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## General recommendation No. 26 on women migrant workers

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## General recommendation No. 26 on women migrant workers<sup>1</sup>

### Introduction

1. The Committee on the Elimination of Discrimination against Women (the Committee), affirming that migrant women, like all women, should not be discriminated against in any sphere of their life, decided at its thirty-second session (January 2005), pursuant to article 21 of the Convention on the Elimination of All Forms of Discrimination against Women (the Convention), to issue a general recommendation on some categories of women migrant workers who may be at risk of abuse and discrimination.<sup>2</sup>

2. This general recommendation intends to contribute to the fulfilment of the obligations of States parties to respect, protect and fulfil the human rights of women migrant workers, alongside the legal obligations contained in other treaties, the commitments made under the plans of action of world conferences and the important work of migration-focused treaty bodies, especially the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families.<sup>3</sup> While the Committee notes that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families protects individuals, including migrant women, on the basis of their migration status, the Convention on the Elimination of All Forms of Discrimination against Women protects all women, including migrant women, against sex- and gender-based discrimination. While migration presents new opportunities for women and may be a means for their economic empowerment through wider participation, it may also place their human rights and security at risk. Hence, this general recommendation aims to elaborate the circumstances that contribute to the specific vulnerability of

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<sup>1</sup> The Committee acknowledges the contribution of the Committee on the Protection of the Rights of All Migrant workers and Members of their Families during the preparation of this general recommendation.

<sup>2</sup> The Committee on the Elimination of Discrimination against Women acknowledges and seeks to build on the important work on the rights of migrants completed by the other human right treaty bodies, the Special Rapporteur on the Human Rights of Migrants, the United Nations Development Fund for Women, the Division for the Advancement of Women, the Commission on the Status of Women, the General Assembly, and the Sub-Commission on the Promotion and Protection of Human Rights. The Committee also refers to its earlier general recommendations, such as general recommendation No. 9 on the gathering of statistical data on the situation of women, especially general recommendation No. 12 on violence against women, general recommendation No. 13 on equal remuneration for work of equal value, general recommendation No. 15 on the avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS), general recommendation No. 19 on violence against women and general recommendation No. 24 on women's access to health care, as well as the concluding comments made by the Committee when examining the reports of States parties.

<sup>3</sup> Besides treaties and conventions, the following programmes and plans of action are applicable. The United Nations Vienna Declaration and Programme of Action approved at the 1993 World Conference on Human Rights (part II, paras. 33 and 35). Programme of Action of the Cairo International Conference on Population and Development (chapter X). Programme of Action of the World Summit for Social Development (chap. 3). Beijing Declaration and Platform for Action, Fourth World Conference on Women, World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance August-September 2001. International Labour Organization Plan of Action for Migrant Workers, 2004.

many women migrant workers and their experiences of sex- and gender-based discrimination as a cause and consequence of the violations of their human rights.

3. While States are entitled to control their borders and regulate migration, they must do so in full compliance with their obligations as parties to the human rights treaties they have ratified or acceded to. That includes the promotion of safe migration procedures and the obligation to respect, protect and fulfil the human rights of women throughout the migration cycle. Those obligations must be undertaken in recognition of the social and economic contributions of women migrant workers to their own countries and countries of destination, including through caregiving and domestic work.

4. The Committee recognizes that migrant women may be classified into various categories relating to the factors compelling migration, the purposes of migration and accompanying tenure of stay, the vulnerability to risk and abuse, and their status in the country to which they have migrated, and their eligibility for citizenship. The Committee also recognizes that these categories remain fluid and overlapping, and that therefore it is sometimes difficult to draw clear distinctions between the various categories. Thus, the scope of this general recommendation is limited to addressing the situations of the following categories of migrant women who, as workers, are in low-paid jobs, may be at high risk of abuse and discrimination and who may never acquire eligibility for permanent stay or citizenship, unlike professional migrant workers in the country of employment. As such, in many cases, they may not enjoy the protection of the law of the countries concerned, at either *de jure* or *de facto* levels. These categories of migrant women are:<sup>4</sup>

- (a) Women migrant workers who migrate independently;
- (b) Women migrant workers who join their spouses or other members of their families who are also workers;
- (c) Undocumented<sup>5</sup> women migrant workers who may fall into any of the above categories.

The Committee, however, emphasizes that all categories of women migrants fall within the scope of the obligations of States parties to the Convention and must be protected against all forms of discrimination by the Convention.

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<sup>4</sup> This general recommendation deals only with the work-related situation of women migrants. While it is a reality that in some instances women migrant workers may become victims of trafficking due to various degrees of vulnerability they face, this general recommendation will not address the circumstances relating to trafficking. The phenomenon of trafficking is complex and needs more focused attention. The Committee is of the opinion that this phenomenon can be more comprehensively addressed through article 6 of the Convention which places an obligation on States parties “to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women”. The Committee emphasizes however, that many elements of the present general recommendation are also relevant in situations where women migrants have been victims of trafficking.

<sup>5</sup> Undocumented workers are those migrant workers who are without a valid residence or work permit. There are many circumstances under which this could have happened. For example, they may have been given false papers by unscrupulous agents or they may have entered the country with a valid work permit, but may have subsequently lost it because the employer may have arbitrarily terminated their services, or become undocumented because employers may have confiscated their passports. Sometimes workers may have extended their stay after the expiry of the work permit or entered the country without valid papers.

5. Although both men and women migrate, migration is not a gender-neutral phenomenon. The position of female migrants is different from that of male migrants in terms of legal migration channels, the sectors into which they migrate, the forms of abuse they suffer and the consequences thereof. To understand the specific ways in which women are impacted, female migration should be studied from the perspective of gender inequality, traditional female roles, a gendered labour market, the universal prevalence of gender-based violence and the worldwide feminization of poverty and labour migration. The integration of a gender perspective is, therefore, essential to the analysis of the position of female migrants and the development of policies to counter discrimination exploitation and abuse.

#### **Applying principles of human rights and gender equality**

6. All women migrant workers are entitled to the protection of their human rights, which include the right to life, the right to personal liberty and security, the right not to be tortured, the right to be free of degrading and inhumane treatment, the right to be free from discrimination on the basis of sex, race, ethnicity, cultural particularities, nationality, language, religion or other status, the right to be free from poverty, the right to an adequate standard of living, the right to equality before the law and the right to benefit from the due processes of the law. These rights are provided for in the Universal Declaration of Human Rights and the many human rights treaties ratified or acceded to by States Members of the United Nations.

7. Women migrant workers are also entitled to protection from discrimination on the basis of the Convention, which requires States parties to take all appropriate measures without delay to eliminate all forms of discrimination against women and to ensure that they will be able to exercise and enjoy de jure and de facto rights on an equal basis with men in all fields.

#### **Factors influencing women's migration**

8. Women currently make up about one half of the world's migrant population. Various factors, such as globalization, the wish to seek new opportunities, poverty, gendered cultural practices and gender-based violence in countries of origin, natural disasters or wars and internal military conflicts determine women's migration. These factors also include the exacerbation of sex-specific divisions of labour in the formal and informal manufacturing and service sectors in countries of destination, as well as a male-centred culture of entertainment, the latter creating a demand for women as entertainers. A significant increase in the number of women migrating alone as wage earners has been widely noted as part of this trend.

#### **Sex- and gender-based human rights concerns related to migrant women**

9. Because violations of the human rights of women migrant workers occur in countries of origin, countries of transit and countries of destination, this general recommendation will address all three situations in order to facilitate the use of the Convention, further the rights of women migrant workers and advance substantive equality of women and men in all spheres of their lives. It is also recalled that migration is an inherently global phenomenon, requiring cooperation among States in multilateral, bilateral and regional levels.

*In countries of origin before departure<sup>6</sup>*

10. Even before they leave home, women migrant workers face myriad human rights concerns, including complete bans or restrictions on women's out-migration based on sex or sex combined with age, marital status, pregnancy or maternity status, occupation-specific restrictions or requirements that women must have written permission from male relatives to obtain a passport to travel or migrate. Women are sometimes detained by recruiting agents for training in preparation for departure, during which time they may be subject to financial, physical, sexual or psychological abuse. Women may also suffer the consequences of restricted access to education, training and reliable information on migration, which may lead to increased vulnerability in relation to employers. Exploitative fees may be charged by employment agents, which sometimes cause women, who generally have fewer assets than men, to suffer greater financial hardships and make them more dependent, for example, if they need to borrow from family, friends, or moneylenders at usurious rates.

*In countries of origin upon return*

11. Women migrant workers may face sex- and gender-based discrimination, including compulsory HIV and AIDS testing for women returnees, moral "rehabilitation" for young women returnees and increased personal and social costs compared to men, without adequate gender-responsive services. For example, men may return to a stable family situation, whereas women may find disintegration of the family upon their return, with their absence from home regarded as the cause of such disintegration. There may also be a lack of protection against reprisals from exploitative recruiting agents.

*In countries of transit*

12. Women migrant workers may face a variety of human rights concerns when transiting through foreign countries. When travelling with an agent or escort, women migrants may be abandoned if the agent encounters problems in transit or upon arrival in the country of destination. Women are also vulnerable to sexual and physical abuse by agents and escorts when travelling in countries of transit.

*In countries of destination*

13. Once they reach their destinations, women migrant workers may encounter multiple forms of de jure and de facto discrimination. There are countries whose Governments sometimes impose restrictions or bans on women's employment in particular sectors. Whatever the situation, women migrant workers face additional hazards compared to men because of gender-insensitive environments that do not allow mobility for women, and that give them little access to relevant information about their rights and entitlements. Gendered notions of appropriate work for women result in job opportunities that reflect familial and service functions ascribed

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<sup>6</sup> Paragraphs 10 and 11 describe some of the sex- and gender-related human rights concerns that women experience in their countries of origin, both before departure and upon return. Concerns related to transit and life abroad are discussed in paragraphs 12 to 22. These sections are illustrative and are not meant to be exhaustive. It should be noted that certain human rights concerns described here may render a woman's decision to migrate involuntarily under relevant international law; in such cases, reference should be made to those norms.

to women or that are in the informal sector. Under such circumstances, occupations in which women dominate are, in particular, domestic work or certain forms of entertainment.

14. In addition, in countries of destination, such occupations may be excluded from legal definitions of work, thereby depriving women of a variety of legal protections. In such occupations, women migrant workers have trouble obtaining binding contracts concerning terms and conditions of work, causing them sometimes to work for long hours without overtime payment. Moreover, women migrant workers often experience intersecting forms of discrimination, suffering not only sex- and gender-based discrimination, but also xenophobia and racism. Discrimination based on race, ethnicity, cultural particularities, nationality, language, religion or other status may be expressed in sex- and gender-specific ways.

15. Because of discrimination on the basis of sex and gender, women migrant workers may receive lower wages than do men, or experience non-payment of wages, payments that are delayed until departure, or transfer of wages into accounts that are inaccessible to them. For example, employers of domestic workers often deposit the worker's wages into an account in the employer's name. If a woman and her spouse both have worker status, her wages may be paid into an account in the name of her spouse. Workers in female-dominated sectors may not be paid for weekly days of rest or national holidays. Or, if they are heavily burdened by debt from recruitment fees, women migrant workers may not be able to leave abusive situations since they have no other way to repay those debts. Such violations may of course be faced by non-migrant local women in similar female-dominated jobs. However, non-migrant local women have better job mobility. They have the choice, however limited, of leaving an oppressive job situation and obtaining another job, whereas, in some countries, a woman migrant worker may become undocumented the minute she leaves her job. Non-migrant local women workers may, moreover, have some economic protection by way of family support if they are unemployed, but women migrant workers may not have such protection. Women migrant workers thus face hazards on the basis of sex and gender, as well as on the basis of their migrant status.

16. Women migrant workers may be unable to save or transmit savings safely through regular channels due to isolation (for domestic workers), cumbersome procedures, language barriers, or high transaction costs. This is a great problem since in general they earn less than men. Women may further face familial obligations to remit all their earnings to their families to a degree that may not be expected of men. For example, single women may be expected to support even extended family members at home.

17. Women migrant workers often suffer from inequalities that threaten their health. They may be unable to access health services, including reproductive health services, because insurance or national health schemes are not available to them, or they may have to pay unaffordable fees. As women have health needs different from those of men, this aspect requires special attention. They may also suffer from a lack of arrangements for their safety at work, or provisions for safe travel between the worksite and their place of accommodation. Where accommodation is provided, especially in female-dominated occupations such as factory, farm or domestic work, living conditions may be poor and overcrowded, without running water or adequate

sanitary facilities, or they may lack privacy and hygiene. Women migrant workers are sometimes subjected to sex-discriminatory mandatory HIV/AIDS testing or testing for other infections without their consent, followed by provision of test results to agents and employers rather than to the worker herself. This may result in loss of job or deportation if test results are positive.

18. Discrimination may be especially acute in relation to pregnancy. Women migrant workers may face mandatory pregnancy tests followed by deportation if the test is positive; coercive abortion or lack of access to safe reproductive health and abortion services, when the health of the mother is at risk, or even following sexual assault; absence of, or inadequate, maternity leave and benefits and absence of affordable obstetric care, resulting in serious health risks. Women migrant workers may also face dismissal from employment upon detection of pregnancy, sometimes resulting in irregular immigration status and deportation.

19. Women migrant workers may be subjected to particularly disadvantageous terms regarding their stay in a country. They are sometimes unable to benefit from family reunification schemes, which may not extend to workers in female-dominated sectors, such as domestic workers or those in entertainment. Permission to stay in the country of employment may be severely restricted, especially for women migrant workers in domestic work when their time-fixed contracts end or are terminated at the whim of the employer. If they lose their immigration status, they may be more vulnerable to violence by the employer or others who want to abuse the situation. If they are detained, they may be subject to violence perpetrated by officials in detention centres.

20. Women migrant workers are more vulnerable to sexual abuse, sexual harassment and physical violence, especially in sectors where women predominate. Domestic workers are particularly vulnerable to physical and sexual assault, food and sleep deprivation and cruelty by their employers. Sexual harassment of women migrant workers in other work environments, such as on farms or in the industrial sector, is a problem worldwide (see E/CN.4/1998/74/Add.1). Women migrant workers who migrate as spouses of male migrant workers or along with family members face an added risk of domestic violence from their spouses or relatives if they come from a culture that values the submissive role of the women in the family.

21. Access to justice may be limited for women migrant workers. In some countries, restrictions are imposed on the use of the legal system by women migrant workers to obtain remedies for discriminatory labour standards, employment discrimination or sex- and gender-based violence. Further, women migrant workers may not be eligible for free government legal aid, and there may be other impediments, such as unresponsive and hostile officials and, at times, collusion between officials and the perpetrator. In some cases, diplomats have perpetrated sexual abuse, violence and other forms of discrimination against women migrant domestic workers while enjoying diplomatic immunity. In some countries, there are gaps in the laws protecting migrant women workers. For example, they may lose their work permits once they make a report of abuse or discrimination and then they cannot afford to remain in the country for the duration of the trial, if any. In addition to these formal barriers, practical barriers may prevent access to remedies. Many do not know the language of the country and do not know their rights. Women migrant workers may lack mobility because they may be confined by employers to their work or living sites, prohibited from using telephones or banned from joining

groups or cultural associations. They often lack knowledge of their embassies or of services available, due to their dependence on employers or spouses for such information. For example, it is very difficult for women migrant domestic workers who are scarcely ever out of sight of their employers to even register with their embassies or file complaints. As such, women may have no outside contacts and no means of making a complaint, and they may suffer violence and abuse for long periods of time before the situation is exposed. In addition, the withholding of passports by employers or the fear of reprisal if the women migrant worker is engaged in sectors that are linked to criminal networks prevent them from making a report.

22. Undocumented women migrant workers are particularly vulnerable to exploitation and abuse because of their irregular immigration status, which exacerbates their exclusion and the risk of exploitation. They may be exploited as forced labour, and their access to minimum labour rights may be limited by fear of denouncement. They may also face harassment by the police. If they are apprehended, they are usually prosecuted for violations of immigration laws and placed in detention centres, where they are vulnerable to sexual abuse, and then deported.

### **Recommendations to States parties<sup>7</sup>**

#### *Common responsibilities of countries of origin and destination*

23. Common responsibilities of countries of origin and destination include:

(a) Formulating a comprehensive gender-sensitive and rights-based policy: States parties should use the Convention and the general recommendations to formulate a gender-sensitive, rights-based policy on the basis of equality and non-discrimination to regulate and administer all aspects and stages of migration, to facilitate access of women migrant workers to work opportunities abroad, promoting safe migration and ensuring the protection of the rights of women migrant workers (articles 2 (a) and 3);

(b) Active involvement of women migrant workers and relevant non-governmental organizations: States parties should seek the active involvement of women migrant workers and relevant non-governmental organizations in policy formulation, implementation, monitoring and evaluation (article 7 (b));

(c) Research, data collection and analysis: States parties should conduct and support quantitative and qualitative research, data collection and analysis to identify the problems and needs faced by women migrant workers in every phase of the migration process in order to promote the rights of women migrant workers and formulate relevant policies (article 3).

#### *Responsibilities specific to countries of origin*

24. Countries of origin must respect and protect the human rights of their female nationals who migrate for purposes of work. Measures that may be required include, but are not limited to, the following:

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<sup>7</sup> The articles listed for each recommendation refer to the articles of the Convention on the Elimination of All Forms of Discrimination against Women.

(a) Lifting of discriminatory bans or restrictions on migration: States parties should repeal sex-specific bans and discriminatory restrictions on women's migration on the basis of age, marital status, pregnancy or maternity status. They should lift restrictions that require women to get permission from their spouse or male guardian to obtain a passport or to travel (article 2 (f));

(b) Education, awareness-raising and training with standardized content: States parties should develop an appropriate education and awareness-raising programme in close consultation with concerned non-governmental organizations, gender and migration specialists, women workers with migration experience and reliable recruiting agencies. In that regard, States parties should (articles 3, 5, 10 and 14):

(i) Deliver or facilitate free or affordable gender- and rights-based pre-departure information and training programmes that raise prospective women migrant workers' awareness of potential exploitation, including: recommended contents of labour contracts, legal rights and entitlements in countries of employment, procedures for invoking formal and informal redress mechanisms, processes by which to obtain information about employers, cultural conditions in countries of destination, stress management, first aid and emergency measures, including emergency telephone numbers of home embassy, and services; information about safety in transit, including airport and airline orientations and information on general and reproductive health, including HIV/AIDS prevention. Such training programmes should be targeted to women who are prospective migrant workers through an effective outreach programme and held in decentralized training venues so that they are accessible to women;

(ii) Provide a list of authentic, reliable recruitment agencies and create a unified information system on available jobs abroad;

(iii) Provide information on methods and procedures for migrating to work for women workers who wish to migrate independently of recruitment agencies;

(iv) Require recruitment agencies to participate in awareness-raising and training programmes and sensitize them on the rights of women migrant workers, the forms of sex- and gender-based discrimination, the exploitation women could experience and responsibilities of agencies towards the women;

(v) Promote community awareness-raising concerning the costs and benefits of all forms of migration for women and conduct cross-cultural awareness-raising activities addressed to the general public, which should highlight the risks, dangers and opportunities of migration, the entitlement of women to their earnings in the interest of ensuring their financial security and the need to maintain a balance between women's familial responsibility and their responsibility to themselves. Such an awareness-raising programme could be carried out through formal and informal educational programmes;

(vi) Encourage the media, information and communication sectors to contribute to awareness-raising on migration issues, including on the contributions women migrant workers make to the economy, women's vulnerability to exploitation and discrimination and the various sites at which such exploitation occurs;

(c) Regulations and monitoring systems, as follows:

(i) States parties should adopt regulations and design monitoring systems to ensure that recruiting agents and employment agencies respect the rights of all women migrant workers. States parties should include in their legislation a comprehensive definition of irregular recruitment along with a provision on legal sanctions for breaches of the law by recruitment agencies (article 2 (e));

(ii) States parties should also implement accreditation programmes to ensure good practices among recruitment agencies (article 2 (e));

(d) Health services: States parties should ensure the provision of standardized and authentic health certificates if required by countries of destination and require prospective employers to purchase medical insurance for women migrant workers. All required pre-departure HIV/AIDS testing or pre-departure health examinations must be respectful of the human rights of women migrants. Special attention should be paid to voluntariness, the provision of free or affordable services and to the problems of stigmatization (articles 2 (f) and 12);

(e) Travel documents: States parties should ensure that women have equal and independent access to travel documents (article 2 (d));

(f) Legal and administrative assistance: States parties should ensure the availability of legal assistance in connection with migration for work. For example, legal reviews should be available to ensure that work contracts are valid and protect women's rights on a basis of equality with men (articles 3 and 11);

(g) Safeguarding remittances of income: States parties should establish measures to safeguard the remittances of women migrant workers and provide information and assistance to women to access formal financial institutions to send money home and to encourage them to participate in savings schemes (articles 3 and 11);

(h) Facilitating the right to return: States parties should ensure that women who wish to return to their countries of origin are able to do so free of coercion and abuse (article 3);

(i) Services to women upon return: States parties should design or oversee comprehensive socio-economic, psychological and legal services aimed at facilitating the reintegration of women who have returned. They should monitor service providers to ensure that they do not take advantage of the vulnerable position of women returning from work abroad, and should have complaint mechanisms to protect the women against reprisals by recruiters, employers or former spouses (articles 2 (c) and 3);

(j) Diplomatic and consular protection: States parties must properly train and supervise their diplomatic and consular staff to ensure that they fulfil their role in protecting the rights of women migrant workers abroad. Such protection should include quality support services available to women migrants, including timely provision of interpreters, medical care, counselling, legal aid and shelter when needed. Where States parties have specific obligations under customary international law or treaties such as the Vienna Convention on Consular Relations, those obligations must be carried out in full in relation to women migrant workers (article 3);

*Responsibilities specific to countries of transit*

25. States parties through which migrant women travel should take all appropriate steps to ensure that their territories are not used to facilitate the violation of the rights of women migrant workers. Measures that may be required include, but are not limited to, the following:

(a) Training, monitoring and supervision of Government agents: States parties should ensure that their border police and immigration officials are adequately trained, supervised and monitored for gender-sensitivity and non-discriminatory practices when dealing with women migrants (article 2 (d));

(b) Protection against violations of migrant women workers' rights that take place under their jurisdiction: States parties should take active measures to prevent, prosecute and punish all migration-related human rights violations that occur under their jurisdiction, whether perpetrated by public authorities or private actors. States parties should provide or facilitate services and assistance in situations where women travelling with an agent or escort have been abandoned, make all attempts to trace perpetrators and take legal action against them (articles 2 (c) and (e));

*Responsibilities specific to countries of destination*

26. States parties in countries where migrant women work should take all appropriate measures to ensure non-discrimination and the equal rights of women migrant workers, including in their own communities. Measures that may be required include, but are not limited to, the following:

(a) Lifting of discriminatory bans or restrictions on immigration: States parties should repeal outright bans and discriminatory restrictions on women's immigration. They should ensure that their visa schemes do not indirectly discriminate against women by restricting permission to women migrant workers to be employed in certain job categories where men predominate, or by excluding certain female-dominated occupations from visa schemes. Further, they should lift bans that prohibit women migrant workers from getting married to nationals or permanent residents, becoming pregnant or securing independent housing (article 2 (f));

(b) Legal protection for the rights of women migrant workers: States parties should ensure that constitutional and civil law and labour codes provide to women migrant workers the same rights and protection that are extended to all workers in the country, including the right to organize and freely associate. They should ensure that contracts for women migrant workers are legally valid. In particular, they should ensure that occupations dominated by women migrant workers, such as domestic work and some forms of entertainment, are protected by labour laws, including wage and hour regulations, health and safety codes and holiday and vacation leave regulations. The laws should include mechanisms for monitoring workplace conditions of migrant women, especially in the kinds of jobs where they dominate (articles 2 (a), (f) and 11);

(c) Access to remedies: States parties should ensure that women migrant workers have the ability to access remedies when their rights are violated. Specific measures include, but are not limited to, the following (articles 2 (c), (f) and 3):

(i) Promulgate and enforce laws and regulations that include adequate legal remedies and complaints mechanisms, and put in place easily accessible dispute resolution mechanisms, protecting both documented and undocumented women migrant workers from discrimination or sex-based exploitation and abuse;

(ii) Repeal or amend laws that prevent women migrant workers from using the courts and other systems of redress. These include laws on loss of work permit, which results in loss of earnings and possible deportation by immigration authorities when a worker files a complaint of exploitation or abuse and while pending investigation. States parties should introduce flexibility into the process of changing employers or sponsors without deportation in cases where workers complain of abuse;

(iii) Ensure that women migrant workers have access to legal assistance and to the courts and regulatory systems charged with enforcing labour and employment laws, including through free legal aid;

(iv) Provide temporary shelters for women migrant workers who wish to leave abusive employers, husbands or other relatives and provide facilities for safe accommodation during trial;

(d) Legal protection for the freedom of movement: States parties should ensure that employers and recruiters do not confiscate or destroy travel or identity documents belonging to women migrants. States parties should also take steps to end the forced seclusion or locking in the homes of women migrant workers, especially those working in domestic service. Police officers should be trained to protect the rights of women migrant workers from such abuses (article 2 (e));

(e) Non-discriminatory family reunification schemes: States parties should ensure that family reunification schemes for migrant workers are not directly or indirectly discriminatory on the basis of sex (article 2 (f));

(f) Non-discriminatory residency regulations: when residency permits of women migrant workers are premised on the sponsorship of an employer or spouse, States parties should enact provisions relating to independent residency status. Regulations should be made to allow for the legal stay of a woman who flees her abusive employer or spouse or is fired for complaining about abuse (article 2 (f));

(g) Training and awareness-raising: States parties should provide mandatory awareness-raising programmes concerning the rights of migrant women workers and gender sensitivity training for relevant public and private recruitment agencies and employers and relevant State employees, such as criminal justice officers, border police, immigration authorities, border police and social service and health-care providers (article 3);

(h) Monitoring systems: States parties should adopt regulations and design monitoring systems to ensure that recruiting agents and employers respect the rights of all women migrant workers. States parties should closely monitor recruiting agencies and prosecute them for acts of violence, coercion, deception or exploitation (article 2 (e));

(i) Access to services: States parties should ensure that linguistically and culturally appropriate gender-sensitive services for women migrant workers are available, including language and skills training programmes, emergency shelters,

health-care services, police services, recreational programmes and programmes designed especially for isolated women migrant workers, such as domestic workers and others secluded in the home, in addition to victims of domestic violence. Victims of abuse must be provided with relevant emergency and social services, regardless of their immigration status (articles 3, 5 and 12);

(j) The rights of women migrant workers in detention, whether they are documented or undocumented: States parties should ensure that women migrant workers who are in detention do not suffer discrimination or gender-based violence, and that pregnant and breastfeeding mothers as well as women in ill health have access to appropriate services. They should review, eliminate or reform laws, regulations, or policies that result in a disproportionate number of women migrant workers being detained for migration-related reasons (articles 2 (d) and 5);

(k) Social inclusion of women migrant workers: States parties should adopt policies and programmes with the aim of enabling women migrant workers to integrate into the new society. Such efforts should be respectful of the cultural identity of women migrant workers and protective of their human rights, in compliance with the Convention (article 5);

(l) Protection of undocumented women migrant workers: the situation of undocumented women needs specific attention. Regardless of the lack of immigration status of undocumented women migrant workers, States parties have an obligation to protect their basic human rights. Undocumented women migrant workers must have access to legal remedies and justice in cases of risk to life and of cruel and degrading treatment, or if they are coerced into forced labour, face deprivation of fulfilment of basic needs, including in times of health emergencies or pregnancy and maternity, or if they are abused physically or sexually by employers or others. If they are arrested or detained, the States parties must ensure that undocumented women migrant workers receive humane treatment and have access to due process of the law, including through free legal aid. In that regard, States parties should repeal or amend laws and practices that prevent undocumented women migrant workers from using the courts and other systems of redress. If deportation cannot be avoided, States parties need to treat each case individually, with due consideration to the gender-related circumstances and risks of human rights violations in the country of origin (articles 2 (c), (e) and (f));

#### *Bilateral and regional cooperation*

27. Measures that are required include but are not limited to the following:

(a) Bilateral and regional agreements: States parties who are sending or receiving and transit countries should enter into bilateral or regional agreements or memorandums of understanding protecting the rights of women migrant workers as elaborated in this general recommendation (article 3);

(b) Best practices and sharing of information, as follows:

(i) States parties are also encouraged to share their experience of best practices and relevant information to promote the full protection of the rights of women migrant workers (article 3);

(ii) States parties should cooperate on providing information on perpetrators of violations of the rights of women migrant workers. When provided with

information regarding perpetrators within their territory, States parties should take measures to investigate, prosecute and punish them (article 2 (c)).

*Recommendations concerning monitoring and reporting*

28. States parties should include in their reports information about the legal framework, policies and programmes they have implemented to protect the rights of women migrant workers, taking into consideration the sex- and gender-based human rights concerns listed in paragraphs 10 to 22 and guided by the recommendations given in paragraphs 23 to 27 of this general recommendation. Adequate data should be collected on the enforcement and effectiveness of laws, policies and programmes and the de facto situation of women migrant workers, so that the information in the reports is meaningful. This information should be provided under the most appropriate articles of the Convention, guided by the suggestions given against all the recommendations.

*Ratification or accession to relevant human rights treaties*

29. States parties are encouraged to ratify all international instruments relevant to the protection of the human rights of migrant women workers, in particular, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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