

Policy Brief

Women's Rights in Labour Migration and Children's Rights

Women constitute a growing share of the 86 million international labour migrants worldwide, and increasing attention has been drawn to the importance of a gender perspective when analyzing issues related to migration. This brief provides an overview of key issues related to the international and domestic labour migration of women, with a particular emphasis on the impact that women's migration has on children.

Because women bear the major burden of child rearing in most societies, children are likely to be seriously impacted when their mothers migrate, particularly because they are often left behind. Women are more likely than men to migrate into informal sector and domestic worker positions, where they encounter difficulties in taking advantage of family reunification policies to bring their children or even to visit their home countries regularly. When unmarried women bear children in foreign countries, they frequently also face discrimination in passing their nationality onto their children or, if they are undocumented, can be reluctant to register their children for fear of deportation. On the other hand, domestic rural-urban migration has been shown to have positive impacts on child survival.

This policy brief explores these areas and provides recommendation for further exploration.

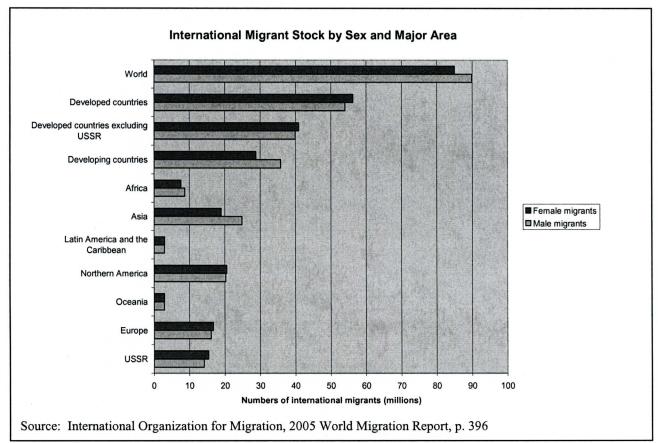
Dimensions of Women's Migration¹

Women and girls constitute approximately half of the world's 175 million international migrants. In most developed countries, females now account for the majority of migrants.¹ Chart 1 provides further information on the distribution of

international migration by sex and region. The number of female migrants has more than doubled from 1960 to 2000; in the year 2000, there were approximately 85 million female international migrants.² Due to the demands of the global economy as well as economic necessity, women are now increasingly migrating on their own as workers rather than as dependents of their husbands.³

Economic reforms and the development of multilateral trade and investment arrangements have pressured governments

¹ Due to space limitations, this brief will focus on the voluntary labour migration of women, in relation to its impact on children, and not discuss forced migration in the form of trafficking or involuntary migration as refugees or internally displaced persons. Issues related to the labour migration of girls also merit a separate discussion and are not a subject of focus here, due to the distinct legal and policy implications related to child labour.



to develop multilateral responses to migration while also fuelling the more traditional "push" and "pull" factors for migration flows. The dominant migration pull factors are rapid population growth, inadequate economic opportunities, and high unemployment, particularly in South Asia. "Pull" factors include expanding markets, labour shortfalls and aging populations in the more industrialized countries in Asia (Japan, Singapore, South Korea, Taiwan, and increasingly also China) and a continued need for workers in the Gulf States.

The majority of the world's migrants are concentrated in 22 countries. The ten countries hosting the largest number of international migrants in the year 2000 were the United States, the Russian

Federation, Germany, the Ukraine, France, India, Canada, Saudi Arabia, Australia, and Pakistan.4 Migration accounts for an increasingly large share of the population of some sending countries: for example one in ten Sri Lankan citizens—a majority of them female—work abroad.5 Asia is prominent as both a significant sending and receiving location for female migrants, originating from with most Philippines, Sri Lanka, and Indonesia.6 Consequently, much of the existing research and advocacy work on this topic has been focused on the East Asia and Pacific Region.

Migration of women, like that of men and children, includes both domestic and international migration as well as voluntary and forced. Voluntary

migration includes both regular migration and migration classified as irregular because it takes place outside of established regulatory frameworks.⁷

Gender plays a role in all these realms: gender influences the push and pull factors that influence women's decision to migrate both domestically and internationally. The sex-segregated labour markets that prevail throughout the world influence the opportunities available to women migrants as well as their pay and treatment. As a result of gender norms that prevail in nearly all parts of the world, the migration of women, many of them mothers, frequently has a different effect on children than men's.

Relevant International Frameworks

the Although Convention on the Elimination ofAll **Forms** of Discrimination against Women (CEDAW) does not contain specific provisions on equality and migration, its discrimination provisions apply to migrant women. The Convention requires States Parties to ensure the substantive equality of men and women, including equal rights in employment.8 This means that States Parties must ensure not only that their laws, policies and budgets do not directly discriminate on the basis of gender, but also that they do not have a practical effect that disadvantages women.9 Thus, States Parties have an obligation to remedy laws and regulations that result in lower wages, fewer travel opportunities, and worse health and safety conditions for women migrants as compared to men.

The Convention on the Rights of the Child (CRC), although it also does not directly discuss migration, contains a number of important protections for children of migrant mothers and fathers. First, the Convention's prohibition on discrimination against children on the basis of the status of their parents¹⁰ should shield children who accompany migrant parents from discrimination based on the parents' immigration status. Second, the obligation on States Parties "to ensure the child such protection and care as is necessary for his or her well-being," including protection from violence and sexual abuse,11 applies to children of migrant parents as well as those left behind. Additionally, States Parties obligation to provide assistance to parents with their child rearing responsibilities¹² applies to migrant parents in both sending and receiving states.

The International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) also provide important general protections that apply to all labour, both local and migrant. The ICESCR requires States Parties to ensure just and favourable conditions of work, including fair wages, equal remuneration without discrimination and payments that enable workers and their families to enjoy a decent living.¹³ The Covenant also requires States Parties to guarantee the right to safe and healthy working conditions, including rest, leisure,

limitations on working hours, and periodic holidays with pay. ¹⁴ The ICCPR prohibits conditions of slavery, servitude, and forced and compulsory labour. ¹⁵ CERD prohibits discrimination the basis of national or ethnic origin in the enjoyment of the right to just and favourable conditions of work and remuneration. ¹⁶

The most comprehensive protection to migrant workers and their children is provided by the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. This treaty, which entered into force in July 2003, still has limited reach, with only 34 parties, with none from major migrant receiving states.¹⁷ treaty provides guarantees that migrant workers will be treated in a comparable manner to nationals of the State.18 Children of migrant workers are expressly guaranteed "the right to a name, to registration of birth and to a nationality" as well as equal access to education.¹⁹ States Parties also commit to taking appropriate measures to ensure family reunification of documented workers, as well as a number of other important guarantees.20

International Migration

Push and pull factors influencing the migration of women

The pull factors contributing to the increasing feminization of migrant labour include greater demand for labour in female-dominated sectors, particularly services; pressure to lower costs of

production by shifting to use of women migrant labours; and sex-stereotyped perceptions of women as "docile" workers.²¹

With the increasing entrance of many women from developed countries in the labour force, demand for female migrants to perform household care and other service-related tasks has risen. The aging of many developed of populations countries has increased demand for nurses from developing countries, many of them women.²² This transfer of care from the developing to the developed world has been termed "global care chains" and critiqued in much of the literature on gender and migration. Ninna Sorensen contends that, "Given that care is a precious resource, it is argued that children from poor countries pay the highest price for this transfer, after woman themselves, who manage transnational households from a distance and maintain their families in their countries of origin."23

Additionally, in many developing countries, particularly in Asia and Central America, demand for women labourers in the manufacturing sector is also rising, contributing to domestic and international labour migration.²⁴

At the same time, the prevailing poverty and low salaries in many developing countries contribute to the allure of migration for many women. Migration decisions are not made just by individuals—they often represent family strategies to increase income and

improving survival chances. For example, by working as a domestic in Hong Kong, a Filipina woman can earn fifteen times when she would earn in her home country.25 Women have also disproportionately affected by cuts in public sector employment structural adjustment and privatization and thus may migrate in an attempt to secure alternate employment.26 Women's decisions to migrate in increasing numbers may also reflect greater agency and independent decision-making power as a result of growing levels of women's education: some women may migrate in order to escape a failing or forced gender-based violence marriage, restrictive gender roles in their home countries.²⁷ In general, gender roles and relations at the family level in migration sending countries affect women's ability to autonomously decide to migrate and her capability to access the necessary resources and to take advantage of opportunities for migration.28

Women's Differential Experience of Labour Migration

The differential impact of migration on women is due to labour and immigration provisions that interplay with continuing restrictive gender roles. In many instances, the challenges faced by women migrant workers in relation to labour conditions are emblematic of worldwide patterns of discrimination against women workers, both inside and outside the household. They also reflect vulnerabilities in relation to pay and conditions of employment experienced by many migrants, both men and women, particularly those with

irregular migration status. The confluence of these factors means that women migrants tend to be employed in capacities that are de-valued and consequently under-protected.

At every stage of the migration process, women migrants face abuse and exploitation: from exorbitant fees paid to recruitment agencies, difficulty obtaining regularised immigration status in female-dominated categories of employment, payment of lower wages than men for the same positions, limited regulation of many of the fields in which they are employed, and risks of trafficking, sexual harassment and gender-based violence.

While females migrate at approximately the same rate as males, they are disproportionately represented irregular migrants and in professions not subject to domestic labour regulations. Quotas for receiving countries frequently target male-dominated professions, such as agricultural labourers and construction. Women migrants are heavily concentrated "female" traditional occupations, particularly domestic work, nursing, hotel and restaurant cleaning services, and sex work. Due to their location in low-status positions located within the private sphere and their greater likelihood of irregular immigration status, women migrants are particularly vulnerable to exploitation, discrimination, abuse and violence.29

Large numbers of women, even those with professional positions in their home countries, are employed in domestic work. The Gulf States as well as several East

Asian countries have increasingly recognized legal migration for domestic work, luring large numbers of women. Domestic work now represents the largest category of employment for women from South Asia to Gulf States.

The exclusion of domestic work from the labour codes of most countries leaves persons employed in this capacity with few protections as to employment conditions, hours worked and wages paid. Even when labour codes exist for domestic employment, such as in Hong Kong, they are difficult to enforce. Domestic workers frequently face limitations on their right to mobility, including confiscation of travel documents, seclusion from the outside world, and being locked in the house.³⁰ Migrant women are particularly vulnerable to abuse in these situations.31 An estimated 15 to 20 percent of the women from Sri Lanka who migrate to the Gulf return prematurely, as they face abuse or non-payment of salaries or are lured into trafficking or prostitution.32 Half of all foreign domestic workers interviewed in an ILO study reported that they were victims of verbal, physical or sexual abuse.33

Despite women migrants' greater likelihood of economic and social marginalization, there is evidence that women's migration may have positive women's impacts on sense empowerment. This is likely due to many factors, including the effects of travelling independently, their participation in the labour market, and the role they play as providers by sending remittances home to

their families. According to one study, 87% of migrant Filipina women and 58.3% of Sri Lankan women migrants reported noticing positive changes in themselves, such as increased self-confidence and independence, as a result of migration. The new economic roles and responsibilities that women labour migrant assume may alter the roles and status of men and women within their families upon return. For example, Muslim women in Sri Lanka reported experiencing greater decision-making power after a return from overseas.34

Impact of Women's Migration on Children

An increasing number of children are living in households where one or more of their parents have migrated. For example, an estimated 30 percent of Filipino children—approximately 8 million—live in a household where one parent has migrated.35 Most of the studies done to date on the effect of parental migration on children have not disaggregated the impact of migration based on the sex of the parent and thus most available evidence is qualitative in nature. It is thus difficult to draw conclusions from existing studies on the net effects of women's migration on children, and these may vary country. However, there indications in the available literature that the immigration of mothers has a differential impact on children left behind than does the immigration of fathers. This is due both to disparities in the labour and immigration status of women and men migrants as well as continuing differences in gender roles at the household level.

Significantly, there are a number of positive effects of women's migration on children based on the remittances sent. For example, 34 to 54 percent of the Filipino population is sustained by remittances sent from migrant workers, two thirds of whom are women.³⁶ 40.9% of the children of migrants in one study in the Philippines attended private school, as compared with 14.9% of the children of non-migrants.³⁷ Women are generally believed to send home a greater share of their income than men.³⁸

However, the overall impact of women's migration on their children, including the social and psychological effects, are more complex. Although husbands left behind may become economically dependent on their wives' earnings abroad, many men find it difficult to assume a nurturing role According to a within the household. study by Atikha, a Filipino NGO, "Their socialization as men in the traditional and cultural mode makes it difficult for them to assume the role left behind by their wives."39 This conclusion may help to explain research findings that suggest that children living with only their fathers may in fact have lower health and educational outcomes than children living with only their mothers.40

Female relatives usually assume the role as primary caretakers of children in the household when the mother is absent.⁴¹ A study conducted in the Philippines found that 63% of households where the mother is a migrant and the father a non-migrant had an extended family member living in

the household, as compared to 39% of households with migrant fathers.⁴²

As a consequence, the migration of a woman may have more profound dislocative impacts on the household, and the children, than does the migration of a man. This is supported by a study by the Scalabrini Migration Center in the Philippines, which found that children of migrant mothers reported feeling more angry, lonely, worried, and afraid than other children.⁴³ However, another study in the Philippines found that 30% of children of migrant women believed that the migration had a net positive effect on them, 52% felt that it had no net effect, while only 19% felt that the migration had a net negative effect.44

Women's migration may also result in an increase in the labour burden on the daughters left behind.⁴⁵ In some instances, the eldest daughters are required to resume the role of caretaker for their younger siblings.⁴⁶ However, the study conducted in the Philippines found little difference in reported chore levels between children of non-migrant parents and children of migrant mothers; if anything, the children of non-migrant parents had more domestic work assigned to them.⁴⁷

Another concern is that the absence of mothers in the household may leave children vulnerable to abuse. A human rights NGO in Sri Lanka reported that reported rapes of girl children in Sri Lanka more than doubled in the period between 1997 to 2000. The organization attributed

this rise primarily to the migration of Sri Lankan women abroad, leaving their daughters vulnerable.⁴⁸ However, in the Philippines study, children of non-migrant parents reported experiencing more abuse, both physical and sexual, than children of migrant mothers or of migrant fathers.⁴⁹

There are various other ways in which women's greater likelihood of irregular immigration status and concentration in domestic labour may impact their ability to parent. Women migrants are likely to be less able to take advantage of family reunification policies or to travel abroad. One study found that 77% of children of Filipino children with migrant mothers reported that their mothers had been able to visit, as compared to 86% of children with migrant fathers.⁵⁰ However, this difference may be accounted for the lower mean number of years abroad of migrant mothers as opposed to migrant fathers in this study.51

Children of migrant mothers born abroad may also face differential impacts. example, the immigration laws of many receiving countries may discriminate against children of migrant mothers who are unmarried. For example, in order for a child of a non-Japanese mother to be granted Japanese citizenship at birth, the Japanese father must acknowledge paternity prior to birth.⁵² Furthermore, undocumented mothers who bear children are frequently reluctant to register the birth of their children with either their home embassy or the embassy of Japan.⁵³

Few studies discuss whether international migration may have a differential effect on who children accompany migrant mothers, but it is possible that these groups of children may also face particular challenges. A study conducted on immigrant children in the United States found that most children had experienced a separation from one or more parents during the migration parents, with the longest and most frequent separations being from their fathers.54 Such separations may enhance the difficulty of readjusting to a new environment once immigration takes place.

Domestic Migration

A significant portion of female labour migration occurs domestically, with women migrating to cities and towns in search of work. Most statistics on internal migration are not gender disaggregated. However, some recent studies suggest that there has been increasing internal migration both generally, and of women in particular.⁵⁵

migrating In Asia. women are independently in greater numbers due to increased demand for women's labour as well as increased social acceptance of women's mobility.⁵⁶ In Latin America, young women are increasingly migrating to urban areas in search of work in export agriculture or as factory workers in assembly industries in Northern Mexico or the free zones in Central America. Much of the agricultural work is temporary seasonal work. As a result of the lack of availability of nurseries or familial

networks, women migrants—like many non-migrant parents—are frequently forced to leave their children alone for long periods of time or in precarious child care arrangements while working.⁵⁷

Domestic rural-urban migration can have positive effects. A study relying on DHS data for 17 countries found that mother's migration from rural to urban areas substantially improved chances of child survival. The study found a 25% reduction in the mortality of children under the age of 2 born to women who migrated. Much of the improvement in child survival was attributed to increased availability of better quality housing and modern health care in urban areas.⁵⁸

However, in the short-term, there were also costs associated with migration. Within the initial two year period following migration, children of migrant mothers faced a much greater chance of dying, probably due to risks associated with environmental disruption and exposure to new diseases.⁵⁹ This research finding points to the need for specific health care interventions aimed at children who have recently arrived in cities from rural areas.

Promising Initiatives at the National Level

A number of countries have been making positive efforts to address the issues raised in this brief through both labour and immigration policy reforms. For example, in 2003 the Jordanian government endorsed a Special Unified Working

Contract for Non-Jordanian Domestic Workers. This contract, which is legally binding, requires timely payment of wages, adequate shelter, clothing, food and health care, a weekly holiday, and an end of contract bonus.⁶⁰

Some countries have also implemented general migration initiatives that, while not gender-specific, provide important safeguards for the rights of migrant labourers, both men and women. example, several migrant sending countries, like Sri Lanka and the Philippines, require that departing workers register with the government. This ensures that the government has information regarding the employer and country of employment of the worker and can help provide needed information in the event that communication lapses.61 Both countries also run programs that provide information about the realities of migration and legal migration procedures to enable informed decision-making. The two countries also provide orientation sessions that build migrants' understanding of their rights while abroad.62

The Italian immigration law provides a number of protections for migrants and their families. For example, the law guarantees medical assistance and workers rights equally to national and nonnationals, including those with irregular status. It also provides for protections for women trafficked and bans the expulsion of pregnant women, women with children under six months, and their husbands.⁶³

Initiatives like these represent important models for policies and programs to enhance the lives of men and women migrant workers and their children.

Areas for Further Inquiry and Action

In general, there is a dearth of literature connecting the work on gender and migration with that of children and migration. As suggested in an Innocenti Working Paper on children of international migrants, this group of children as a whole does not appear to be a particularly vulnerable one based on their higher socio-economic status as a result of remittances. However, particular subsets of this group may be vulnerable, including children of migrant mothers.

Therefore, a key area in which UNICEF could contribute is to conduct empirical research on the question of potential impact children differential on migration of mothers as compared to fathers.64 In particular, research in Central and South America could provide valuable comparative perspectives, as most of the existing qualitative and quantitative studies have been conducted in Asia. UNICEF can also support migrant sending and receiving countries to collect gender disaggregated data on migrants as well as information relevant to child welfare, such birth registration, educational attendance and progress, and child health status.

Furthermore, the issues raised in this brief point to the importance of continued advocacy on the part of UNICEF to underscore the value of care work and the importance of governmental follow-through on their commitments in CRC and CEDAW to support parents—mothers and fathers—in their role as caretakers of children. The low value placed on care work is a major contributing factor to the relative disadvantage of women in most countries, the reluctance of many fathers to take on caretaking roles for children when women migrate, and the low status and pay of most caretaking jobs that migrant women assume.

There also continues to be a need for UNICEF to work closely with UNIFEM and other UN agencies to further governmental and NGO initiatives to empower women migrant workers and support national governments to reform labour and immigration laws that result in gender discrimination. Of particular relevance is the programme by UNIFEM's East and Southeast Asia Regional Office, which seeks to "create the enabling policy, and socio-economic institutional environments that ensure women equality of opportunity, and access to resources and benefits. throughout the migration process." UNIFEM has provided support to a number of governments, including Jordan, Nepal, Indonesia and Philippines to improve the situation of migrant workers. For example, UNIFEM collaborated with the Nepalese Ministry of Labour to lift a ban on Nepalese women migrating to the Gulf States subject to indications by the Nepalese embassies in the receiving countries that the conditions are safe.65

In its support to governments in migration receiving countries, UNICEF could assist in the development of laws and policies that provide expanded protections to domestic and home care workers, as well as other categories of workers, including the ability of workers to bring their families over or, at a minimum, to visit their home countries more regularly. UNICEF Furthermore, could advise migration receiving countries on the importance of developing support systems for migrant women, both parents and nonparents. These countries should also be urged to provide avenues that enable birth registration and citizenship of migrant children, even those born to irregular migrants, without fear of retribution.

UNICEF should also encourage migration countries to ratify receiving and implement the Migrant Workers Convention, as a crucial protection for migrant workers and their families. In its reporting national government on implementation of the CRC and CEDAW Conventions. UNICEF should attention to the rights of migrant women and their children, both those who accompany one or both parents and those who are left behind.

Furthermore, there is also a need to continue to address factors that compel migration abroad for many women who might not otherwise wish to leave their homes and families. This includes creation and enhancement of resources for domestic violence, seeking creative ways to enhance employment opportunities for women and men in developing countries,

and addressing structural inequalities in many societies that leave women in a socially and economically disadvantaged position.

It is important that efforts of this kind should not vilify migrant mothers, who frequently face significant guilt in leaving their children and make valiant attempts to parent from afar. All advocacy should recognize the significant contributions they make to their families' incomes as well as to the economies of their home countries.66 Efforts made to empower migrant workers, women however, continue to be important in order to improve their lives as well as the lives of their children.

Recommended Resources for Additional Information

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¹¹ CRC, Art. 3(2), 19, 34.

¹² CRC, Art. 83.

¹³ International Covenant on Economic, Social and Cultural Rights (ICESCR), Art. 7(a).

¹⁴ ICESCR, Art. 7(b) and (c).

¹⁵ International Covenant on Civil and Political Rights (ICCPR), Art. 8.

¹⁶ International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Art. 5(e)(i). ¹⁷ See UN Treaty Collection (last visited Jan. 8, 2006).

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