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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development****The impact of migration on migrant women and girls: a  
gender perspective****Report of the Special Rapporteur on the human rights of migrants***Summary*

In the present report, the Special Rapporteur on the human rights of migrants provides an account of the activities undertaken during the reporting period. He also provides a thematic study on the impact of migration on migrant women and girls, from a gender perspective, in which he aims to contribute to deepening the understanding of migration as a gendered phenomenon and its impact on human rights.

Women comprise slightly less than half of the international migrant population. While women and men decide to migrate for similar reasons, gender-specific social and cultural norms also play decisive roles in the migration process and therefore affect the experience of migrant women and girls. A greater understanding of migration as a gendered phenomenon can enable States to better protect migrant women and girls from gender-based discrimination, abuse and violations at all stages of migration, and fulfil their human rights.



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## I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 34/21. It contains information on the activities carried out by the Special Rapporteur on the human rights of migrants since the submission of his report to the seventy-third session of the General Assembly (A/73/178/Rev.1). The thematic section is dedicated to the impact of migration on migrant women and girls, from a gender perspective.

## II. Activities of the Special Rapporteur

### A. Country visits

2. The Special Rapporteur undertook a visit to the Niger from 1 to 8 October 2018 (A/HRC/41/38/Add.1).<sup>1</sup> He plans to conduct a visit to Hungary from 10 to 17 July 2019, and thanks the Government of Hungary for its invitation.<sup>2</sup>

3. The Special Rapporteur thanks the Governments of Bosnia and Herzegovina, El Salvador and Libya for accepting the country visit request and he looks forward to setting the dates for those visits soon. He thanks the Governments of Kuwait and Poland, who have extended an invitation to the mandate holder to visit their countries in 2020 at the earliest.

### B. Other activities

4. On 18 October 2018, the Special Rapporteur presented his thematic report on access to justice for migrants to the General Assembly (A/73/178/Rev.1), and he thanks those who took the floor for the interesting discussion.

5. During the process to adopt the Global Compact for Safe, Orderly and Regular Migration, the Special Rapporteur was actively engaged in anchoring human rights into the Compact. He now stands ready to contribute to the implementation, follow-up and review of the Compact, and underlined that fact during his trip to Marrakech, Morocco in December 2018. From 4 to 7 December, he participated in the eleventh summit meeting of the Global Forum on Migration and Development, and on 10 and 11 December in the Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration in Marrakech – a remarkable moment for global migration governance.

6. Furthermore, within the framework of the adoption of the Global Compact for Migration, the Special Rapporteur contributed to several side events in Marrakech. On 8 December, he participated in an event organized by the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) on promoting the human rights-based and gender-responsive implementation of the Global Compact for Migration. On 9 December, he contributed to an event on the role of the special procedures and treaty bodies in delivering the Compact, co-organized by himself and the Quaker United Nations Office, and to an event on migrants in vulnerable situations, co-organized by Amnesty International, the Office of the United Nations High Commissioner for Refugees, the Ministry of Foreign Affairs of Mexico, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Office on Drugs and Crime. The Special Rapporteur also remains actively engaged in the expert working group on addressing women's rights in the Compact.

7. During the reporting period, the Special Rapporteur held various lectures. He spoke at Columbia Law School in New York on 17 October 2018 about responding to the global

<sup>1</sup> The country visit to Mali announced for May 2018 could not be conducted due to security concerns, and has been postponed until further notice.

<sup>2</sup> The Special Rapporteur will submit a report on his visit to Hungary to the Human Rights Council at its forty-fourth session.

crisis in migrants' rights. On 22 January 2019, he spoke about the Global Compact for Migration at Diego Portales University in Santiago de Chile. On 1 March, he spoke at New York University School of Law about seeing immigrants' rights as human rights, and on 13 March he spoke via teleconference at an event organized by the human rights centre of the Caracas-based Andrés Bello Catholic University, about the work carried out under the mandate. He also briefed the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on 7 September 2018 on the activities carried out under the mandate and he explored joint activities and areas of cooperation.

8. On 5 and 6 September 2018, the Special Rapporteur attended the eighth congress of the Inter-American Association of Public Defenders, co-organized by the Inter-American Court of Human Rights, in Santiago de Chile. In his presentation, he addressed challenges relating to access to justice for migrants and made recommendations in that regard.

9. On 13 October, he participated in the Festival of Mediterranean Culture in Palermo, Italy, and called for the decriminalization of solidarity with migrants.

10. From 27 to 29 November, he participated in a conference organized by the Economic Commission for Latin America and the Caribbean in Santiago de Chile, in celebration of the thirtieth anniversary of the adoption of the Convention on the Rights of the Child. He gave a presentation about children and migration.

11. During a trip to New York in February 2019, the Special Rapporteur participated in several events, including: a panel on migration and the 2030 Agenda for Sustainable Development at the Expert Symposium on International Migration and Development, held on 26 February and organized by the Department of Economic and Social Affairs; the high-level debate on international migration and development held on 27 February by the President of the General Assembly to start the official follow-up to the Global Compact for Migration; and in the International Dialogue on Migration, held on 28 February, entitled "Youth and migration: engaging youth as key partners in migration governance", organized by the International Organization for Migration (IOM). The Special Rapporteur gave a presentation on specific challenges faced by young migrants and their vulnerabilities.

12. On 25 March, the Special Rapporteur was the keynote speaker at the fourth "Congreso Córdoba", a conference held in Córdoba, Spain, on migration and migrants in a global world.

### **III. Study on the impact of migration on migrant women and girls: a gender perspective**

#### **A. Introduction**

13. In recent years, the number of international migrants worldwide has continued to grow rapidly, reaching 258 million in 2017, up from 220 million in 2010 and 173 million in 2000.<sup>3</sup> The number of migrant women is said to have doubled between 1960 and 2015. In 2017, women comprised slightly less than half, or 48 per cent, of the international migrant population. Interestingly, they outnumbered men in all regions except Africa and Asia.<sup>4</sup> Data indicate that the rate of female migration is growing faster than male migration in many receiving countries.<sup>5</sup> Despite the increasing proportion of migrant women, there is a significant lack of information and data on the migration of women and girls. Most countries do not maintain a comprehensive data management system that captures sex- and age-disaggregated information on arrival and departure and they do not differentiate between different types of movement.

<sup>3</sup> See *International Migration Report 2017 (Highlights)* (United Nations publication, Sales No. E.18.XIII.4).

<sup>4</sup> *Ibid.*

<sup>5</sup> United Nations Population Fund (UNFPA) and International Migration Policy Programme, *Meeting the Challenges of Migration: Progress since the ICPD* (2004), p. 13.

14. The present study is focused on migrant women and girls, given that they are uniquely and disproportionately affected by gender-based discrimination, abuse and violence. The Special Rapporteur seeks to examine migration through a gender lens, with a focus on relevant gender-based human rights concerns relating to migrant women and girls. He also looks into the root causes of women's migration, and the specific challenges that women and girls face at all the different stages of migration. He begins with the premise that gender intersects with other social issues, such as class or caste, migration status, nationality, ethnicity, age, disability, race, sexual orientation and gender identity. Taken together, a complex map of stratification emerges with its own dynamics of discrimination, exclusion or inclusion and power relations. Migrants are constantly entering and leaving those stratified societies, which explains why gender relations and issues are constantly changing and fluid concepts.<sup>6</sup>

15. There is no universally accepted definition of an international migrant.<sup>7</sup> Included within this broad term for the purposes of the present report are migrants in regular or irregular situations, stateless persons, victims of trafficking in persons and smuggled migrants. The Special Rapporteur recognizes that some of those persons fall under the protection of specific international legal frameworks<sup>8</sup> and many of the categories overlap, but all of them are protected under international human rights law.

## **B. International human rights framework governing gender and migration<sup>9</sup>**

16. Inherently, all human beings are entitled to all human rights. There is no hierarchy of human rights, as all rights are universal, inalienable, indivisible, interdependent and of equal importance. Beyond that, certain legal protection regimes have been created for groups of non-nationals, including refugees, trafficked persons and migrant workers, to address particular situations and specific vulnerabilities. As such, the legal and normative framework to protect international migrants cannot be found in a single treaty or mechanism, but is instead diffused through a rich set of instruments and related principles and standards. States are expected to uphold the standards that apply to specific groups (such as migrants, children and victims of trafficking in persons) in a coordinated manner and with due consideration of international human rights law that is applicable to everyone. In applying such regimes, however, care must be taken to avoid creating hierarchies of vulnerability based on categorization.<sup>10</sup> While, in principle, refugees, asylum seekers and migrants (including irregular migrants) are normatively located in distinct legal categories, they often move and live in similar physical spaces and are likely to have similar protection needs, such as those in relation to their right to health or to freedom from arbitrary or prolonged detention. Migrants are also likely to pass through different legal categories during their journey, particularly when migratory journeys are long and hazardous.<sup>11</sup>

17. International human rights law requires that every person enjoy his or her rights without discrimination, including on the basis of sex or other status. Discrimination based on sex is prohibited under the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights for the enjoyment of all rights enshrined in them. Where there are differences in the treatment of nationals and non-

<sup>6</sup> Nicola Piper, ed., *New Perspectives on Gender and Migration: Livelihood, Rights and Entitlements* (Oxon, Routledge, 2007), pp. 1–2.

<sup>7</sup> According to OHCHR, an international migrant “refers to any person who is outside a State of which he or she is a citizen or national, or, in the case of a stateless person, his or her State of birth or habitual residence”. (OHCHR, *Recommended Principles and Guidelines on Human Rights at International Borders* (2004), p. 4.)

<sup>8</sup> OHCHR, “Migration and human rights. Improving human rights-based governance of international migration” (Geneva, 2013), pp. 14–19.

<sup>9</sup> A team of professors from Diego Portales University contributed to this section with an analysis of applicable international human rights standards.

<sup>10</sup> OHCHR, “Migration and human rights”, p. 14.

<sup>11</sup> *Ibid.*, p. 19.

nationals, States must ensure that those differences are enshrined in national legislation and serve a legitimate objective, and any action taken to achieve that objective must be proportionate and reasonable.

18. Under international human rights law, States are obliged to respect the right of every person to be free from torture and ill-treatment. Linked to migration, that obligation is embodied in the principle of non-refoulement, which is absolute and non-derogable.

### **1. Convention on the Elimination of All Forms of Discrimination against Women**

19. Under the Convention on the Elimination of All Forms of Discrimination against Women, discrimination against women is prohibited and States are obliged to eliminate discrimination against women. There are 189 States parties to the Convention, which includes obligations to suppress trafficking in women (art. 6); grant women equal rights with men to acquire, change or retain nationality (art. 9); eliminate discrimination against women in the field of employment (art. 11); eliminate discrimination against women in the field of health care and ensure access to health-care services, including those related to family planning and maternal care (art. 12); and accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile (art. 15 (4)).

20. In its general recommendation No. 26 (2008) on women migrant workers, the Committee on the Elimination of Discrimination against Women addressed the issues of women migrant workers who travel independently, those who migrate as dependants of their spouses and those in irregular situations. It outlined a set of responsibilities that should be assumed by States, including implementing gender-responsive and rights-based migration policies, involving women in policymaking, safeguarding remittances sent by women migrant workers, collecting data disaggregated by gender, and lifting discriminatory bans on women's freedom of movement.

### **2. Convention on the Rights of the Child**

21. The principle of non-discrimination is codified in article 2 of the Convention on the Rights of the Child. In joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration, both Committees gave their interpretation of the application of the non-discrimination principle in the context of international migration. The non-discrimination principle in the Convention on the Rights of the Child stipulates that States parties should respect and ensure the rights set forth in the Convention for all children, whether they are considered, *inter alia*, migrants in regular or irregular situations, asylum seekers, refugees, stateless or victims of trafficking, including in situations of return or deportation to their country of origin, irrespective of their or their parents' or legal guardians' nationality, migration status or statelessness.<sup>12</sup>

### **3. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

22. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families provides for the rights of migrant workers and their families without discrimination based on sex. It stipulates that no migrant worker is to be held in slavery or servitude or asked to perform compulsory labour, and provides for the right to receive urgent medical care and access to educational services, vocational guidance, housing, and social and health services on the basis of equality with nationals, and for the protection of the unity of the family. It also includes parameters for States parties to cooperate with a view to promoting sound, equitable, humane and lawful conditions for migrant workers in relation to their labour, social, economic and cultural rights. As at September 2017, only 51 countries had ratified the Convention.

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<sup>12</sup> See also Committee on the Rights of the Child, general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, para. 12.

23. In its general comment No. 1 (2011) on domestic migrant workers, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families comprehensively addressed violations of social, economic, cultural, civil, political and labour rights. It called for the promotion and protection of the rights of domestic workers at all stages, decent work for them, and proper regulation of that work in national labour legislation, so as to ensure that domestic workers enjoy the same level of protection as other workers and have effective access to justice and remedies.

24. The right of everyone to the enjoyment of just and favourable conditions of work is recognized in the International Covenant on Economic, Social and Cultural Rights and other international and regional human rights treaties, and in other relevant international legal instruments, including conventions and recommendations of the International Labour Organization (ILO). That right is an important component of other labour rights enshrined in the Covenant and the corollary of the right to work as freely chosen and accepted, contained in article 23 of the Universal Declaration of Human Rights.

## **C. Other relevant intergovernmental agreements and initiatives**

### **1. 2030 Agenda for Sustainable Development**

25. The 2030 Agenda for Sustainable Development is grounded in international human rights law. Its 17 Sustainable Development Goals have the aim of realizing the human rights of all persons, while Goal 5 has an emphasis on gender equality and the empowerment of all women and girls. Achieving Goal 5, that is, achieving gender equality, will make a crucial contribution to progress across all the Goals and their targets, including Goal 8 to promote economic growth and decent work for all, and Goal 10 to reduce inequality within and among countries, and particularly target 10.7 to facilitate orderly, safe, regular and responsible migration and mobility of people.

### **2. New York Declaration for Refugees and Migrants and the Global Compact for Safe, Orderly and Regular Migration**

26. In paragraphs 23 and 31 of the New York Declaration for Refugees and Migrants, the General Assembly recognized the specific vulnerabilities of women on the move and expressed its commitment to ensure that responses mainstream a gender perspective, promote gender equality and the empowerment of all women and girls, and respect and protect their rights. It also recognized, in paragraph 31, the significant contribution and leadership of women in refugee and migrant communities, and committed to ensuring women's full and meaningful participation in the development of local solutions.

27. Set in motion by the adoption of the New York Declaration, a process of intergovernmental consultations and negotiations on migration concluded with the adoption of the Global Compact for Migration. Gender responsiveness is established in the Compact as one of its guiding principles. States are called upon to ensure that the human rights of women, men, girls and boys are respected at all stages of migration, their specific needs are properly understood and addressed, and they are empowered as agents of change. Under the Compact, a gender perspective is mainstreamed, and gender equality and the empowerment of all women and girls is promoted, with recognition of "their independence, agency and leadership in order to move away from addressing migrant women primarily through a lens of victimhood".

### **3. Bilateral and multilateral agreements and initiatives**

28. While the Special Rapporteur does not analyse the compliance of bilateral and multilateral agreements or initiatives with international human rights standards in the present report, he recognizes that such agreements and initiatives are important spaces for intergovernmental exchange relating to gender and migration. Several regional, transregional and international forums have the aim of addressing specific issues relating to gender and migration, such as the Colombo Process, the Abu Dhabi Dialogue, the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, the Ibero-American Forum on Migration and Development and the Global

Forum on Migration and Development, as does the Beijing Declaration and Platform for Action.

29. Bilateral agreements, if thoughtfully designed and implemented, can positively contribute to the promotion of protection-sensitive approaches to migration management. While there are some initiatives to include gender-responsive provisions in bilateral agreements, more safeguards are needed to ensure comprehensive, gender-responsive bilateral and multilateral agreements that effectively protect the human rights of migrant women and girls.

#### **D. Gendered drivers of migration for women and girls**

30. Men and women migrate for similar reasons, such as the desire to receive a better education, to find work, to improve the quality of life for themselves and their families, and to reunite with family members. Migration can also be caused by duress, such as the need to flee conflict and persecution, or economic precariousness. In addition, particular drivers of migration are a lack of opportunities for young people, food insecurity,<sup>13</sup> environmental degradation and natural disasters. In Central America, for example, some major factors causing young people in particular to migrate are extra-State or gang violence and practices amounting to forced recruitment.<sup>14</sup>

31. On the other hand, it has become increasingly clear that migration is a gendered phenomenon. Gender-specific norms governing society are decisive factors, as are gendered expectations and differentiated power relations. The differentiated impact of economic inequality shapes the reasons for which women and girls migrate. Those reasons vary considerably compared to the reasons for which men and boys choose to migrate.<sup>15</sup> It is equally important to note that migrant women and girls are a highly heterogeneous group, with different profiles and socioeconomic characteristics.

32. An important factor causing the migration of women and girls is gendered expectations,<sup>16</sup> as families may send abroad their daughters rather than their sons if they believe that their daughters are more likely to send home remittances.<sup>17</sup> Before any person migrates, negotiation at the household level usually takes place.<sup>18</sup> In such negotiations, rather than seeking to completely upend the gender hierarchy within their families, women and girls instead co-opt prevailing gendered discourses in order to win over powerful stakeholders. Women therefore frame their migration aspirations in gendered terms, presenting themselves as dutiful daughters and caring mothers, and promising to remit most of their overseas earnings to ensure the future well-being of the family members left behind.<sup>19</sup> Playing on gendered expectations and norms is not limited to aspiring migrant women but can also include men, who are able to call upon well-established gendered images of the “male breadwinner” or of “authority” when wanting to migrate, and use them to fend off resistance.

33. The prevalence of sexual and gender-based discrimination, harmful practices such as child, early and forced marriage, violence, and unequal access to rights and resources are crucial reasons why women and girls migrate. As such, women’s desire to migrate may be

<sup>13</sup> Department of Economic and Social Affairs, Population Division, *International Migration Report 2017*, ST/ESA/SER.A/404, p. 26.

<sup>14</sup> See International Crisis Group, “Mafia of the poor: gang violence and extortion in Central America” (Brussels, 2017).

<sup>15</sup> Tam O’Neil, Anjali Fleury and Marta Foresti, “Women on the move: migration, gender equality and the 2030 Agenda for Sustainable Development” (London, Overseas Development Institute, 2016), p. 4.

<sup>16</sup> Gendered expectations are expectations that distinguish expected behaviour on the basis of gender. (See Rachel Marcus and Caroline Harper, eds., “Social norms, gender norms and adolescent girls: a brief guide” (London, Overseas Development Institute, 2015), p. 3.)

<sup>17</sup> O’Neil, Fleury and Foresti, “Women on the move”, pp. 4–5.

<sup>18</sup> Anju Mary Paul, “Negotiating migration, performing gender” in *Social Forces*, vol. 94, No. 1 (September 2015), p. 272.

<sup>19</sup> *Ibid.*, pp. 272–273.

motivated by a desire to escape family control, or deep-seated discrimination that restricts their access to resources, education and political participation.<sup>20</sup> In studies conducted in Guatemala and the Republic of Moldova, IOM found that single mothers, widows or divorcees who experienced discrimination were using migration to escape social stigmatization.<sup>21</sup>

34. While discriminatory social institutions may serve as a driving factor causing women and girls to migrate to countries with fewer discriminatory institutions, that is only true up to an extent. When it reaches a certain threshold, the high level of discrimination in the country of origin rather hinders migration. For example, bias and harmful gender stereotypes may prevent women from migrating because of concern that they may be “morally corrupted” or they may face difficulties in getting married at a later point.

35. In 2015, unmarried women in 30 countries were unable to choose where they wanted to live, at least 6 countries required women to obtain the permission of their male and female guardians to travel internationally, and in 18 countries, domestic legislation prevented women from taking a job without their guardian or husband's permission. In addition, women in several countries were unable to pass their citizenship to their spouses or children.<sup>22</sup> During his visit to Nepal in 2018, the Special Rapporteur noted that women below the age of 24 and with a child below the age of 2 were banned from taking up domestic work in foreign employment. Although the ban was allegedly intended as a protection mechanism, the solution to the problems faced by domestic workers should not be to discriminate against them through the imposition of bans or other means of violating their right to leave the country (see A/HRC/38/41/Add.1).

36. Societal norms and gender-based discrimination are not the only factors that may influence the migration of women and girls. Labour policies of receiving countries can also strongly contribute to the migration of women and girls rather than that of men and boys. Immigration laws in some countries make it extremely difficult to enter regularly and obtain permanent legal status. Legal residency is often based on being employed in the formal economy. If one of the few ways to enter a country regularly is through annual quotas established in sectors of the economy with apparent labour shortages, that has an influence on who will migrate to that country. For those who enter without proper documentation or stay past the period of their initial employment through those quotas, regularization programmes are periodically launched.<sup>23</sup>

37. A number of the sectors that have formal employment opportunities that are open to migrants are segmented by gender, as well as class and ethnicity (for example, the domestic work and the health and care industries). The demand for migrant women in female-dominated sectors was facilitated by the entry of many women into the labour market in their countries of destination. Since societies still tend to expect women to perform domestic tasks, such tasks are often taken care of by women migrant workers.

38. According to research, education levels influence women's decisions to migrate in different ways to how they influence men. According to some studies, for women, but not for men, there is a significant correlation between higher education and migration.<sup>24</sup> In a study of 14,000 individuals in 43 Mexican villages, it was found that educated women experienced greater gender discrimination and few occupational rewards, which might have

<sup>20</sup> 2004 World Survey on the Role of Women in Development: Women and International Migration (United Nations publication, sales No. E.04.IV.4), pp. 16–17.

<sup>21</sup> Irena Omelaniuk, “Gender, poverty reduction and migration” (World Bank, 2005), p. 3.

<sup>22</sup> See World Bank, *Women, Business and the Law 2016: Getting to Equal* (Washington, D.C., 2015).

<sup>23</sup> Kitty Calavita, “Gender, migration, and law: crossing borders and bridging disciplines” in *The International Migration Review*, vol. 40, No. 1 (2006), p. 118.

<sup>24</sup> See Aydullah Hoti, “Determinants of emigration and its economic consequences: evidence from Kosovo” in *Southeast European and Black Sea Studies*, vol. 9, No. 4 (2009), pp. 435–458; Yamauchi, Futoshi and Yanyan, Liu, “School quality, labor markets and human capital investment: long-term impacts of an early stage education investment in the Philippines”, Policy Research Working Paper, No. 6247 (Washington, D.C., World Bank, October 2012); and Bina Gubhaju and Gordon F. De Jong, “Individual versus household migration decision rules: gender and marital status differences in intentions to migrate in South Africa” in *International Migration*, vol. 47, No. 1 (2009), pp. 31–61.

made it more likely for them to migrate internationally.<sup>25</sup> Furthermore, according to a study on global migration rates by country group and region of origin in 1990 and 2000, highly skilled migration rates are higher among women. More specifically, women's highly skilled migration rate exceeds that of men in 81 per cent of cases (that is, in 160 countries).<sup>26</sup> In many cases, the rate is higher because they feel they can secure a much better quality of life abroad than in their home countries.<sup>27</sup>

## E. Migration channels and specific challenges while migrating

39. Until recently, women were thought to migrate primarily to join a partner or for family reunification. Today, an increasing number of women are moving on their own,<sup>28</sup> notably to find work, which is leading to a so-called feminization of migration. While the way in which women are migrating is changing, more women are also likely to be the lead migrant, that is, the first member of the family to migrate. Highly skilled women are more likely to migrate on their own than low-skilled women.<sup>29</sup> Some women, however, still face difficulties in leaving their countries because of prohibitive, gender-specific discriminatory laws or restrictive social norms. Those measures can push them to migrate through irregular channels, which is more common when coupled with institutional failures to address the obstacles, as well as insufficient information on the migration process and a low level of education. During his visit to Nepal, for example, the Special Rapporteur noted that many women had to resort to irregular channels due to restrictive provisions in the relevant guidelines governing migration (A/HRC/38/41/Add.1, para. 79). Other women in Nepal are forced to pay bribes to airport officials in the range of \$100–\$600.<sup>30</sup>

40. Many women rely on recruitment agencies that are the gateway to finding a job in the sectors in which there is more demand for women. In many parts of the world, private recruitment agencies and brokers administer overseas employment programmes and the acquisition of work permits. There is often a lack of effective State oversight and monitoring of such agencies, compounded by the significant influence of middlemen, who take advantage of migrant women's lack of sufficient information and awareness. Their lack of knowledge may be due to gender-specific discrimination in their home countries, making migrant women significantly more vulnerable.

41. In the Philippines, for example, there are around 1,200 licensed recruitment agencies that aim to help migrants. As the agencies tend to charge very high fees, and given that women generally earn less than men, it may be more difficult for women to pay off their accrued debt. In 2013, Amnesty International reported that Indonesian domestic workers were required to register with recruitment agencies and provide them with their own personal documents, such as marriage certificates and identity cards. If a migrant woman decided not to proceed, the recruitment agency had the power to withhold her personal documents and would only release them for a fee of 14,780,400 rupiah (equivalent to \$1,730).<sup>31</sup> In 2012, a study in Bangladesh showed cases in which recruitment brokers had

<sup>25</sup> See Kanaiaupuni, S.M., "Reframing the migration question: an analysis of men, women and gender in Mexico" in *Social Forces*, vol. 78, No. 4 (2000), pp. 1311–1347.

<sup>26</sup> Frédéric Docquier, B. Lindsay Lowell and Abdeslam Marfouk, "A gendered assessment of highly skilled emigration" in *Population and Development Review*, vol. 35, No. 2 (2009), p. 312.

<sup>27</sup> Camilla Spadarecchia, "Migration of women from sub-Saharan Africa to Europe: the role of highly skilled women" in *Sociología y tecnociencia/Sociology and Technoscience. Special Issue: Women on the Move*, vol. 3, No. 3 (2013), p. 107.

<sup>28</sup> Alyson L., Dimmit Gnam, "Mexico's missed opportunities to protect irregular women transmigrants: applying a gender lens to migration law reform" in *Pacific Rim Law & Policy Journal*, vol. 22, No. 3 (2013), pp. 713–749.

<sup>29</sup> O'Neil, Fleury and Foresti, "Women on the move", p. 9.

<sup>30</sup> Bandita Sijapati, "Women's labour migration from Asia and the Pacific: opportunities and challenges" (IOM Regional Office for Asia and the Pacific and Migration Policy Institute, 2015), p. 8.

<sup>31</sup> Amnesty International, *Exploited for Profit, Failed by Governments: Indonesian Migrant Domestic Workers Trafficked to Hong Kong* (2013), p. 9.

arranged for migrant women to perform sexual activities for border agents as part of the migration process, without informing the women beforehand.<sup>32</sup>

42. A network of migrant women in their countries of origin, or previous experience of women's migration, can help to stimulate migration. Social networks, as a set of interpersonal ties that connect migrants, former migrants and non-migrants in origin, transit and destination countries through kinship, friendship or a shared community of origin, can prompt rural women to migrate across borders. Social networks can also offer migrants assistance in finding homes and jobs and in sending remittances. Many employers also use migrant networks, particularly those based on kinship, for recruitment. While on one hand social networks can help migrants with job training and provide them with support, they can also make integration more difficult and increase isolation. In Bangladesh, for example, where gender norms are more restrictive, members of the city household in which a migrant girl is working or living may assume an oversight role to closely monitor her behaviour and actions, allowing her parents back home in their village to feel reassured that their girl is behaving as expected in the city.<sup>33</sup> The persons with whom migrant women travel also have an impact on their migration and integration experience. Sometimes, when a woman migrates with her husband, even to a country with fewer gender-specific discriminatory laws and practices, the discriminatory gender norms from her society of origin may continue to govern her household dynamics and her individual life, leaving the woman more likely to feel isolated and vulnerable.<sup>34</sup>

43. Whether they are migrating regularly or irregularly, evidence suggests that women migrants are at great risk of being subjected to acts of violence, including gender-based violence, exploitation, trafficking, slavery and detention, while in transit or upon arrival, and by public officials, private individuals or criminal gangs. In 2004, ILO reported that one in six irregular migrant women in the Russian Federation were coerced into sex work, usually in the entertainment or domestic service sectors.<sup>35</sup> The lack of adequate reception conditions in some countries results in serious consequences for women's health, dignity and physical safety.<sup>36</sup> Some conditions and practices can amount to cruel, inhuman or degrading treatment or torture.

44. In countries of destination, regardless of their migratory status, migrant women encounter multiple and intersecting forms of discrimination, not only as women and as migrants, but also on other grounds, including age, race and ethnicity, nationality, religion, marital and family status, sexual orientation and gender identity. As a result, they are at risk of abuse and exploitation. It is well documented that migrant women in general struggle in many countries to have their credentials recognized, which leads to "deskilling" as a result of being underemployed.<sup>37</sup>

## F. Gendered impact of migration on women and girls

### 1. Gendered aspects of migration and family life

45. The experience of migration may lead to a redefining of sex-differentiated roles in the family as husbands, wives and other members of the family trade responsibilities. Based

<sup>32</sup> Fiona Samuels and others, "Stories of harassment, violence and discrimination: migrant experiences between India, Nepal and Bangladesh" (London, Overseas Development Institute, 2012), p. 2.

<sup>33</sup> Miriam Temin and others, *Girls on the Move: Adolescent Girls and Migration in the Developing World. A Girls Count Report on Adolescent Girls* (Population Council, 2013), p. 45.

<sup>34</sup> O'Neil, Fleury and Foresti, "Women on the move", p. 5.

<sup>35</sup> Irina Ivakhnyuk, *The Russian Migration Policy and its Impact on Human Development: The Historical Perspective*, Human Development Reports Research Paper 2009/14 (United Nations Development Programme (UNDP), 2009), pp. 44–45.

<sup>36</sup> See Council of Europe, "Human rights of refugee and migrant women and girls need to be better protected", 7 March 2016.

<sup>37</sup> United Nations Educational, Scientific and Cultural Organization, Global Education Monitoring Report Team, "The intersections between education, migration and displacement are not gender-neutral", document ED/GEM/MRT/2019/WP1, p. 4.

on the traditional distribution of roles, one could expect men to struggle with having to take on new and traditionally female tasks. Other men may be more concerned about the loss of their role as the main income earner and thus head of the household. Research suggests that some men take the redistribution of tasks as a chance to prove their ability to adapt and increase their sense of autonomy. These changes in traditional gender roles were captured in a study of husbands in the northern Philippines whose wives had become migrant workers overseas. The study showed that some of the men took over the role of caregiver, traditionally occupied by mothers, suggesting a shift in how masculinity is defined.<sup>38</sup> The shift demonstrates that gender identities and family roles are changing, fluid, and far from being universal.<sup>39</sup>

46. In the absence of family reunification policies, women's migration may result in the separation of a family and the impact of that is borne by the children, who grow up without the presence of at least one of their primary caregivers.<sup>40</sup> That is not to say that all of the impact is negative. An important factor is the age of the child at the time the migration occurs as it affects the way he or she deals with a parent's absence.<sup>41</sup> There is some evidence to suggest that a mother's migration can also have a positive impact on her children. In a study on seasonal migration and early childhood development in Nicaragua, it was suggested that a mother's migration had a beneficial effect on the cognitive development and nutritional status of preschool-aged children, implying that the relatively large household income gains from temporary employment in other regional labour markets compensated largely for the potentially negative effects of the mother's absence. This positive impact of female migration on children's development may also be attributable to a combination of intrahousehold empowerment associated with women's larger contributions to household income, and the ability of extended family members to care for the children while their mother is away. In that sense, changes to intrahousehold resource allocation and bargaining can have an impact on human capital investments and therefore promote intergenerational gender equity.<sup>42</sup>

## 2. Migration and social and cultural gender norms

47. The migration of women may amend the social and gender norms both for migrants themselves and for their home communities. It may influence their home communities to adopt more equitable norms with regard to education, reproductive rights, marriage and the organization of families and communities.<sup>43</sup> The migration of women has the potential to contribute to a reformulation of gender roles and cultural norms, and may improve women's autonomy, self-esteem and social standing.<sup>44</sup> For example, in one study, South Asian migrant women reportedly used their increased decision-making power to direct their remittances to health care and education for their families.<sup>45</sup>

48. The feminization of a number of labour sectors – most notably the domestic work and care industries – creates a global care chain, which is a series of links between people across the world based on paid and unpaid care work. Ageing populations, declining fertility rates, women's increasing participation in the global workforce and gaps in health and social care systems create more demand for paid domestic and care work.<sup>46</sup> Women who fill those positions tend to rely on female relatives to care for their own families,

<sup>38</sup> Martin F. Manalansan IV, "Queer intersections: sexuality and gender in migration studies" in *The International Migration Review*, vol. 40, No. 1 (2006), p. 241.

<sup>39</sup> World Health Organization, *Women on the Move: Migration, Care Work and Health* (Geneva, 2017), p. 54.

<sup>40</sup> Sijapati, "Women's labour migration from Asia and the Pacific", p. 5.

<sup>41</sup> See Kristina A. Schapiro, "Migration and educational outcomes of children", Human Development Research Paper, No. 57 (New York, UNDP, 2009).

<sup>42</sup> World Bank, *A gender (r)evolution in the making? Expanding women's economic opportunities in Central America: a decade in review* (Washington, D.C., 2012), p. 70.

<sup>43</sup> O'Neil, Fleury and Foresti, "Women on the move", p. 5.

<sup>44</sup> Ibid.

<sup>45</sup> See Rita Afsar, "Contextualizing gender and migration in South Asia: critical insights" in *Gender, Technology and Development*, vol. 15, No. 3 (2011), pp. 389–410.

<sup>46</sup> O'Neil, Fleury and Foresti, "Women on the move", p. 7.

creating a chain effect, and thereby reinforcing the pre-existing gender role of women in the home society that sees them as the primary caregivers for their families. As a result, the ability of the next generation of women to benefit from economic or education opportunities may become limited.<sup>47</sup>

49. In other contexts, however, the migration of women may result in a stricter observance of traditional norms and values<sup>48</sup> to preserve social norms when they “appear under attack”. The change in roles that men may experience or their inability to adjust to them or to properly provide for their families may increase their desire to strengthen their patriarchal role, which could lead to more violence against their wives and other members of their families.<sup>49</sup>

### 3. Migration and economic empowerment of women

50. In his opening remarks at the Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration, the Secretary-General emphasized how important migration was for the functioning of economies, as migrants performed vital roles, such as in health care and care for elderly persons.<sup>50</sup> Migration can fill critical gaps in labour markets in countries of destination, with a positive impact on employment, production and the country’s gross domestic product.

51. In that respect, the significance of remittances should not be underestimated, as they contribute to national development and the international economy. In 2015, migrants from developing countries sent home an estimated \$440 billion in remittances.<sup>51</sup> Those remittances often facilitated access to education and health care for family members and communities in the migrants’ countries of origin,<sup>52</sup> and made important contributions to their local economies and household incomes.<sup>53</sup>

52. Remittances sent home by migrant women are quite significant, although the amounts remitted each time tend to be smaller than the amount remitted by men, mainly because women often get paid less. Women remit a higher proportion of their earnings and do so more frequently. For example, a study conducted in 2000 showed that Bangladeshi women working in the Middle East sent home 77 per cent of their income on average.<sup>54</sup>

53. The enjoyment of the benefits of remittances, however, depends on who receives and controls them. According to UN-Women, women are more likely to receive remittances regardless of the sex of the remitter.<sup>55</sup> As an example, in a survey conducted in the Dominican Republic in 2004, 57 per cent of those receiving remittances were women, and 58 per cent of those sending remittances were women.<sup>56</sup> Studies in the Dominican Republic, Guatemala and Honduras have shown that migrant women change the recipient

<sup>47</sup> Ibid., p. 6.

<sup>48</sup> Ibid.

<sup>49</sup> See Susan Forbes Martin, “Women and Migration”. Paper presented at the consultative meeting on “migration and mobility and how this movement affects women” held in Malmo, Sweden, 2–4 December 2003.

<sup>50</sup> See [www.un.org/sg/en/content/sg/speeches/2018-12-10/remarks-intergovernmental-conference-adopt-the-global-compact-for-migration](http://www.un.org/sg/en/content/sg/speeches/2018-12-10/remarks-intergovernmental-conference-adopt-the-global-compact-for-migration).

<sup>51</sup> Department of Economic and Social Affairs, Population Division, *International Migration Report 2017*, p. 29.

<sup>52</sup> Ibid.

<sup>53</sup> O’Neil, Fleury and Foresti, “Women on the move”, p. 5.

<sup>54</sup> See Naila Kabeer, “Footloose” *Female Labour: Transnational Migration, Social Protection and Citizenship in the Asia Region*. Working Paper on Women’s Rights and Citizenship, No. 1 (Ottawa, International Development Research Centre, 2007).

<sup>55</sup> See Allison Petrozziello, “Feminised financial flows: how gender affects remittances in Honduran-US transnational families” in *Gender and Development*, vol. 19, No. 1 (2011), pp. 53–67.

<sup>56</sup> See Multilateral Investment Fund, “Remittances and the Dominican Republic. Survey of recipients in the Dominican Republic, survey of senders in the United States” PowerPoint presentation at Columbia University, New York on 23 November 2004. Available at <https://slideplayer.com/slide/4771178/>.

of their remittances if their husbands who receive those remittances do not use them for the preferred purposes.<sup>57</sup>

54. Women are more likely to invest remittances in children's education and health. In a study conducted in 2008, it was found that remittances had increased school enrolment in Ecuador on average by 2.6 per cent, with the impact being even higher among girls, in rural areas and among the poor.<sup>58</sup> Similarly, studies conducted in Guatemala, Mexico and Morocco showed that children had better health and lower mortality rates after their mothers returned because of the new and improved knowledge of health care and increased financial means available to the family.<sup>59</sup>

55. It is important to note that the migration of women also leaves gaps in their countries of origin. In 2011, the World Bank pointed out that physicians and nurses were the professionals that migrated most often.<sup>60</sup> It is therefore not surprising that according to one study, sub-Saharan countries are experiencing a shortage of 600,000 nurses. It was found in another study that from 1999 to 2001, 60 per cent of registered nurses left tertiary hospitals in Malawi, likely to migrate. As a result, 64 per cent of nursing positions (heavily dominated by women) remain unfilled, with medical centres operating with no nurses or with employees who have as little as 10 weeks of medical training. While the Government of Malawi has tried to increase resources and wages for health professionals to offset the brain drain, it has not been able to compete with the salaries offered in other countries.<sup>61</sup>

#### 4. Migration and civic participation

56. Migrant women appear to be less able to claim their own rights in their countries of destination compared to migrant men. This is generally due to women having less decision-making power within their homes, and engaging less in political decision-making and policy processes.<sup>62</sup> Moreover, women's effective participation in migrant associations is frequently limited by gender-based discrimination and marginalization, as traditionally those associations have replicated discriminatory gender relations.

57. However, the limitations on the participation of women and their inability to further their specific priorities on the collective agenda has, in some cases, prompted women to create their own associations, which has had a positive impact as it has made the work and interventions of those diaspora associations more gender-sensitive and gender-responsive.<sup>63</sup>

58. A good example of civic participation coupled with economic empowerment and socioeconomic development is the online forum named African Diaspora Professional Women in Europe. It was founded by a Togolese entrepreneur and resident of the United Kingdom of Great Britain and Northern Ireland, in the hope of creating a network of highly skilled Africans in the European Union, in order to empower their position in Europe and to create development projects for African girls. Other similar projects are the African Women's Development Fund, the Pan-African Women's Philanthropy Network and the Nigerians in Diaspora Organisation Europe.<sup>64</sup>

<sup>57</sup> Anjali Fleury, *Understanding Women and Migration: A Literature Review*. Working Paper 8 (Global Knowledge Partnership on Migration and Development, 2016), p. 15.

<sup>58</sup> See Carla Calero, Arjun S. Bedi and Robert Sparrow, "Remittances, liquidity constraints and human capital investments in Ecuador". Working Paper, No. 3358 (Bonn, Institute for the Study of Labor, 2008).

<sup>59</sup> UNFPA, *State of World Population 2006. A Passage to Hope: Women and International Migration* (New York, 2006), pp. 29–30.

<sup>60</sup> Camilla Spadavecchia, "Migration of women from sub-Saharan Africa to Europe", p. 108.

<sup>61</sup> See Richard Record and Abdu Mohiddin, "An economic perspective on Malawi's medical 'brain drain'" in *Globalization and Health*, vol. 2, No. 12 (2006).

<sup>62</sup> O'Neil, Fleury and Foresti, "Women on the move", p. 6.

<sup>63</sup> IOM, "Integration of a gender perspective in the migration and development debate", p. 6.

<sup>64</sup> Camilla Spadavecchia, "Migration of women from sub-Saharan Africa to Europe", p. 112.

## G. Specific human rights concerns related to migrant women

### 1. Access to decent work and social protection

59. The intersection of gender norms and market economies has diverse consequences for migrant women. Migrant women who are working in unskilled, undervalued and lower paid sectors, often as domestic workers or caregivers, are in spaces that are difficult to regulate, such as private homes. In 2013, it was estimated that around 75 per cent of the 11.5 million domestic workers worldwide were women and girls. Despite the fact that there is a high demand for domestic workers in many countries, the job is less socially valued than other types of work, which is reflected in the lower pay, fewer labour regulations and a lack of social protection.

### 2. Migration and access to health care, including sexual and reproductive health, and education

60. Migrant women and girls often do not have reliable access to health care or reproductive health-care services in transit and destination countries. Their lack of access is due to factors such as the lack of information or health-related education, isolation, or the inability to gain access to services based on legal status, for fear of deportation or other repercussions, particularly for migrants in irregular situations. The Special Rapporteur has affirmed on numerous occasions that States should ensure that there is a strict separation (“firewall” protections) between public services and immigration authorities, allowing migrants to exercise and enjoy their rights without fear of being reported to the immigration authorities (see A/73/178/Rev.1).

61. As asserted by the Committee on Economic, Social and Cultural Rights in its general comment No. 22 (2016) on the right to sexual and reproductive health, the right to sexual and reproductive health is an integral part of the right to health enshrined in article 12 of the International Covenant on Economic, Social and Cultural Rights. The Committee recognizes that the right to sexual and reproductive health is indivisible from and interdependent with other human rights, while it is also affected by the social inequalities in society and unequal distribution of power based on gender, ethnic origin, age, disability and other factors. The Committee emphasizes that migrants may be disproportionately affected by intersectional discrimination in the context of sexual and reproductive health. States are therefore obliged to take particular steps to ensure that migrants have access to sexual and reproductive health information, goods and services, and to ensure that individuals are not subjected to harassment for exercising their right to sexual and reproductive health.<sup>65</sup>

62. Migrant women may acquire HIV while in transit or in their country of destination and are often particularly vulnerable to the virus owing to their status as a migrant. Reports have shown that migrant women in transit may be forced to engage in transactional sex to facilitate their border crossing.<sup>66</sup> Migrant women, especially those employed in lower skilled jobs such as domestic service work, often have limited access to preventive reproductive and sexual health services, gynaecological and obstetric care and antiretroviral therapy, because of their migration status and lack of access to insurance or national health schemes (A/HRC/32/44, para. 51).

63. Research has also demonstrated that migrant women seek less antenatal care than non-migrant women, even when their economic and socioeconomic background is similar. That is particularly the case when their status in a given country is unclear, or when they feel that local policies and social attitudes towards them are hostile.<sup>67</sup> In some countries, migrant women face discrimination based on pregnancy or their maternity status. They may be subjected to mandatory pregnancy tests upon arrival; if the test is positive, they are dismissed and/or deported. That fear, together with the fear of losing their job, may lead pregnant migrant women to try and terminate their pregnancy, sometimes using dangerous

<sup>65</sup> See UNFPA, *State of World Population 2006*.

<sup>66</sup> Joint United Nations Programme on HIV/AIDS, *The Gap Report* (Geneva, 2014), p. 165.

<sup>67</sup> See Manuel Carballo, “Female migrants, reproductive health, HIV/AIDS and the rise of women” (2006).

means, especially in countries that criminalize induced termination (A/HRC/32/44, para. 53).

64. Access to education is a basic human right for boys and girls, notably also for migrant girls. Obstacles faced by migrant girls in exercising their right to education include language barriers, the assessment and recognition of previous education and the transfer of qualifications. They face further challenges from legal hurdles that make it more difficult to enrol in education, due to their or their parents' migration or residence status. In addition, the environment in a new school also plays a crucial role, as stigmatization and discrimination may discourage migrant children from attending school. Most importantly, access to education must be completely separated from the fear of being deported. When firewalls are not in place, meaning that the personal data of migrant children and their families may be shared with the immigration authorities, migrant girls are more reluctant to enrol in education and realize their basic right.<sup>68</sup>

### **3. Access to justice for migrant women and girls**

65. An important aspect of the protection of the human rights of migrant women and girls is to ensure their access to justice, a particular challenge for migrant women and girls, especially those in an irregular situation. More specifically, their access to justice may also be hindered by a language barrier, a lack of information about their human and labour rights, and a lack of trust in the police.

66. As the Special Rapporteur outlined in his report on access to justice for migrants (A/73/178/Rev.1), firewalls, or the strict and real separation between the immigration authorities and public services, are crucial for migrants to exercise and enjoy their human rights without fear of being reported to the immigration authorities. It is thus firewalls that will allow migrant women and girls who may become victims of any form of violence or abuse, including gender-based violence and sexual abuse, to report the crimes, obtain legal assistance and gain access to the courts to defend their rights.

### **4. Specific challenges faced by indigenous migrant women**

67. Indigenous peoples are at a higher risk of having to leave their community as a result of extenuating circumstances, such as the impact of climate change or slow onset natural disasters, but also social and political conflicts. Moreover, large-scale economic projects constructed on indigenous lands and tourist projects in areas that are of significance to indigenous peoples have repeatedly caused forced displacement and migration. As they are driven from their territories, indigenous peoples see their lifestyles and cultures disintegrate, often without any prospect of returning to them (see A/HRC/30/41).

68. Due to the loss of livelihood that is often tied to the loss of their land, indigenous peoples become more vulnerable to exploitation and violence. Indigenous women and girls are particularly affected (see A/HRC/30/41). As mentioned by the Secretary-General on the International Day of the World's Indigenous Peoples in 2018, "indigenous women and girls experience disproportionately high rates of trafficking and other forms of violence"<sup>69</sup> while migrating. The link between trafficking and social marginalization is evident, and means that indigenous peoples, and particularly women and children, are the most vulnerable.<sup>70</sup> They are also more likely to experience extortion and harassment at border crossings (see A/HRC/30/41, para. 47 (c)).

<sup>68</sup> See United Nations Children's Fund, "Education uprooted: for every migrant, refugee and displaced child, education" (New York, 2017).

<sup>69</sup> See [www.un.org/press/en/2018/sgsm19158.doc.htm](http://www.un.org/press/en/2018/sgsm19158.doc.htm).

<sup>70</sup> Carlos Yescas Angeles Trujano, *Indigenous Routes: A Framework for Understanding Indigenous Migration* (Geneva, IOM, 2008), p. 34.

## 5. Specific challenges faced by migrant women belonging to the lesbian, bisexual, transgender and intersex community

69. Within international human rights law, there is a well-established framework to promote respect for sexual orientation and gender identity. Consistently, human rights treaty bodies have affirmed that sexual orientation and gender identity, including gender expression, are prohibited grounds for discrimination, just like race, sex or religion. United Nations human rights mechanisms have also expressed concern with regard to human rights violations based on gender identity, including gender expression, and have called upon States to address such violations (see A/73/152).

70. The United Nations High Commissioner for Human Rights has exposed at length the many violations that lesbian, bisexual, transgender and intersex persons face around the globe: hate-motivated acts against their communities are widespread, brutal and often perpetrated with impunity. Lesbian, bisexual, transgender and intersex persons also have an increased risk of becoming victims of torture and ill-treatment, including in custody and in clinics and hospitals. The situation is further exacerbated by the fact that in many countries, the law is used to punish individuals on the basis of their sexual orientation and gender identity, and to restrict their rights to freedom of expression, association and assembly. Some countries still criminalize consensual same-sex relationships, and in at least seven countries the death penalty may be applied (see A/HRC/29/23).

71. Research has demonstrated that migrants who are members of the lesbian, bisexual, transgender and intersex community often experience discrimination and stigmatization from both their own communities and from mainstream culture, in both their countries of origin and destination and along the migratory route. Those negative experiences may be compounded for transgender persons. For example, while in detention for irregular entry and stay, transgender women can be exposed to social isolation and be subjected to physical and sexual violence, because they are usually held with men. This approach is, in part, a reflection of the narrow scope of defining sexual violence and the limiting binary vision of “women victims and men perpetrators”, which ignores the complex realities of sexual violence, and lesbian, gay, bisexual, transgender and intersex victims.<sup>71</sup>

## H. Gendered consequences of return and reintegration

72. As noted by the Special Rapporteur in his report to the Human Rights Council at its thirty-eighth session (A/HRC/38/41), there has been an increased focus in recent years on returning migrants, at the expense of other solutions and sometimes in violation of human rights. The emphasis on returns has been accompanied by an increase in pushbacks and forced return operations that are inconsistent with international human rights law. Migrant women and girls are affected differently by such return policies.

73. When migrant women return home, they can transfer skills to their peers. There is also evidence to suggest that a number of migrant women are able to sustain an increased level of autonomy and benefit from the new norms, skills and expertise that they have brought back home. The acquisition of property upon return also contributes to their status. Furthermore, reports show that a high percentage of women returning to their country of origin start their own businesses and more become self-employed, which suggests that they are in possession of more financial capital.

74. Returning migrant women are not always welcomed back, however, despite their contribution to their families, communities and even national economies. They may face stigmatization and exclusion. For example, during a visit to Bangladesh in 2013, the Special Rapporteur on violence against women, its causes and consequences, heard reports that young Bangladeshi female workers were frequently sent home from countries where they worked in the Middle East, after having become pregnant as a result of sexual

<sup>71</sup> See Ines Keygnaert and Aurore Guieu, “What the eye does not see: a critical interpretive synthesis of European Union policies addressing sexual violence in vulnerable migrants” in *Reproductive Health Matters*, vol. 23, No. 46 (2015), pp. 45–55.

violence. Other women returned to Bangladesh without receiving their full salaries or access to remedies for the violations they had experienced (A/HRC/26/38/Add.2, para. 24). Women may be looked at with suspicion and suspected of “misconduct” while living abroad, both by family members and possibly by society at large.<sup>72</sup> Some migrant women who return with disabilities, physical and psychological problems and illnesses may face difficulties in their reintegration. Others may not be able to manage their earnings upon return, which also means that they have limited funds for investments or for exploring self-employment opportunities. That is not what their families and society are expecting from them after they have worked and earned abroad.

75. Upon return, migrant women may also find it challenging to re-establish close links with their children and partners.<sup>73</sup> This can partly be due to different stances regarding human rights issues, such as gendered expectations of women in the family, equal access to education or the minimum age of marriage. In a study conducted in 2007, it was found that Moldovan women were more likely to resist partner violence after observing norms in destination countries, which could change the dynamics in their relationships.<sup>74</sup> When migrant women return, they tend to renegotiate the terms of their relationships, particularly in relation to issues such as domestic violence.

76. The specific needs of migrant women and girls after their return have to be taken into consideration in order to enable their full reintegration. A returning woman may be a mother, may have suffered mental or physical trauma abroad, or may have specific medical needs. It is important to take those factors, and the attitudes of the community of origin, into account before returning any migrant, paying specific attention to the needs and vulnerabilities of women and girls in order to facilitate a reintegration process worthy of its name.

#### IV. Conclusions and recommendations

**77. Migrant women, who comprise half of the total migrant population in the world, provide important social and economic contributions to their countries of origin and destination. For many women and girls, migration provides opportunities for their economic and social development. Migration experiences can contribute to the empowerment of women and girls by increasing their self-confidence, autonomy and control over their lives. Their exposure to different gender norms may contribute to the achievement of gender equality in their societies of origin.**

**78. However, circumstances such as discriminatory social and cultural norms and policies have contributed to the specific vulnerabilities of migrant women and girls. Many are disproportionately affected by gender-based discrimination, abuse and violations of their rights during migration. A limited understanding of the realities faced by migrant women and girls affects the ability of States to formulate and implement gender-responsive migration laws, policies and programmes, and ensure that women and girls can enjoy their human rights throughout their migration journey.**

**79. The Special Rapporteur stresses that it is the States’ responsibility and in their interest to respect, protect and fulfil the human rights of all migrant women and girls, and to ensure gender equality and the empowerment of women and girls in the implementation of the 2030 Agenda for Sustainable Development and the Global Compact for Migration.**

**80. In order to ensure respect for the rights of migrant women and girls, the Special Rapporteur recommends that States:**

<sup>72</sup> Sijapati, “Women’s labour migration from Asia and the Pacific”, p. 9.

<sup>73</sup> O’Neil, Fleury and Foresti, “Women on the move”, p. 5.

<sup>74</sup> See M. Peleah, “The impact of migration on gender roles in Moldova” in *Gender Roles in Transition* 8 (2007).

- (a) Ratify and implement all international human rights instruments relevant to the protection of the human rights of migrant women and girls, in particular the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- (b) Promote gender equality and the empowerment of women and girls in efforts to achieve the 2030 Agenda for Sustainable Development;
- (c) Ensure that the implementation, review and follow-up of the Global Compact for Migration is human rights-based, gender-responsive and child-sensitive;
- (d) Formulate human rights-based, gender-responsive and child-sensitive policies to govern migration that promote gender equality and non-discrimination;
- (e) Increase avenues for regular migration, where migrants, including women and girls, can make informed choices and have access to legal protection, services and social networks in countries of origin, transit and destination;
- (f) Revise national laws and regulations governing migration to make them more gender-responsive by including provisions on anti-discrimination, equality between men and women, mandatory health insurance for migrant workers at all levels and special protection for vulnerable categories of workers, including domestic workers;
- (g) Take measures to ensure that family reunion policies are applicable to women migrant workers at all levels, including domestic workers, in order to enable their spouses and children to join them in their country of destination;
- (h) Involve migrant women and relevant civil society organizations in the formulation, implementation and review of policies and regulations governing migration to ensure that the specific needs of migrant women and girls are addressed;
- (i) Provide pre-departure orientation training specific to migrant women, which should include information on their human rights, potential methods of exploitation and available complaint mechanisms; and make financial literacy programmes available to migrant women to enable them to better manage their earnings;
- (j) Ensure the provision of basic services as enshrined in international human rights law, so that citizens do not have to rely on remittances to compensate for the absence of affordable, accessible, publicly funded services and social protection;
- (k) Ensure the provision of human rights-based, gender-responsive and child-sensitive reintegration programmes for migrants who return to their countries of origin, and more specifically, ensure that economic, sociocultural and psychosocial support is provided to returnee migrants and communities in their countries of origin prior, during and after their return;
- (l) Provide gender-sensitive human rights training to immigration officials, border police, social workers, health-care providers, educators, judicial officers and media workers to raise their awareness of the human rights of migrant women and girls;
- (m) Take all measures necessary to prevent, investigate, prosecute and sanction human rights violations and abuse against migrant women and girls, whether perpetrated by public officials or private individuals;
- (n) Guarantee adequate recognition of foreign qualifications and skills to ensure that migrant women do not become underemployed or “deskilled”, and to ensure that their professional experience and skills are fully recognized;
- (o) Lift sex-specific bans and discriminatory restrictions on the migration of women, whether they are based on age, pregnancy or marital or maternity status, and

particularly restrictions that require women or girls to obtain permission from male family members in order to travel;

(p) Strengthen State oversight and monitoring of private recruitment agencies and brokers to ensure that overseas employment programmes and work permits are administered in a manner that respects gender equality and the rights of migrant women;

(q) Ensure that migrant women have equal access to legal remedies and complaint mechanisms, and provide legal, vocational, medical and psychological assistance to victims of trafficking, particularly female victims;

(r) Ensure that migrant women and girls have access to education, social protection, health care, including reproductive health care, and other basic services;

(s) Establish firewalls between public service providers and immigration authorities to allow access to justice for migrant women and girls without fear of being reported, detained or deported;

(t) Invest in and support the capacity of national agencies to collect and use sex- and age-disaggregated data on migrants regardless of their migratory status, and support research initiatives to better understand the impact of migration on women and girls;

(u) Conduct awareness-raising campaigns to better uphold the dignity of migrant women and girls, and to highlight their social and economic contributions to society;

(v) Include the protection of the rights of migrant women and girls on the agenda of intergovernmental dialogues on migration-related issues at the global, regional and bilateral levels.

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