disseminates information on migration and migration services. The Joint Information Service Bureau represents a platform for providing quality gender-sensitive information on services available to women migrants. However, in a recent survey on the services provided to migrants, including returnee women, it was found that returnee women were not acquainted with the services available to them, or the knowledge of how to access them. The survey also revealed that local actors who were providing services to pre-departure and post-return migrant women, were not aware of the services that were being provided by other actors locally or nationally.

The Philippines has a large government bureaucracy which assists migrants from pre-employment to reintegration. Services include a pre-employment orientation seminar available via social media. The return and reintegration programs have progressive qualities, including acknowledging skills equivalence for professional development, which includes proactively recognising the skills earned in childcare for example, as an entry point for training and employment in public early childhood education programmes.

Legal and policy frameworks

Mexico

Mexico has ratified the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW), and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol). As such, Mexico has committed to addressing discrimination against women migrant workers, protecting the rights of women migrants notwithstanding their legal status, and to take measures to prevent trafficking in women, and punish those who perpetrate it.

A CEDAW-based analysis conducted in Mexico found that because of the scale and breadth of violations and barriers faced by women migrant workers, several changes to a number of legal frameworks are needed to improve the protection of their rights. For example, Mexico's *Ley de Migración* (Migration Act) recognizes the right to freedom of transit, health, education, justice, identity, unity, family and the requirements for residence permits and work authorization. However, the law does not propose the creation of

structures that will mitigate the vulnerability of migrant women; neither does the law propose affirmative action to ensure the substantive equality of migrant men and women. Other key issues with the Migration Act include greater difficulties for domestic workers in obtaining legal status; and the classification of women migrants in agricultural settings as "dependents" leaving them excluded from labour rights and unprotected against exploitative employers.

The Federal Labour Law of Mexico considers domestic work as a "special" sector for which a 12-hour workday is standard and access to social security is optional. In the case of sex workers, the Federal Labour Law does not regulate the sex industry and, as such, does not contemplate access to social security or occupational health provision for sex workers. The law also does not have measures in place to address the situation of workers who lose their jobs as a consequence of sexual harassment.

Moldova

Moldova has ratified CEDAW but not ICRMW. It has developed a National Strategy on Migration and Asylum (2011-2020) with an Action Plan for implementation and Law no. 180 on Labour Migration came into force in 2008. However, more could be done to make these policies and laws more gender-responsive.

For example, a CEDAW-based legal review of Law No. 180 on Labour Force Migration (which regulates the conditions for temporary employment of the citizens of Moldova abroad), highlighted some areas where the law could be strengthened to be more gender-responsive. This included: prohibiting employment of migrant workers under 18 years old; ensuring migrants have access to information in the country of destination; stipulating that companies employing migrant workers treat them without

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discrimination; including provisions for the diplomatic mission of Moldova in destination countries to receive complaints; and providing that recruitment agencies cover the cost of repatriation in the event employment is found to be in breach of the law.

Philippines

In addition to ratifying CEDAW and ICRMW, the Philippines was one of the first States to ratify ILO's Domestic Workers Convention, 2011 (No. 189), which provides for specific measures that should be taken to protect domestic workers, including those who are migrant domestic workers. The provisions include setting a minimum age for domestic work, providing decent living conditions, written and signed contracts, weekly rest of at least 24 consecutive hours, access to minimum wage, and laws and regulations that specify the obligations of employment agencies and employers towards domestic workers.

The foreign policy of the Philippines is significantly influenced by the level of labour migration from the country, with the protection of the rights and welfare of overseas Filipinos being one of the three pillars of its foreign policy as enshrined in the Philippine Foreign Service Law of 1991 (Republic Act 7157).

The Republic Act 8042 or the Migrant Workers and Overseas Filipinos Act of 1995, and its amended version, the Republic Act 10022, is the law which governs migration in the Philippines. The Act mandates a gender-sensitive criterion for programs and policies on overseas employment. A CEDAW-based legal review found a high level of compliance, noting that the State only allows deployment of overseas workers to countries where their rights are protected. However, there are some provisions of the law and programs in its pursuit that would benefit from being more

gender-responsive. These include provisions on age requirements and deployment bans, which have resulted in increased irregular migration and trafficking cases causing undue harm to women migrant workers.

In 2009, the Philippines approved the Magna Carta of Women as part of its commitment to localize the provisions of CEDAW and mandate a legal definition of discrimination against women through the recognition and protection of the rights of Filipino women, especially those in marginalized sectors, which includes migrant workers. The law provides that the State protect and promote the rights and welfare of migrant women and mandates the presence of gender focal points in embassies and consulates of the Philippines to strengthen the delivery of services to women migrant workers.

Through the UN Women EU-funded global migration project, a CEDAW-based legal review resulted in the landmark signing of a law governing the operations and administration of the Overseas Workers Welfare Administration (OWWA), Republic Act No. 10801, by the Philippine President on 10 May 2016. The law institutionalises and strengthens the government's support to overseas Filipino workers and their families through reforms to the OWWA.

Policy Recommendations

The following recommendations draw from the experiences of the pilot countries of the EU-funded project, recognising both best practices and gaps that can be used to formulate better migration governance for these and other countries. These recommendations underline the need for a gender-responsive, human rights-based approach that respects all migrants at all stages of migration:

- Ratify key international conventions and incorporate their provisions into national law, especially:
 - Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), as further elaborated in General Recommendations No. 26 (2008) on women migrant workers;
 - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), as further elaborated in General Comments No. 1 (2011) on Migrant Domestic Workers and No. 2 (2013) on the rights of migrant workers in an irregular situation;
 - ILO Convention concerning Decent Work for Domestic Workers, 2011 (No. 189) and the attending Domestic Workers Recommendation, 2011 (No. 201).
- Undertake a CEDAW-based legal review and align policies, programs, and laws with CEDAW, responding to the specific realities of women’s labour migration.
- Ensure that national laws provide women migrant workers, in particular domestic workers, with the same rights and protections that are extended to all workers.
- Provide access to regular migration pathways which promote the empowerment of women, protect their rights and recognize their agency in the migration process.
- Ensure that the irregular entry, stay and work of migrants is not considered a criminal offence and does not limit access to services.
- Address the factors that lead to irregular migration for work.
- Take measures to regulate, license and monitor recruitment and employment agencies, brokers and intermediaries, and to stop exploitative and fraudulent recruitment practices.
- Ensure portability of social protection.
- Establish firewalls between immigration authorities and providers of basic services e.g. medical treatment (in line with human rights mechanisms).
- Ensure the rights of women migrants at all stages of migration are recognised and respected, including the right to health services, including during transit where necessary.
- Engage directly with the diaspora as part of reintegration policies and ensure the provision of comprehensive services to returning women and girls. This includes recognising skills earned in other countries as an entry point for professional development and further training.
- Develop and provide gender-responsive and human rights-based tools and trainings to State and non-State actors.
- Recognise that the opportunities and benefits migration can afford to women and girls are dependent on the provision and access to human rights-based, gender-responsive services.
- Provide access to justice and due process for women at all stages of migration. Disseminate accurate information on migration and migration services at all stages of migration.

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