

Recommendations for addressing women's human rights in the global compact for safe, orderly and regular migration

Outcome of expert meeting in Geneva
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RECOMMENDATIONS FOR ADDRESSING WOMEN'S HUMAN RIGHTS IN THE GLOBAL COMPACT FOR SAFE, ORDERLY AND REGULAR MIGRATION

1: Overarching Principles

The following recommendations for addressing women's human rights in the global compact for safe, orderly and regular migration are grounded in international human rights law, and provide direction on the full inclusion of women's rights in the formulation and implementation of the global compact on safe, orderly and regular migration. In particular, the recommendations that follow reaffirm the legally binding obligations of States Parties under the *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, and No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women; the *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 and members of their families; the *International Convention on the Elimination of Racial Discrimination* (ICERD), as elaborated in General Recommendation No. 25 (2000) on gender-related dimensions of racial discrimination; the *International Covenant on Economic, Social and Cultural Rights* (ICESCR); and the *International Covenant on Civil and Political Rights* (ICCPR). Further the commitments made under international labour standards through the widely ratified ILO conventions of general application as well as those that contain specific provisions on migrant workers including the *Migration for Employment Convention, 1949 (No. 97)*, the *Migrant Workers Convention, 1975 (No. 143)* and, more recently, the *ILO Convention concerning Decent Work for Domestic Workers, 2011 (No. 189)* and the attending Domestic Workers Recommendation, 2011 (No. 201).

The following recommendations underline the need to ensure a human rights-based and gender-responsive approach to migration governance, which respects the dignity of all migrants throughout all stages of migration, and protects their rights under international law, including the principles of equality and non-discrimination. These recommendations are informed by the *2030 Agenda for Sustainable Development*, which is grounded in international human rights law and recognizes that the systematic mainstreaming of a gender perspective in the implementation of the 2030 Agenda is crucial;¹ and includes in Goal 5.c the commitment to adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels. The recommendations are also guided by the *Addis Ababa Action Agenda of the Third International Conference on Financing for Development*, which reiterates the need for gender mainstreaming, including targeted actions and investments in the formulation and implementation of all financial, economic, environmental and social policies. The Addis Ababa Action Agenda also includes a commitment to adopt and strengthen sound policies and enforceable legislation, and to transformative actions for the promotion of gender equality and women's and girls' empowerment at all levels, to ensure women's equal rights, access and opportunities for participation and leadership in the economy and to eliminate gender-based violence and discrimination in all its forms (par [6]).² The recommendations are also informed by the *Declaration of the High-level Dialogue on International Migration*

¹ UN General Assembly (2015) Transforming our World: the 2030 Agenda for Sustainable Development, A/Res/70/1, para 20

² UN (2015) Addis Ababa Action Agenda of the Third International Conference on Financing for Development, para 6.

and Development adopted in October 2013 which recognized that women and girls account for almost half of all international migrants at the global level, and the need to address the special situation and vulnerability of migrant women and girls by, inter alia, incorporating a gender perspective into policies and strengthening national laws, institutions and programmes to combat gender-based violence, including trafficking in persons and discrimination against them.³

The recommendations are further informed by the *Paris Agreement* which acknowledged the importance of gender-responsive adaptation action, and highlighted that action must respect, promote, protect and fulfil the rights of migrants, gender equality and the empowerment of women;⁴ the *Sendai Framework* which highlights the gender dimensions of disaster risk reduction, including the role that women play in disaster risk reduction and the importance of women's empowerment for preparedness and capacity building for alternate livelihood means in post-disaster situations⁵ (which may result in the temporary or permanent movement of individuals and/or communities); the *Durban Declaration* which specifically urges States to place particular focus on gender issues and gender discrimination where multiple barriers faced by migrant women intersect, and stresses that detailed research should be undertaken not only in respect of human rights violations but also on the contributions women migrants make to countries of origin and destination;⁶ and *Habitat III*, which recognizes the need to give attention to multiple forms of discrimination faced by women and migrants, regardless of their migration status, and commits to strengthening synergies between international migration and development by ensuring safe, orderly and regular migration through planned and well managed migration policies.⁷ The recommendations affirm and complement the Global Migration Group's *Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations within large and/or mixed movements*.

The recommendations address the rights of women at all stages of migration. This includes women and migrants, including women migrant workers, across countries of origin, transit and destination, and women remaining in or returning to countries of origin, as well as those impacted by migration. Such a broad application is adopted so that the rights of women at all stages of migration are addressed, promoted and protected in the context of global structural drivers of migration and inequality.⁸ Equally, the recommendations seek to reverse negative misperceptions and attitudes towards women's migration⁹ and to treat all women in migration equally and without discrimination on the grounds of their migration status, intentions or migration route.

³ UN General Assembly (2013) Declaration of the High-level Dialogue on International Migration and Development, A/68/L.5, para 11

⁴ UN (2015). Paris Agreement.

⁵ UN (2015) Third UN World Conference on Disaster Risk Reduction, Sendai, Japan

⁶ (2001). Declaration of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

⁷ UN General Assembly (2016). Draft outcome document of the United Nations Conference on Housing and Sustainable Urban Development (Habitat III), A/CONF.226/4

⁸ In particular, in relation to the global care chain, it is recognized that the interaction between women and migration can be complex and its effects far reaching; e.g. a migrant woman assuming a paid reproductive care role in a country of destination may directly and indirectly impact upon the role of a non-migrant woman in a country of origin or destination.

⁹ In particular, those trends that see women migrant workers entering precarious feminized sectors of work as a result of global structural inequalities.

The global compact on migration should **make commitments to the following with respect to women at all stages of migration in countries of origin, transit and destination regardless of categorization or status:**

- 1.1. **Eliminate all direct and indirect forms of discrimination against women at all stages of migration by any person, organization or enterprise**, recognizing that different forms of discrimination may intersect, especially on (but not limited to) the grounds of race, migration status, marital status, sexual orientation and gender identity, pregnancy, parenthood, nationality, class, ethnicity, religion or belief, age, and/or disability.
- 1.2. **Pursue by all appropriate means and without delay a policy of eliminating racial discrimination, taking effective measures to condemn all acts, manifestations and expressions of racism, racial discrimination, xenophobia and related intolerance against women in migration** and the stereotypes applied to them, including on the basis of religion or belief, and other intersecting forms of discrimination, including gender, age, physical and mental ability, sexual orientation and gender identity, and migration status. Measures should ensure that serious and extreme instances of hate speech and incitement to hatred are prohibited as criminal offences and brought for review by an independent court or tribunal. While affirming free speech, measures should challenge negative perceptions, divisive language categorizing 'good and bad migrants', references to migrants as 'illegal' and hate speech perpetuated through the media. Measures should also include implementation of the UN Secretary General's multi-stakeholder campaign to counter xenophobic and racist discourse.
- 1.3. **Develop gender-responsive, human rights-based migration policy without delay**, which recognizes the agency of women in migration, promotes their empowerment and leadership and moves away from addressing migrant women primarily through a lens of victimhood.
- 1.4. **Acknowledge the important contributions made by women migrants to sustainable development and social change in countries of origin, transit and destination**, as well as the complex interrelationship between gender, migration and development. Recognize and value women's (including migrant workers) integral and expanding contribution to global value and care chains as vital to ensuring economic growth and human development — even though women's (including migrant workers) labour is often undervalued, underpaid, de-skilled, and exploited due to gender-based stereotypes and discrimination. Recognize the positive contribution of women migrants to sustainable and inclusive development, and acknowledge that development cannot be truly sustainable and inclusive until it encompasses and fosters the full economic, social and political empowerment and the leadership of women and girls at all stages of migration.
- 1.5. **Conduct robust gender-responsive research and enhance data collection, acquisition, analysis, and accountability measures** in order to highlight the contributions made by women in migration, as well as the gendered drivers of migration (including economic, racial or gender inequality, conflict, environmental degradation and disasters), and the situation and realities of women migrants in every phase of the migration process. Enhance the capacity, collection and dissemination of data through supporting quantitative and qualitative research on migration and violations of migrant women's rights, including exploitation and trafficking, disaggregated by sex, age, and migration status (and intersecting factors including race, ethnicity, and nationality where possible) in order to enhance gender-responsive and evidence-based policies, inform advocacy, challenge negative perceptions and prevent abuses and

exploitation. Further, gather specific data on the number and sex of migrants in transit and at border-crossings, including interceptions, detentions, deaths, abuse and injury at maritime, land or air borders. Encourage data sharing, respecting at all times that such data gathering must not compromise privacy rights and cannot be used for immigration enforcement purposes.

- 1.6. **Build the capacity of policy makers and decision making bodies** to ensure that they adequately promote and protect the rights of women in migration in their approach to economic and social development, migration governance and labour management.
- 1.7. **Ensure the development, implementation, monitoring and evaluation of policies and legislative frameworks are transparent and participatory**, including by ensuring the meaningful and effective participation of women migrants, civil society, and migrant women's organisations, without fear of reprisal; as well as ensuring unrestricted access of independent monitoring bodies, national, regional and international human rights mechanisms, ombudspersons, national preventive mechanisms and other relevant bodies to locations and information required to effectively monitor human rights of migrant women and girls.
- 1.8. **Ensure that gender-responsive and human rights-based policies and programmes are adequately resourced**, such as through the allocation of financial resources to State and non-State actors to research, design and implement migration policies which promote and respect the human rights of women at all stages of migration. Adequate resourcing should also include human resources through the establishment of special inter-departmental monitoring, co-ordination and intervention bodies, which should have operational capacity to address the needs of migrant women and girls at all stages of migration.
- 1.9. **Ratify international conventions (and withdraw all reservations) that promote and protect the rights of women at all stages of migration and incorporate their provisions into national law**; in particular, the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families, the Convention on the Elimination of All forms of Discrimination against Women and its Optional Protocol, the International Convention on the Elimination of Racial Discrimination, the Convention on the Rights of the Child, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, ILO conventions including the ILO Convention concerning Decent Work for Domestic Workers, 2011 (No. 189), the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

2. Improving migrant women's access to migration pathways that promote empowerment and protect rights

- 2.1. **Provide access to migration pathways which promote empowerment of women and protect their rights.** Review and repeal all gender discriminatory provisions which constitute restrictions or exclusions in law or practice that limit opportunities for women and girls to migrate, or that do not recognize the capacity, autonomy and agency of women and girls in decision making.
- 2.2. **Eliminate sex-specific bans and discriminatory restrictions on women's migration** which limit the mobility rights of women migrants on the basis of age, marital status, migration status, pregnancy and/or maternity status, among other factors. Lift restrictions that ban out-migration for women migrants to

specific regions or States, as well as those that require women to obtain permission from a spouse or male guardian to obtain a passport to travel. Further, ensure that visa schemes do not discriminate against women, such as by restricting their employment to job categories where women predominate and from job categories where men predominate, or by excluding female-dominated occupations from visa schemes. Repeal laws or regulations which prohibit women migrant workers from marrying nationals or permanent residents, becoming pregnant or securing independent housing, and ensure access to family reunification for women in migration.

- 2.3. **Ensure that the irregular entry, stay and work of migrants is not considered a criminal offence** and that any administrative sanctions applied to irregular entry are proportionate and reasonable; taking into account all circumstances of entrance and stay, in particular in the event of death, divorce or spousal separation from a migrant worker with regular status. Ensure that migrants are not liable for criminal prosecution for having used the services of smugglers. Ensure at all times that measures aimed at addressing irregular migration and combating transnational organized crime do not adversely affect the human rights and dignity of women and girls, including transgender women and girls, and do not criminalize them or their movement, including before departure, during transit, at borders, in destination countries and upon return; recognizing that, among other things, restrictive and securitized policies foster the vulnerability of women and girls to trafficking and sexual exploitation.
- 2.4. **Prevent and combat trafficking and exploitation of women and girls in line with international human rights law, norms and standards**, recognizing the increased risk of trafficking that women and girls face due to economic precarity, conflicts, post-conflict contexts and natural disasters, and when they lack nationality and identity documents.
- 2.5. **Develop and provide access to programmes that seek to regularize the status of migrants or lead to permanent residence**, with specific measures taken to address migrant women and girls with irregular migration status or who are stateless in countries of transit or destination, in particular in situations where children are unaccompanied or where women have been victims of crime, abuse or exploitation.
- 2.6. **Recognize the particular vulnerabilities of women and girls rendered stateless** through changes in national borders or definitions of citizenship (discriminatory or otherwise), through laws that do not extend citizenship to migrants and for children born to women with an irregular status, among other factors.
- 2.7. **Establish, operate and maintain adequate, gender-responsive systems for effective search and rescue at sea**, ensuring that search and rescue operates under a broad understanding of distress. Ensure that such measures are proactive and in accordance with international laws, with the primary objective of saving lives. Establish and support efforts to search for people who have disappeared or died on their journey; and facilitate recovery, identification and transfer of human remains and notification of families, both at the national and transnational levels.
- 2.8. **Promote joint action between States**, trade unions and other non-State actors including migrant women organisations, focusing on greater sharing of information and good practices, including in the identification of perpetrators of violations, abuse and exploitation. Encourage cooperation within the framework of joint pilot projects that produce shared results and shared learning. Ensure that all

agreements are transparent, publicly available and incorporate measures for oversight, monitoring and enforcement. Encourage the conclusion of binding bilateral, multilateral or regional agreements that are in line with international human rights law, norms and standards and promote the rights of migrant women and girls.

3. Women's human rights through all stages of migration

- 3.1. **Ensure that migrant women enjoy access to economic, social and cultural rights that is equivalent to that of nationals**, in line with international human rights law, norms and standards, including education, decent work, training, housing, social benefits and healthcare services, including sexual and reproductive health and mental health services.
- 3.2. **Ensure that migrant women enjoy access to civil and political rights that is equivalent to that of nationals**, in line with international human rights law, norms and standards, including access to justice, public and political life and personal security within the home, at work, at school and public spaces.
- 3.3. **Guarantee all migrant women their right to freedom of movement**, in line with international human rights law, norms and standards, including the right of all women to leave any country including their own.
- 3.4. **Ensure that information on the rights of women in migration is available and accessible** in countries of origin, transit and destination. Information should be easy to understand and encompass the right to freedom of movement, economic social and cultural rights, civil and political rights, labour rights, freedom from harm, as well as information on available remedies, access to justice and complaint mechanisms in case of violations. Information should provide clarity on the risks and realities of all regular and irregular migration channels.
- 3.5. **Develop and provide gender-responsive and human rights-based tools and training to State and non-State actors** such as relevant public and private recruitment agencies, employers, the judiciary and relevant State employees, including judicial officers, border officials, law enforcement personnel, local authorities, immigration authorities, labour administration and social service and health-care providers, consulates or embassies, or their agents. Adequately equip such actors to identify and address the distinct needs of women and girls in migration, including on the gendered and intersectional nature of rights abuses, in order to ensure the fulfilment of their human rights at all stages of migration, ensuring at all times that tools and training incorporate measures for monitoring and supervision and are based on international human rights standards.
- 3.6. **Ensure human rights-based, safe, culturally appropriate and gender-responsive spaces and processes at borders**, including pre-identified and adapted places of arrival/disembarkation allowing for reception and assistance which meet human rights and humanitarian standards, including adequate medical screening, vulnerability assessments and psychological aid; also including the provision of culturally and linguistically appropriate and adequately trained women case workers, lawyers, interviewers and independent interpreters, and ensure childcare is made available during interviews, allowing for any request for human rights protection and/or international protection to be made in a safe, culturally appropriate and gender-responsive environment; ensure access to justice and due process at all times in

accordance with international law, paying particular attention to pregnant women, migrants with medical conditions, disabilities, elderly, lesbian, gay, bisexual, trans and/or intersex (LGBTI) migrants and children in screening and interviewing processes. Affirm and implement the *Recommended Principles and Guidelines on Human Rights at International Borders* from the Office of the High Commissioner for Human Rights (OHCHR).

- 3.7. **Ensure the right of migrant women to liberty and establish a presumption against immigration detention in law.** Make targeted efforts to progressively eliminate all forms of immigration detention of migrants and proactively pursue and promote alternatives wherever possible. Where detention for immigration-related purposes is used, ensure it is never mandatory or automatic, it must only be a measure of last resort, determined on a case-by-case basis, reviewed by a court of law and implemented in line with international human rights law and its procedural safeguards. Immediately cease the detention of children, ensuring non-custodial and community-based alternatives to detention are provided for them and their parents. Ensure that migrants with special protection needs are not placed in detention, including but not limited to pregnant or nursing migrants, elderly migrants, migrants with a disability, survivors of torture or trauma, migrants with physical or mental health needs, trafficked persons, stateless persons and refugees.
- 3.8. **While working towards eliminating the practice of immigration-related detention, ensure conditions of detention meet minimum international standards and provide for the dignified and humane treatment of all detainees,** ensuring that migrants are not subject to prison-like conditions. Protect against the particular risks of exploitation, abuse and sexual or gender-based violence, including other forms of violence that immigration detention poses for migrant women, LGBTI or gender non-conforming people and people with disabilities. Provide gender-responsive facilities which ensure women and girls are not discriminated against in asset allocation and control over resources, with processes adequately addressing the gendered needs of migrants. Provide well-lit, safe and private gender-responsive water, sanitation and hygiene (WASH) facilities and access to sexual and reproductive health services.
- 3.9. **Ensure that independent residency status for women is secured,** in particular to allow for the regularized and legal stay of women who experience or are at risk of gender-based and other forms of violence and abuse including from an employer, spouse, partner, family member, or other actors. Ensure that the immigration status of women migrant workers, including domestic workers, is not conditional on the sponsorship or guardianship of a specific employer, since any such arrangement may unduly restrict the freedom of movement of women and increases their vulnerability to exploitation and abuse, including in conditions of forced labour or servitude, with special attention given to sex workers. Incorporate safeguards to identify situations of forced marriage. Ensure migrant women are provided with contact information for consulates, criminal justice services and migrant women organisations, and are made aware of their right to seek help and protection from these services without reprimand or removal.
- 3.10. **Ensure that all women, including migrant women, are able to acquire, change, retain and confer their nationality on an equal basis as men,** and that such a right is reflected in nationality laws in compliance with international human rights law.
- 3.11. **Ensure individual identity documentation is provided to all migrant women and girls,** specifically with the aim of ensuring access to services required to protect and guarantee their rights. Prevent any

form of gender-based discrimination; and ensure equal and independent access to travel and identity documents are provided to women and girls at all stages of migration. Prohibit the confiscation and destruction of travel and identity documents by State and non-State actors, employers and recruitment agencies.

- 3.12. **Ensure the effective separation between immigration enforcement activities and public service provision by State and non-State actors, or ‘firewalls,’** so that immigration enforcement authorities are not able to access information concerning the immigration status of individuals who seek assistance or services from medical facilities, schools, local authorities and other social service institutions, or when they are seeking to access justice mechanisms. Ensure that such institutions do not have an obligation to inquire or share information about their clients’ migration status. Such firewalls are also necessary between labour, housing, law enforcement and immigration and border enforcement to ensure access to remedy, including compensation for rights abuses of migrant women.
- 3.13. **Ensure the widest protection of the family unity of migrants,** facilitating family reunification, and preventing arbitrary or unlawful interference with the right of migrants to the enjoyment of private and family life. Take positive measures, both at the domestic level and as appropriate in cooperation with other States to ensure the unity or reunification of families. Facilitate migrants’ communication with family members. Ensure that family registration processes recognize the various forms of family that exist and do not practise heteronormative, gendered or other stereotyped or prejudicial assumptions in registering family representatives. Recognize the importance of family reunification schemes for migrant workers that are not directly or indirectly discriminatory on the basis of sex or sexual orientation. Facilitate the reunification of migrant workers with their spouses or persons who have a relationship with the migrant worker that, according to applicable law, produces effects equivalent to marriage, as well as with any dependent children or other dependent persons who are recognized as family by applicable legislation or applicable bilateral or multilateral agreements between States concerned. Refrain from conditioning the right to family reunification on the basis of income.
- 3.14. **Ensure that involuntary returns, deportations, removals and readmissions are ordered only in the event that all judicial options have been exhausted** and that, where this is the case, each case is treated individually, with due process and access to justice in accordance with international law, and in consideration of the gender-related circumstances, the situation as it relates to family unity and the risks of human rights violations in the country of origin, transit and destination.
- 3.15. **Adopt policies and programmes that aim to enable women migrants to fully participate in the societies of both the destination country and the country of origin,** including labour market integration, social inclusion and political participation in ways that are respectful of their identity and protective of their human rights, recognizing that the outcomes can include greater peace and prosperity for the community and country.
- 3.16. **Take measures to ensure women’s right to live free from any form of violence.** Promote multi-stakeholder strategies to prevent violence, including domestic violence and intimate partner violence, sexual and gender-based violence, harmful practices, violence in the workplace, racial, ethnic and religious violence, xenophobic violence and other forms of violence. Set up monitoring systems that allow for identification of women and girls at heightened risk of sexual exploitation, abuse and discrimination

based on gender, in order to mitigate and prevent these risks. This includes measures to support women 'left-behind' following the migration of a spouse or partner. Take measures to prosecute and punish all migration-related human rights violations against women, whether perpetrated by public authorities or private actors.

4. Migrant women and girls' access to human rights-based, gender-responsive services

- 4.1. Recognize that the opportunities and benefits that migration can afford to women and girls are dependent on the provision and access to human rights-based and gender-responsive services.**
- 4.2. Provide access to gender-responsive healthcare services** in line with international laws, norms and standards, ensuring such access is not restricted on the basis of migration status, especially in relation to reproductive and sexual health care, including safe and effective methods of modern contraception, emergency contraception, safe and accessible abortion care, maternal health care, pre- and post-natal care, services for sexually transmitted infections and specialized care for sexual violence survivors. In particular, recognize that women with irregular migration status in countries of transit and destination often struggle to access these services without cost and may face physical harm and risk of deportation as a direct consequence. Any HIV testing should be provided on a voluntary basis with pre- and post-test counselling, informed consent and in privacy.
- 4.3. Provide access to mental health and social services** in line with international laws, norms and standards, ensuring such access is not restricted on the basis of migration status. Provide access to such services in a culturally and linguistically appropriate way without stigma and through advocacy and the provision of cultural mediators.
- 4.4. Establish confidential gender-based violence prevention and protection services and functioning national and transnational referral pathways** that are universally applicable and accessible notwithstanding migration status. Ensure access to targeted services including psychosocial support, trauma counselling, legal advice and comprehensive healthcare.
- 4.5. Provide access to justice and due process for women at all stages of migration**, including the provision of free legal aid and access to gender-responsive and culturally appropriate legal representation, counselling, information and other material assistance, including interpretation and translation services to all migrants to enable their access to rights such as the right to an individual examination, a judicial and effective remedy, the right to appeal and support in the defence of claims. Upon exhaustion of national justice processes, provide access to regional or international mechanisms.
- 4.6. Counter the challenges faced by women in accessing formal remittance transfer systems** to reduce remittance costs in line with commitments made under the 2030 Agenda for Sustainable Development. Provide access to remittance transfer systems, financial inclusion and financial literacy training regardless of migration status or informal employment status. Incorporate a gender perspective in financial inclusion policies and strategies in the context of new remittance platforms.
- 4.7. Provide access to safe and confidential reporting services for migrant women who experience human rights abuses.** Ensure that access to such services is not dependent on immigration status and available

regardless of whether human rights abuses occur in the family, the community or are perpetrated or condoned by State or non-State actors. Ensure availability of safe, culturally appropriate and gender-sensitive spaces and processes with adequately trained male and female case workers, interviewers and independent interpreters. Recognize that interviewers should be sufficiently trained to be responsive to possible trauma and emotional distress, in particular for victims of sexual violence or other forms of violence.

- 4.8. **Provide comprehensive socio-economic, psychological, legal, and orientation services to returning women and girls**, before, during and after the returning process, with the aim of facilitating their reintegration. Provide access to complaints/reporting mechanisms that protect women against reprisals, identify and address coercion and abuse and ensure safe and sustainable reintegration, including services to recognize and certify the skills and competences of returning women.

5. Migrant women's labour rights, access to decent work and social protection

- 5.1. **Ensure that national laws including constitutional, administrative and civil and labour codes provide women migrant workers, in particular domestic workers, with the same rights and protections that are extended to all workers**, with respect to the terms and conditions of employment, including wages, working time, rights in the workplace including those within private homes and those on temporary or agency contracts, health and safety, social dialogue including freedom of association and collective bargaining, recognition of skills and qualifications and social protection including social services and insurance. Ensure such laws also provide mechanisms for monitoring the workplace conditions of migrant women, especially in jobs where women predominate.
- 5.2. **Ensure the effective promotion and protection of the labour rights of women migrant domestic workers** in relation to, inter alia: normal hours of work, overtime compensation, periods of daily and weekly rest, paid annual leave; maternity leave, access to pension schemes; the right to a safe and healthy work environment; elimination of all forms of forced or compulsory labour; decent living conditions that respect privacy; freedom of movement and communication; effective recognition of the right to collective bargaining; effective protection against all forms of abuse, harassment and violence; the right to keep hold of travel and identity documents; and the right to change employers.
- 5.3. **Strengthen or make provision for adequate supervision of working conditions** for migrant women by the competent labour market authorities or duly authorized bodies, such as labour inspection services. Ensure particular provisions are developed and enforced in relation to the specific characteristics of domestic work, in accordance with national laws and regulations. Differentiate between the familial living space and the work place for migrant workers in domestic service.
- 5.4. **Establish effective complaints mechanisms** and ensure that women migrant workers have recourse to enforceable, timely and affordable remedies, including access to an independent, fair tribunal and to legal aid as necessary, regardless of nationality, migration or residence status. Ensure that women migrant workers are able to make complaints against their employers or others, including on grounds of sexual harassment in the workplace, and have access to remedies including for unpaid wages and compensation for violations of labour rights. Ensure unrestricted and effective access to judicial remedies without fear

of reprisals and expulsions. Provide mediation services so that migrant workers and their employers have the opportunity to mediate their dispute without reference to formal mechanisms, where desirable.

- 5.5. **Provide full access to workers' compensation, 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. Ensure equality of access with nationals, regardless of residency or migration status, and that such access continues upon return to country of origin.
- 5.6. **Ensure bilateral and regional agreements pertaining to labour migration or mobility comply with and refer directly to international human rights law, norms and standards.** Ensure that all such agreements specifically address human rights and provide inclusion of healthcare and social protection for migrant workers, and do not foster discriminatory practices in employment or restrict access to sector-specific work visas for women. Ensure that such agreements contain specific provisions for workers in vulnerable situations (such as migrant women with an irregular status or migrant domestic workers), are gender-responsive and include gender-sensitive monitoring mechanisms. Include provisions for joint regulation and alignment of employment standards. Where possible, adopt formal, bilateral labour agreements rather than non-binding Memoranda of Understanding instruments.
- 5.7. **Ensure migrant women have access to standardized contracts of employment and that all contracts of employment are free, fair and fully consented to, transparent, enforceable and in a language the migrant worker understands.** Include provisions in such contracts that specifically address labour rights, and outline all aspects of the parameters of work including for example: wages, benefits and deductions; job description; location, hours and duration of work; housing conditions (where applicable); transportation; and facilities for pregnant women. Require that employers are signatories to such contracts and enhance regulations of such contracts and related visa schemes.
- 5.8. **Ensure that employment policies promote equality of opportunity and equal treatment for migrant women in the labour market,** in particular through targeted vocational training, skills development, recognition programmes and active labour market policies. Seek to reduce informality and labour market segmentation based on gender and nationality, and enhance occupational mobility both within and outside of female dominated sectors. Recognize that policy coherence between labour migration and employment and social policies, including welfare and care policies, is essential to addressing barriers to accessing decent work opportunities for migrant women in countries of origin, transit and destination.
- 5.9. **Develop and strengthen social protection policies** that benefit women in migration and their families, especially children, and address the difficulties migrant women face in accessing social protection due to eligibility requirements, cost and time constraints, limitations in portability and transferability of benefits, including pensions and employment benefits, as well as due to a lack of information and language barriers in countries of origin, transit and destination. Recognize that failure to provide social protection not only infringes on the enjoyment of the rights of migrant women, but further constrains progress towards gender equality and women's empowerment. Recognize that the sectors in which migrant women work commonly support social welfare in countries of destination. Similarly, migrant women's remittances may supplement poor social protection in countries of origin.

- 5.10. **Take measures to regulate, license and monitor recruitment and employment agencies, brokers and intermediaries**, and to stop exploitative and fraudulent recruitment practices including deception (primarily about working and living conditions), charging unauthorized fees to workers, retention of identity documents, violence, abuse, intimidation or control of workers, wage retention, etc. Ensure that such measures are consistent with international labour standards. Develop joint liability schemes, bilateral or multilateral agreements to prevent abuses and institutionalize cooperation across countries aligned with international human rights standards. Take measures to prevent contract substitution in the country of destination.
- 5.11. **Remove barriers that restrict the ability of women migrant workers, in particular migrant domestic workers, to unionize, associate or collectively bargain** regardless of immigration status. Ensure the rights of migrant workers are protected in cases where there are labour disputes, collective action or contract negotiation, and that workers are free from reprimands such as loss of employment or earnings, removals, blacklisting from future employment or participation in labour migration programmes.
- 5.12. **Take appropriate measures to prevent discrimination against women migrant workers on the grounds of family status, marital status, legal partnership status, or pregnancy**, including the prohibition of dismissal on such grounds; the provision of maternity leave without loss of employment; and the provision of social and legal services, including legal aid, to enable parents to combine family obligations with work responsibilities and participation in public life.
- 5.13. **Recognize and value unpaid care and domestic work** undertaken by women in migration in the global care chain through the provision of public services, infrastructure and social protection policies.
- 5.14. **Provide access to accurate information on labour migration** for women at pre-departure and post-arrival stages on regular channels of migration, terms and conditions of work and rights and remedies in the event of violation, including access to legal advice. Ensure that women know their human rights and labour rights. Ensure that consular services incorporate registration mechanisms whereby migrant women can benefit from monitoring, information and support services.
- 5.15. **Address the drivers of irregular migration for work**, including those factors in countries of origin that prevent women from accessing decent work and those factors in countries of destination that promote demand for cheap labour, especially in the care sector. Regularize and professionalize traditional and undervalued sectors, including domestic and care work. Work to increase opportunities for women to access safe channels of work in all sectors, not just those traditionally associated with women.