

LEAVING NO-ONE BEHIND: ACCESS TO SOCIAL PROTECTION FOR ALL MIGRANT WOMEN



SUMMARY

Social protection is a universal human right and a key element of the 2030 Agenda for Sustainable Development.¹ While this right unequivocally applies to migrants, irrespective of migration status, migrant women in particular often remain excluded. Against this backdrop, this policy brief discusses the barriers that migrant women face in accessing social protection and provides recommendations for States to meet their obligation to overcome these, particularly in relation to health care, maternity protection and essential services for victims and survivors of violence. It points to a range of positive actions that can be taken, including the creation of a supportive legal and regulatory framework, the design and implementation of policies and services that are responsive to the needs of migrant women and the separation of service provision from immigration enforcement activities.

Introduction

The number of international migrants has risen from an estimated 258 million in 2018 to 272 million in 2019, around half of whom are women.² Of the international migrants who are working in other countries, only some 22 per cent are estimated to be covered by social protection³ and, while sex-disaggregated data are limited, evidence shows that migrant women struggle to access social protection in the face of policies and services that do not respond to their needs. Migration policies and regulations often entail gender bias. In many countries, spouses and family members of migrant workers—among whom women are overrepresented—do not enjoy independent migration status and are unable to seek employment or access social security benefits.⁴

Since the adoption of the Universal Declaration of Human Rights (1948), States have committed to guaranteeing the right to social protection for migrants, irrespective of their migration status.⁵ Most recently, the 2018 Global Compact for Safe, Orderly and Regular Migration (Global Compact for Migration) encourages Member States of the United Nations to establish or maintain non-discriminatory national social protection systems and to assist migrant workers at all skills levels to have access to social protection in countries of destination.⁶

The Global Compact for Migration also calls for ensuring the portability of social security entitlements and earned benefits. However, progress in establishing the mechanisms for portability in practice, which requires their inclusion in bilateral labour agreements (BLAs) or memoranda of understanding (MoUs) among countries, remains slow. A review found that only 30 per cent of the 144 BLAs and MoUs analyzed included provisions for social security including health benefits, mainly in the agreements from Europe and the Americas.⁷

In the absence of portability agreements, countries of origin such as Nepal and the Philippines have developed migrant welfare funds, which are intended to cover a range of contingencies. In practice, however, benefits other than repatriation or life insurance can be difficult for migrants to access.⁸ While systems to support portability continue to emerge, they need to be accompanied by the extension of contributory and non-contributory social protection and provision of quality public services to all migrant women.⁹ To illustrate how this can be done, this brief focuses on ensuring access for migrant women to health care, maternity protection and services in cases of violence against women.

Social protection for migrant women: Needs and challenges

Migrant women have specific needs in relation to health care and to protection in cases of maternity and violence. They are more likely than non-migrant women to be employed in jobs that lack occupational health and safety—such as seasonal agricultural work, for example, with exposure to harmful chemicals that can affect their reproductive health.¹⁰ Comprehensive health care, including sexual and reproductive health, is also urgently required considering migrant women's increased risk of sexual and gender-based violence at all stages of migration.¹¹ With many having left behind their own kin-based care networks, their access to maternity protection and care is also particularly important.

Yet, migrant women confront numerous barriers in accessing social protection and public services due to discrimination in policies as well as in practice. They are often concentrated in informal employment, especially domestic service and the care sector.¹² These jobs are generally excluded from

contributory social insurance schemes, such as those that provide maternity protection and health care.¹³ Regulations on the duration of employment and/or residency requirements may also prevent migrant women from enjoying these entitlements. Women with irregular migration status (also referred to as undocumented in this brief) are typically excluded entirely from access to maternity protection and from all but emergency health care. Without maternity protection, many migrant women are forced to continue working into the very late stages of pregnancy and/or to return to work prematurely, which may expose them and their children to significant health risks.¹⁴

Language and cultural barriers also prevent many migrant women from accessing social protection, especially if registration processes are complex and burdensome, and do not offer skilled interpreters and trained mediators.¹⁵ If migrant women need to depend on the help of friends or family members to provide interpretation, cultural taboos may prevent them from accessing the care they need, especially sexual and reproductive health and essential services for victims and survivors of violence.¹⁶

Where these barriers remain unaddressed, the health and well-being of migrant women is often compromised. In Europe, for example, they have worse pregnancy and birth outcomes in comparison to non-migrants, with a higher incidence of induced abortions, caesarean sections, instrumental deliveries and complications.¹⁷

Making social protection work for migrant women

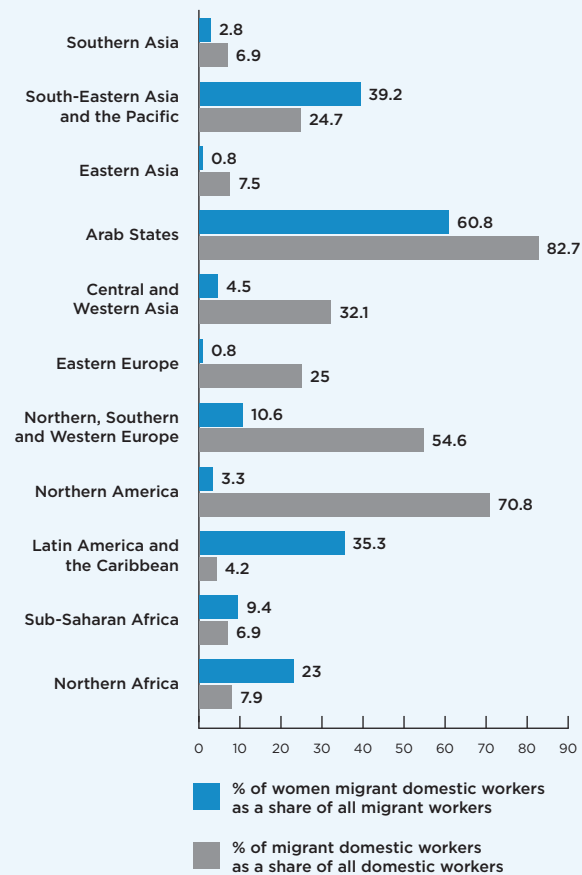
For social protection systems to work for migrant women, governments need to take a multi-faceted and gender-responsive approach to the formulation of laws, policies and regulations and in the design and delivery of programmes and services.

Inclusive and non-discriminatory laws, policies and regulations

Migrant women's exclusion from social protection often stems from their irregular migration status and/or the fact that they are informally employed. Extending social protection to informal workers and migrants with irregular migration status should therefore be a priority. Take the case of migrant domestic workers. Globally, 15.7 per cent of women domestic workers are migrants, a proportion that rises to 70.8 per cent in North America and 82.7 per cent in the Arab States (see Figure 1).¹⁸ Domestic work typically takes the form of informal wage employment, which is poorly regulated or may be exempted from labour regulations. For example, in a study conducted by the

ILO only 43 per cent of 163 countries have laws providing social protection coverage for domestic workers,¹⁹ and of those only 14 per cent extend these rights to migrant domestic workers.²⁰ Migrants with irregular migration status are almost never included in any maternity protection schemes.

FIGURE 1:
Migrant domestic workers as a share of all migrant workers and as a share of all domestic workers, by sub-region, 2015



Source: Based on global and regional estimates of international migrant workers and international migrant domestic workers from ILO 2015.

In South Africa, domestic workers are entitled to at least four months of maternity leave, paid by the Unemployment Insurance Fund, a compulsory contributory social security system introduced by the Basic Conditions of Employment Act (2002).²¹ Legally, the scheme covers migrant domestic workers who hold a work permit. However, even among those who are legally entitled, important gaps in effective coverage remain because employment relationships are not always registered. Whether migrant women can claim maternity

benefits in practice also depends on how these are designed. In Canada, for example, seasonal agricultural workers enrolled in the employment insurance fund are eligible for maternity benefits, subject to having worked 600 insurable hours in the past year. In practice, few migrant workers meet these minimum requirements and/or are aware of their rights.²²

Given these challenges, non-contributory cash benefits may be more effective in reaching migrant women. However, even in countries of destination with comprehensive social protection systems, such benefits are often only available to citizens. Some countries have made progress, though, in extending access to migrants with regular migration status. Argentina's Universal Pregnancy Allowance for Social Protection (*Asignación Universal por Embarazo para Protección Social*), for example, provides pregnant women from the twelfth week of pregnancy with access to cash benefits. The scheme covers migrant women as long as they have been legal residents for three years.²³

Gender-responsive and migrant-friendly service provision

Since maternity protection remains very limited for migrants, and virtually non-existent for migrants with irregular status, access to health care is even more important. However, in many countries, those with irregular migration status are only entitled to emergency health care. This was the case in Spain, for example, where the 2012 national health reform categorically excluded migrants with irregular status—with the exception of children and pregnant women and in emergencies—from free public health care, overruling the practice of some cities and municipalities that had provided them with health cards.²⁴ This discrimination on the grounds of migration status was reversed in 2018 when Spain reinstated universal access to public health, such that all migrants, irrespective of their migration status, can enjoy the right to health care under the same conditions as Spanish nationals.²⁵ To promote migrants' awareness of their rights, the City Council of Madrid launched a campaign called *Madrid sí cuida* (Madrid looks after you), to inform all city residents that they have the right to access public health services, providing information about how to register at health centres and what to do if any public service provider denies access to health care.²⁶

Apart from discrimination and lack of information, two of the biggest obstacles for migrant women to access health care, particularly sexual and reproductive health, are language barriers and cultural taboos.²⁷ In Thailand—a major country of destination for migrants from neighbouring countries, especially domestic workers from Lao PDR and Myanmar—migrants irrespective of migration status are eligible for

its Universal Healthcare Coverage Scheme, which was introduced in 2001 and extended to spouses and children in 2005. A number of initiatives have been established to access 'hard-to-reach' migrant communities, including mobile clinics, bilingual information services, one-stop centres and workplace outreach. Health workers have been recruited from migrant communities to do outreach, including home visits, and to provide culturally appropriate health services in a range of languages. These initiatives have resulted in about half of migrants with irregular status being insured; however, for approximately 800,000 migrants with irregular status who remain uncovered, barriers in accessing health care persist.²⁸ For example, even the low insurance payments are unaffordable for many migrants, and sometimes hospitals erroneously request identity documents. In addressing some of these issues, Thailand would be closer to achieving the ambition of universality in health care provision for migrants.

Separating immigration enforcement from access to services

Access to social protection and services often requires beneficiaries to register or provide personal data to a government agency, which may feel risky for migrants with irregular status. Indeed, in many countries, immigration enforcement officials operate in spaces where public services are provided, with public servants required to record and report the immigration status of those accessing them. These practices not only violate the rights of individual migrants and their families, but may also threaten broader community wellbeing if, for example, migrants feel unable to access medical treatment or vaccinations. Access to services and benefits, including to health care and education, should be clearly separated from immigration enforcement activities, with explicit policies and procedures to prevent immigration authorities from accessing information concerning the migration status of service users. In several European countries (Finland, Italy and the Netherlands) health and education authorities are explicitly exempt from immigration authorities' reporting requirements.²⁹ In Portugal, the Ministry of Social Affairs maintains a database of all children of undocumented parents, which enables the Government to allocate resources to schools and hospitals as needed, but this database is inaccessible to immigration enforcement.³⁰

Another important measure is to ensure migrant women feel safe to report instances of violence and have access to the services they need. In particular, migrant women seeking help in cases of domestic abuse need to be provided with their own residence permits, separate from those of their spouse or sponsor.³¹ Without these, migrant women are dependent on their employers or partners, and if these relationships dissolve, they may be left without access to the services they need. Fear of

being reported to the authorities can be one of the biggest barriers to migrant women in reporting cases of violence or abuse, particularly for those women with irregular migration status. Awareness raising among migrant communities is essential to

ensure that migrants are aware of their rights and where to go to seek assistance. In the United Kingdom, efforts by a women's organization resulted in a change of policy to increase migrant women's confidence to report violence (see Box 1).

BOX 1: The Step-Up Migrant Women campaign

Launched in 2017, the Step-Up Migrant Women campaign was designed and led by the Latin American Women's Rights Service (LAWRS), a feminist migrant women's rights organization in the United Kingdom. It was based on an awareness that many migrant women do not report sexual and gender-based violence for fear of detention and deportation and aimed at ensuring women could safely report violence without their migration status being

shared with immigration officials. By providing a platform for undocumented migrant women to advocate for safe reporting and access to justice as rights, regardless of the victim's migration status, the campaign has achieved several policy changes, notably that the police no longer automatically share information related to the migration status of any victims of crimes with the Home Office.³²

RECOMMENDATIONS:

1. Recognize and address the gender-specific barriers that prevent migrant women from accessing social protection
2. Ensure that social protection measures are gender-responsive and address the specific situations and needs of migrant women and girls
3. Align laws and regulations with existing human rights obligations, including the right to health and the right to social protection
4. Extend non-contributory social protection benefits and services to non-citizens, including migrants on temporary work visas such as seasonal agricultural and domestic workers
5. Establish specifically tailored initiatives to reach migrant women and girls, such as mobile clinics or one-stop centres, and provide services in a culturally sensitive and gender-responsive manner in a language that the migrant understands
6. Separate access to social protection and public services from immigration enforcement activities to ensure that migrant women with irregular status are not afraid to access them
7. Reform gender discriminatory family migration regulations to provide migrant women with residence permits, independent of spouses and employers, and facilitate access to services and benefits in instances when relationships break down.

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