

## **10 KEY MESSAGES ON PROTECTING AND PROMOTING THE HUMAN RIGHTS OF MIGRANT DOMESTIC WORKERS**

### **1. ALL HUMAN RIGHTS FOR ALL MIGRANT DOMESTIC WORKERS**

Every person must have access to the rights set out in international human rights and labour law without discrimination. Specifically addressing the effective promotion and protection of the rights of domestic workers, the ILO Convention No.189 and Recommendation No. 201 provides additional standards on decent conditions of work for domestic workers. States have a duty to ensure that all migrant domestic workers, regardless of status, can enjoy their human rights. This includes taking effective action to prevent private actors, including employers, from abusing the rights of the migrant.

### **2. MIGRANT DOMESTIC WORKERS IN AN IRREGULAR SITUATION MAY BE “INVISIBLE” BUT THEIR RIGHTS ARE REAL**

Irregular migration is not a crime and should not be criminalised. The risk and fear of detection, detention or deportation exposes migrant domestic workers in irregular situation to exploitation, notably by employers but also by others such as landlords. The nature of domestic work lends itself to certain forms of abuse, which can more easily take place unnoticed against isolated workers and with impunity in private households. This is especially the case where the migrant domestic workers are in irregular status or when their residency status is tied to the employer who facilitated their migration. Laws and practices that are explicitly or implicitly xenophobic should be challenged, and States should prevent and combat xenophobia in all its forms. There is an urgent need for more and better data on the situation of migrant domestic workers in an irregular situation.

### **3. MIGRANT DOMESTIC WORKERS SHOULD NOT BE DEPENDENT ON THEIR EMPLOYERS**

Migrant domestic workers demonstrate considerable independent decision-making about their lives, and migration can be an empowering experience. However, once in the private home of their employer, migrant domestic workers can find that autonomy stripped from them, leaving them dependent on their employers. This can place migrant domestic workers at risk of abuse including being denied safe drinking water, adequate or culturally-appropriate food, being subject to violence, exploitation and trauma, and being forced to live in unsanitary or unsafe conditions. Like everyone else, migrant domestic workers are entitled to live in security, peace and dignity, with adequate privacy and space, free from violence and abuse – as guaranteed by international human rights law.

### **4. ALL MIGRANT DOMESTIC WORKERS ARE ENTITLED TO DECENT WORK**

Domestic work is work and, like other workers, domestic workers need fair and just conditions of work. Migrant domestic workers are entitled to a sustainable livelihood; to enjoy their rights at work including a living wage; to have access to social protection including safe working conditions, adequate free time and rest, access to social benefits like healthcare, and freedom to express concerns, opportunities to negotiate, organize and participate in decision-making. Domestic work should be brought under the protection of national labour laws, including occupational health and safety laws and minimum wage legislation.

### **5. MIGRANT DOMESTIC WORKERS SHOULD NOT HAVE TO LIMIT OR LOSE THEIR RIGHT TO FAMILY LIFE**

Irregular migrants will not usually be able to travel home to visit their family and this separation can be a very difficult emotional burden. If they have been able to bring their children with them, or have had a child in the country they are working in, migrant domestic workers may have little or no time with them due to the long or variable hours of the work. Women migrant domestic workers may face dismissal for being pregnant or after having the child, which may leave them in an irregular status. Many have limited or no access to maternity leave, even unpaid, and may have to continue working until they give birth. After the birth of the child, their status, especially if they are irregular, may exclude them from any social benefits to cover childcare costs or access to public childcare facilities. Many children of irregular migrants are stateless, as their parents' undocumented status prevents them from registering the birth of their child.

## **6. FOR MIGRANT DOMESTIC WORKERS, HEALTH CARE SHOULD NOT BE JUST AN EMERGENCY**

Migrant domestic workers in irregular status face barriers in law and in practice to accessing quality health care services. Under international law, ‘everyone’ is entitled to the highest attainable standard of physical and mental health. Yet, in some countries undocumented migrants are excluded by law and only permitted to obtain emergency medical care, denying them necessary primary or secondary care including sexual and reproductive health services and mental health care which are crucial for migrant domestic workers. Even if they are legally entitled, they may not be able to afford the cost of treatment or they may be prevented from accessing health care if they are restricted by their employer from leaving the household. Where there is no firewall in place between public services and immigration enforcement, migrant domestic workers in irregular situations are unable to access health services without fear of being arrested, detained and deported.

## **7. WE MUST VALUE DOMESTIC WORK AND ALL MIGRANT DOMESTIC WORKERS**

Women, men, girls and boys are all domestic workers, and their rights must be valued and protected equally. The media and other stakeholders such as local communities are vital partners in promoting messages that value domestic work and domestic workers. The gendered division of labour that disproportionately assigns women responsibility for most unpaid care work within the home and family also informs women’s secondary status in the paid labour market. Domestic work is seen as an extension of the housework and family care that is expected of women and girls, rather than recognised as a skill and labour-intensive productive work. Migrant domestic workers also face multiple and intersecting discriminations – on the basis of factors such as their sex, socio-economic status, nationality, ethnicity, migrant status, language and age.

## **8. ACCESS TO SOCIAL NETWORKS AND ORGANISING ARE ESSENTIAL FOR ALL MIGRANT DOMESTIC WORKERS**

The irregular status of many migrant domestic workers closes off many avenues of complaint and redress, with the migrant living in fear of denunciation to the immigration authorities, arrest, detention and deportation. Unions and informal social networks, including national or hometown organizations and faith-based associations, are a vital source of solidarity, information and assistance. The isolated situation of migrant domestic workers, often individuals in private homes, makes it difficult for them to maintain social networks and challenge abuse. It also limits opportunities to organise as workers and protect their rights through collective bargaining. An added barrier is that the right of migrants in an irregular situation to form or join trade unions is not always recognised in national law.

## **9. CLOSE THE PROTECTION GAPS FOR MIGRANT DOMESTIC WORKERS IN IRREGULAR SITUATIONS**

Migrant domestic workers are often treated differently from other migrants and from other workers. As non-nationals, as women, as so-called ‘low skilled’ workers, as irregular migrants, as those who live and work in private households, migrant domestic workers in an irregular situation can fall into significant gaps in protection. Multiple and intersecting discrimination, lack of legal protection, and fear of detection, detention and deportation prevents many migrant domestic workers in irregular status from access to justice including through making or pursuing a complaint against abusive employers, or other perpetrators of abuse. An important gap in protection arises for migrant domestic workers employed in diplomatic households, where the perpetrator may claim diplomatic immunity from prosecution. Regulation of the human rights and labour conditions of migrant domestic workers who live in private homes is both possible and necessary, with appropriate firewalls put in place.

## **10. LAWS AND POLICIES ON MIGRANT DOMESTIC WORK SHOULD BE MIGRANT-CENTRED AND HUMAN RIGHTS-BASED**

Around the world, the laws and policies that govern how migration is organised can be incoherent, discriminatory and even abusive, and regulations in relation to irregular migrants are often premised solely on detention and return. Yet such policies can be inhumane and are largely unworkable; for instance returns that are not sustainable will only lead to more cycles of insecure and irregular migration, with serious implications for the people moving. States and the international community should put in place a human rights-based system of migration governance which would premise migrant entry on the actual needs of the labour market and the care economy as well as demands for family reunification. Such a system would enhance options for regularization in the country of employment as one of the most effective forms of protection for migrant domestic workers in an irregular situation, who are then better able to realize their human rights and live a more secure and dignified life.