

# MEXICO'S COMMITMENT TO THE HUMAN RIGHTS OF WOMEN MIGRANT WORKERS



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UN WOMEN

MEXICO'S COMMITMENT TO THE HUMAN RIGHTS  
OF WOMEN MIGRANT WORKERS

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European Union, Instituto para las Mujeres en la Migración, A.C., IMUMI.

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# MEXICO'S COMMITMENT TO THE HUMAN RIGHTS OF WOMEN MIGRANT WORKERS



## UN Women

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the Empowerment of Women

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# PRESENTATION

The United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) and the Instituto para las Mujeres en la Migración, A.C. (IMUMI) have compiled the results of their research on international commitments and the recommendations made to Mexico by the Universal Periodic Review officials, the Committees and the United Nations System Special Rapporteurs on the rights of women migrant workers 2000-2015, as a framework for promoting the rights of women migrant workers.

The document presents the United Nations System instruments, with a focus on the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) and the Convention on the Elimination of All Forms of Racial Discrimination against Women (CEDAW) and its General Recommendation No. 26 on women migrant workers; as well as the official reports and the civil society reports presented to the Committees of both Conventions, and the recommendations which have been made to Mexico since 2000. It also presents the reports made by special mechanisms and the results of the Universal Periodic Reviews, and the responses in the form of public policies. This publication seeks to contribute to the level of harmonization between national policies and international standards of human rights and to improve the accountability of States Parties in their compliance with the Conventions. It is also an instrument for the preparation of reports on Mexico's commitments in 2016 for the CEDAW and CMW committees.

This study is part of a series of productions prepared within the framework of the cooperation agreement between UN Women and the IMUMI, as part of the project *Promoting and Protecting Women Migrant Workers' Labor and Human Rights: Engaging with National and International Human Rights Mechanisms to Enhance Accountability*, an initiative funded by the European Union and implemented in three countries globally (Mexico, Moldova and the Philippines). Through this initiative, UN Women is committed to promoting the rights of women migrant workers and to protecting them against exclusion and exploitation at all stages of migration.

This contribution reiterates our commitment to highlighting the status of women migrant workers, thus pushing forward the agenda for the protection of their rights and contributing to improved management of labor migration and governance, both of which are crucial elements for the achievement of economic growth and sustainable development.

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# ACRONYMS & ABBREVIATIONS

APF	Administración Pública Federal (Federal Public Administration)
CEAV	Comisión Ejecutiva de Atención a Víctimas (Executive Commission of Attention to Victims)
CEDAW	Convención sobre la Eliminación de Todas las Formas de Discriminación contra la Mujer (Convention on the Elimination of All Forms of Racial Discrimination against Women)
CJEF	Consejería Jurídica del Gobierno Federal (Legal Counsel for the Federal Government)
CONACYT	Consejo Nacional de Ciencia y Tecnología (National Council for Science and Technology)
CONAPO	Consejo Nacional de Población (National Council for Population)
CONAPRED	Consejo Nacional para Prevenir la Discriminación (National Council for the Prevention of Discrimination)
CONEVAL	Consejo Nacional de Evaluación de la Política de Desarrollo Social (National Council for the Evaluation of Social Development Policy)
CPEUM	Constitución Política de los Estados Unidos Mexicanos (Political Constitution of the United Mexican States)
CTM	Convención Internacional de las Naciones Unidas (UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, CMW)
DIF	Sistema Nacional para el Desarrollo Integral de la Familia (National System for Integral Family Development)
EMIF Sur	Encuesta sobre Migración a la Frontera Sur de México (Survey on Migration at Mexico's Southern Border)
ENADIS	Encuesta Nacional sobre Discriminación en México (National Survey on Discrimination in Mexico)
ENOE	Encuesta Nacional de Ocupación y Empleo (National Survey on Occupation and Employment)
GTPM	Grupo de Trabajo sobre Política Migratoria (Working Group on Migration Policy)
IMSS	Instituto Mexicano del Seguro Social (Mexican Social Security Institute)
IMUMI	Instituto para las Mujeres en la Migración, A.C. (Institute for Women in Migration, C.A.)
INEGI	Instituto Nacional de Estadística y Geografía (National Institute of Statistics and Geography)
INM	Instituto Nacional de Migración (National Migration Institute)
INMUJERES	Instituto Nacional de las Mujeres (National Institute for Women)
ISSSTE	Instituto de Seguridad y Servicios Sociales para los Trabajadores del Estado (Institute of Social Security and Social Services for State Workers)
LFT	Ley Federal del Trabajo (Federal Labor Law)
LGT	Ley General Para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos (General Law to Prevent, Punish and Eradicate Crimes relating to Trafficking in Persons and

LM	Ley de Migración (Migration Law)
OIM IOM)	Organización Internacional para las Migraciones (International Organization for Migration,
ONU	Organización de las Naciones Unidas (United Nations,UN)
ONU Mujeres	Entidad de las Naciones Unidas para la Igualdad de Género y el Empoderamiento de la Mujer (United Nations Entity for Gender Equality and the Empowerment of Women, UN Women)
PEM	Programa Especial de Migración 2014-2018 (Special Migration Program 2014-2018)
PGJE Federal Entities)	Procuradurías Generales de Justicia de las Entidades Federativas (Attorneys General of
PGR	Procuraduría General de la República (Attorney General's Office of the Republic)
PND	Plan Nacional de Desarrollo 2013-2018 (National Development Plan 2013-2018)
PNT	Programa Nacional para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos (National Program to Prevent, Punish and Eradicate Crimes relating to Trafficking in Persons and to Protect and Assist the Victims of these Crimes)
PROIGUALDAD	Programa Nacional para la Igualdad de Oportunidades y no Discriminación contra las Mujeres (National Program for Equal Opportunity and Non-Discrimination against Women)
PRONAIND	Programa Nacional para la Igualdad y No Discriminación (National Program for Equality and Non-Discrimination)
PSRE	Programa de la Secretaría de Relaciones Exteriores (Program of the Ministry of Foreign Affairs)
PSTPS	Programa Sectorial de Trabajo y Previsión Social (Sectoral Program of Work and Social Security)
RG 26 CEDAW	Recomendación General no. 26 de la CEDAW (CEDAW General Recommendation No. 26)
SS	Secretaría de Comunicaciones y Transportes (Ministry of Communications and Transportation)
SE	Secretaría de Economía (Ministry of the Economy)
SECTUR	Secretaría de Turismo (Ministry of Tourism)
SEDATU	Secretaría de Desarrollo Agrario, Territorial y Urbano (Ministry of Agriculture, Land and Urban Development)
SEDESOL	Secretaría de Desarrollo Social (Ministry of Social Development)
SEGOB	Secretaría de Gobernación (Ministry of the Interior)
SEMARNAT	Secretaría de Medio Ambiente y Recursos Naturales (Ministry of the Environment and Natural Resources)
SEP	Secretaría de Educación Pública (Ministry of Public Education)
SHCP	Secretaría de Hacienda y Crédito Público (Ministry of the Treasury and Public Credit)
SRE	Secretaría de Relaciones Exteriores (Ministry of Foreign Affairs)
STPS	Secretaría del Trabajo y Previsión Social (Ministry of Work and Social Security)
UPM-SEGOB	Unidad de Política Migratoria de la Secretaría de Gobernación (Migration Policy Unit under the Ministry of the Interior)

# INTRODUCTION

This document, which is the first of two studies,<sup>1</sup> provides relevant information in order to contribute to the effective protection of the human rights of women migrant workers. To this effect, we will use the definition provided in Article 2 of the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) which refers to a migrant worker as: “a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.”

The document first presents the principles for the protection of women migrant workers offered by both the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) and the Convention on the Elimination of All Forms of Racial Discrimination against Women (CEDAW) and its General Recommendation No. 26.

Secondly, in an analysis of the recommendations made to Mexico, the Committee for Migrant Workers and the CEDAW Committee describe how to fully comply with these rules in response to the reports presented by Mexico to said committees.

Thirdly, the document presents the United Nations Special Rapporteurs' reports concerning violence against women and the human rights of migrants. The analysis of the recommendations made by the committees and special rapporteurs seeks to:

- a. Identify the violations and/or obstacles to accessing the rights of women migrant workers about which recommendations were made.
- b. Highlight important issues of the lack of protection of women migrant workers in Mexico.
- c. Analyze *de jure* compliance by Mexico of the various recommendations made by the committees and the UN special rapporteurs concerning the rights of women migrant workers.
- d. Present the challenges involved in full compliance with the standards and recommendations.

Finally, it presents the Universal Periodic Review (UPR) and the two reports prepared by Mexico, as well as the recommendations made to this country and the follow-through by the Mexican state.

The document offers various results:

1. It systematizes the recommendations issued to Mexico within the framework of the United Nations System with respect to the protection of women migrant workers, the progress made and the challenges involved.
2. It establishes 2015 as a baseline year for future Mexican reports to the United Nations, and for contributing to the design and implementation of public policies within the framework of the new sustainable development agenda.

3. It presents useful recommendations to aid cooperation between UN Women and the different actors of the United Nations System and the Mexican state, in order to improve and strengthen its role in the protection of the rights of women migrant workers.
  
4. It presents recommendations for highlighting the areas which should be addressed with the Government of Mexico in order to promote an effective guarantee of the rights of women migrant workers in the country. To this effect, the Annex includes a platform containing the action plans for National Plan 2013-2018.

FRAMEWORK FOR  
PROMOTING THE  
RIGHTS OF WOMEN  
MIGRANT  
WORKERS IN  
MEXICO





## 1.1 Presentation of the United Nations System instruments which promote the protection of the rights of women migrant workers

In order to contribute to the protection of the rights of women migrant workers by the different States, the international community has developed a series of agreements and instruments. The Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) is the main instrument for the protection of the rights of this population. The CMW compiled the specific protections for migrants which already existed in an uncollected manner within the international system —among them the 1949 and 1975 Conventions of the International Labour Organization (ILO) on the labor rights of migrants— and integrated them into a larger framework of human, civil, political, social, economic and cultural rights (Yau, 2005; Redpath, 2006).

One of the major contributions of this Convention is that it extends human rights to migrants under the principle of equality among all people. Additionally, as shown below, it guarantees access to certain basic rights regardless of the immigration status. However, although the CMW specifies that each right is applicable both to women and men, it does not contemplate the specific needs of women in the migration process (Jolly and Reeves, 2005).

Even in General Comment No. 1, which contributes the original definition of “migrant domestic workers”<sup>2</sup> (2011), the CMW leaves a void when it has to respond to the growing migration of women and to reflect on the following: the changes in the nature of female migration, which is increasingly associated with economic factors; a greater demand for migrant women who work as caregivers in their destination countries, in relation to the internationalization of migrant care networks; violations to their rights suffered throughout the stages of the migration process, including the costs of undocumented migration — which are higher for women than for men—, human trafficking, sexual

exploitation, violence and sexual harassment; the contribution of migrant women to their countries of origin and destination —in spite of the gender-specific discrimination and the challenges they face—; and the experiences of many women who could contribute to an informed official response in the matter of migration.<sup>3</sup> This void may be resolved by relating the CMW to the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) and its General Recommendation No. 26<sup>4</sup> concerning migrant women (UN Women, Petrozziello, 2013). The CEDAW is the main instrument for women's human rights. It seeks lasting solutions for gender-based discrimination and exclusion, which, combined with other dimensions —ethnicity, economic situation, nationality, age, occupation, amongst others—, limit the exercise of the rights of women migrant workers.

Both the CMW and the CEDAW have committees of experts who monitor the implementation of the Conventions by the States

Parties.<sup>5</sup> Each country is required to submit reports to the Committees which then examine them and make observations and recommendations to the State Party.

Additionally, the United Nations (UN) System also includes a Special Rapporteur on the Human Rights of Migrants (created in 1999), as well as a Special Rapporteur on Violence against Women, its Causes and Consequences (created in 1994). The Special Rapporteurs formulate recommendations to promote the effective implementation of international regulations, and also report on the progress made to the UN Human Rights Council.

Finally, the Universal Periodic Review (UPR) is another United Nations Human Rights Council mechanism for monitoring compliance with the obligations and commitments agreed and ratified by the 193 UN Member States on the subject of Human Rights. It was created by the United Nations General Assembly in 2006 (Resolution 60/251). The UPR, which is carried out every four and a half years, offers the State being reviewed the opportunity to present the actions they have

taken to guarantee and improve the human rights situation. The process of dialog includes the State being reviewed, representatives from the Member States, and UN human rights agencies and mechanisms. It is an opportunity for the countries to ask questions and make recommendations to the country under review.

## 1.2 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW)

Mexico has been one of the main promoters of the CMW since it was conceived at the end of the seventies.<sup>6</sup>

The CMW was approved by the United Nations (UN) General Assembly on December 18, 1990. Mexico was the first country to sign it (in May, 1991) and it was ratified eight years later. The CMW entered into effect in July, 2003 when 20 States had ratified it. Today, 47 States are part of the Convention.<sup>7</sup>

The CMW is the most extensive international instrument on the acknowledgment of the human rights of documented and undocumented migrants. It also commits the countries of origin, transit and destination of migrant persons to comply with the broadest obligations and responsibilities regarding their protection (UN Women, 2013).

In 2004, the Committee for the Protection of the Rights of All Migrant Workers and Members of their Families (Committee for Migrant Workers) met for the first time in order to assess effective compliance with the CMW by the States Parties. In 2009, the Committee discussed the situation of domestic migrant workers, and in 2011 it published its first general comment as guidance for the States on how to comply with their protection obligations under the CMW with respect to men and women domestic workers.

General Comment No. 1 on migrant domestic workers acknowledges gaps in the protection of the rights of domestic workers both in national legislation (*de jure*) and in practice (*de facto*). It

also notes that women migrant workers face other risks simply by being women. It therefore provides a series of recommendations to aid the fulfillment of an effective guarantee of the rights of all migrant workers, including women domestic workers. It should be noted that the Committee for Migrant Workers included a section on gender perspective in its General Comment No. 1 in which it invokes CEDAW General Recommendation No. 26 (paragraphs 60 and 61), as well as several of its recommendations. Finally, General Comment No. 1 shares the same approach as the ILO Convention 189 on men and women domestic workers which was adopted in the same year (2011) and which entered into effect in 2013, thus strengthening both instruments.<sup>10</sup>

Every five years, the States Parties must report to the special Committee on the situation of migrant workers. In recognition of the competence of the Committee, Mexico presented reports in 2005 and 2010, and the Committee made its comments and recommendations in 2006 and 2011. The deadline for Mexico's next report is April 1, 2016.

### 1.3 Convention on the Elimination of All Forms of Racial Discrimination against Women (CEDAW) and General Recommendation No. 26 on Migrant Women Workers

The CEDAW was created by the UN General Assembly in 1979 and ratified by Mexico in 1981, the year in which it entered into effect. Today, 188 States are part of the Convention.

In 1982 the CEDAW established a special Committee to issue recommendations to the States Parties after assessing the situation of women's rights and the levels of compliance with the Convention. Every four years, the States Parties submit a report for the consideration of the Committee.

In 1999, the UN General Assembly adopted the CEDAW Optional Protocol, which gives the Committee of Experts the power to receive and consider complaints on violations of the rights acknowledged in the Convention through a communications or inquiry procedure. Mexico ratified this in 2002, and it therefore entered into effect in the country that same year.

The CEDAW consists of 33 General Recommendations, and Recommendation No. 26 refers to migrant women.<sup>11</sup> As mentioned previously, this general recommendation intends to contribute to the fulfillment of the obligations of States Parties to respect, protect and fulfill the human rights of women migrant workers, alongside the legal obligations contained in other treaties, the commitments made under the action plans of world conferences and the important work of migration-

focused treaty bodies, particularly the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW). In liaison with the CMW, it creates a powerful framework for the protection of the rights of women migrant workers in Mexico.

Paragraph 2 of the CEDAW General Recommendation No. 26 (CEDAW GR 26) states that it seeks to contribute to the fulfillment of the obligations of States Parties to respect, protect and fulfill the human rights of women migrant workers. Specifically, CEDAW GR 26 addresses the situation of women migrant workers who are in low-paid jobs, who may be at high risk of abuse and discrimination and who may never acquire eligibility for permanent stay or citizenship. It focuses on women who

a) (a) migrate independently; (b) join their spouses or other family members who are also workers; and (c) undocumented women migrant workers who may fall into any of the above categories. CEDAW GR 26 recognizes that in some cases women migrant workers may be victims of human trafficking. However, paragraph 4 states that said general recommendation only refers to work-related situations of women migrant workers and that it will not address the circumstances of trafficking. With regard to the implementation of the principles of human rights and gender equality, CEDAW GR 26, Paragraph 6, indicates that: "All women migrant workers are entitled to the protection of their human rights, which include the right to life, the right to personal liberty and security, the right not to be tortured, the right to be free of degrading and inhumane treatment, the right to be free from discrimination on the basis of sex, race, ethnicity, cultural particularities, nationality,

language, religion or other status, the right to be free from poverty, the right to an adequate standard of living, the right to equality before the law and the right to benefit from the due processes of the law.”<sup>12</sup>

CEDAW GR 26 is a relevant legal instrument for the following reasons:

First, it complements the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) because it addresses in detail the circumstances contributing to the specific vulnerability of many migrant women and their experiences of gender-based discrimination and violence. It contributes to the compliance of the commitments assumed within the framework of the CMW and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families.

Second, it makes it possible to register quantitative and qualitative progress through the monitoring activities of the CEDAW Committee.

Third, the CEDAW GR 26 relates to the social, political, theoretical and methodological concern of assessing the situation of migrant women and finding structural solutions to discrimination and exclusion based on gender and other dimensions.

The following are the CEDAW GR 26 analytical pillars which make it a relevant instrument for the protection of the rights of women migrant workers:

- It recognizes the complexity of the migration phenomenon within a globalization context. In other words, the coexistence and interconnection of a diversity of migration flows cause some countries, such as Mexico, to be countries of origin, transit, return and destination for migrants. It also identifies a considerable number of migrant persons,

many of them women, who face a series of risks and violations of their rights throughout the different stages of the migration process.

- It admits that while States are entitled to control their borders and regulate migration, they must do so in full compliance with their obligations towards the promotion of safe migration procedures and the obligation to respect, protect and fulfill the human rights of women throughout the migration cycle.
- It calls upon the States to recognize the social and economic contributions of women migrant workers to their own countries and to the countries of destination, including through caregiving and domestic work.
- It raises awareness of the role of women as workers, which is often not recognized because the type of work they do is not valued socially. It also raises the need to include the area of "care" in discussions on the link between migration and development (UN Women, Petrozziello, 2013).
- It emphasizes that migration is not a gender-neutral phenomenon,<sup>13</sup> because women are impacted differently than men in the migration process. The universal prevalence of gender-based violence, the worldwide feminization of poverty and a gendered labor market affect their decisions and the manner in which they migrate, and have an impact on the sectors in which they manage to insert themselves and on the discrimination and violence they face. Thus the integration of a gender perspective is essential to the analysis of the position of women migrants and the development of policies to counter discrimination, exploitation and abuse, and to promote their rights.

- With a focus on rights and gender, it also uses an intersectionality approach to address the interrelated types of discrimination. In this way it shows that the experience of a "migrant woman" is altered or intensified by the intersection of different variables such as class, race/ethnicity, migration status and age, among others (Parella, 2003).
  - It indicates that discrimination and the violation of rights are present within the family environment, at the workplace and in social and civil interactions due to a lack of social recognition of women as subjects of rights, both under the law and in the design and/or implementation of policies and programs.
  - It recognizes that discrimination and rights violations occur in both the countries of destination and in the countries of origin and transit, and it also identifies the responsibilities of the countries for each case and calls attention to the need for cooperation between States at different levels (bilateral, regional and multilateral).
  - In order to eliminate the causes, manifestations and consequences of discrimination and abuse against migrant workers and to promote their rights, it takes into account the different levels and dimensions of the migration project, for example the structural processes which determine migration and settling patterns; the institutional transformations produced by migration; and the experiences of the migrants themselves (Salazar Parreñas, 2001).
  - It seeks not only to promote the human rights of women migrant workers, but also to guarantee their full exercise and *de facto* enjoyment. This is why CEDAW GR 26 makes reference to the implementation of human rights as implying both *de jure* and *de facto* enjoyment of fundamental rights.
  - Finally, CEDAW's principles of non-discrimination and State responsibility call for the sanctioning of those who violate the rights of women migrant workers (both public and private agents). When addressing the link between authorities and employers, and recruiting agencies and family members, it makes the State responsible for the discrimination or violations of rights perpetrated by non-government officials against women migrant workers, thus dissuading impunity (UNIFEM, 2005).
- CEDAW GR 26 identifies a series of violations and/or obstacles to accessing the rights of women migrant workers during the migration process and makes recommendations to help eradicate these forms of discrimination and effectively guarantee their rights. Due to the characteristics of this study, our analysis is limited to the obstacles faced by women migrant workers in Mexico as a country of destination, and these are listed below and are shown in greater detail in Table 1:
1. Labor market discrimination against women migrant workers.
  2. Gender-based discrimination intersected with xenophobia and racism.
  3. Gender-based violence in the workplace.
  4. Terms and conditions of exploitation in the workplace.
  5. Restrictions to freedom of movement.
  6. Limitations in accessing health services, including for children.
  7. Obstacles in accessing education for their children.

8. Obstacles to accessing justice.
9. Restrictions to collective bargaining and organization.
10. Obstacles to accessing migration documentation (residence permit and authorization to work).
11. Difficulties in marrying a Mexican citizen.
12. Obstacles to family unity.
13. Obstacles in accessing an identity for their children.

This list is a summary of a larger map of gender-based violations and obstacles to the rights of women migrant workers in the country of destination. The complete map, shown in Table 1, has been prepared based on the CEDAW and its GR 26, and has also taken information from previous studies on the

issue carried out by UN Women (UNIFEM, 2005; UN Women 2013). This map of obstacles and recommendations not only offers a methodological framework for analyzing *de jure* and *de facto* compliance with the CEDAW GR 26, but also provides a guide for locating that articulated in other international protection instruments, as well as the recommendations made by the CEDAW Committee and the Committees on Migrant Workers and the United Nations Special Rapporteurs.

Table 1 presents the violations and the obstacles to accessing the rights of women migrant workers identified by the CEDAW GR 26, together with the rights contemplated by the CEDAW and its General Recommendation No. 26, and the CMW General Comment No. 1 on domestic workers. The Table reveals how the CMW and the CEDAW GR 26 complement each other, as well as the importance of connecting both instruments in order to achieve greater protection of the rights of women migrant workers.

**Table 1.**  
International framework for the protection of the rights of women migrant workers signed by Mexico

VIOLETIONS AND/OR OBSTACLES TO ACCESSING THE HR OF WOMEN MIGRANT WORKERS	CEDAW	CEDAW GENERAL RECOMMENDATION NO. 26	CMW	GENERAL COMMENT 1 ON DOMESTIC MIGRANT WORKERS
<i>Obstacle: Labor market discrimination against women migrant workers</i>				
<i>Sexual and gender discrimination in the labor market</i>	Art. 2, 11	-	Art. 25 1	Para. 61
<i>Failure to acknowledge the work of women</i>		Para. 13 and 14	Art. 25	-
<i>Work permits are for men and not for women</i>		Para. 13 and 14 and Rec. 26, subs. a)	Art. 25 (1)	-
<i>Employers prefer to hire men</i>		Para. 13	-	-
<i>Lower wages than those of men</i>		Rec. 26, subs. b)	Art. 25 (1)	-
<i>Discrimination due to pregnancy</i>		Para.	Art. 25 (1)	Paras. 22 and 61

Violations and/or obstacles to the HR of women migrant workers	CEDAW	General Recommendation No. 26 CEDAW	CMW	General Comment 1 on domestic migrant workers
Obstacle: Intersection of gender-based discrimination with xenophobia				
<i>Discrimination, racism and xenophobia against women migrant workers</i>	Arts. 2, 5, 11	Paras. 14,15	Art. 7	Paras. 60 and 61
<i>Cultural stereotypes</i>				
<i>Lower wages for certain ethnic groups and/or nationalities</i>				
Obstacle: Gender-based violence in the workplace				
<i>Physical, psychological, sexual and gender violence in the workplace</i>	Art. 2	Paras. 17, 20, and Rec. 26, subs.	Art. 16	Para. 13 g)
Obstacle: Terms and conditions of exploitation in the workplace				
<i>Terms and conditions in the workplace</i>	Art.2, 11	Para. 13, and Rec. 26, subs. b), d), and h)	Art. 7, 8, 10, and 16 para. 2	Paras. 13, 53
<i>Hazardous, abusive and exploitative work terms and conditions</i>				
<i>Lack of safety, hygiene and/or privacy in work or housing conditions</i>		Para. 17 and Rec. 26, sub. g)		
<i>Women trapped in jobs with abusive employers or in abusive relationship with their husbands</i>	Art. 2	Para. 20-22, and Rec. 26, subs. f)	Art. 16 (2)	Para. 13, 53
<i>Restrictions on organization and association for protection and collective negotiation</i>	Art. 2, 11	Rec. 26, subs. b)	Art. 26, 40	Paras. 45-47
<i>Situations of deceit, coercion and/or exploitation or human</i>	Arts. 2 and 6	Para. 22, and Rec. 26, subs. d)	Art. 11	Para. 51
Obstacle: Restrictions to freedom of movement				
<i>Confiscation or destruction of female workers' travel or identity documents</i>	Arts. 2, 5, 11, 15	Para. 21, and Rec. 26, Subs. d)	Art. 21	Paras. 12 and 39
<i>Employment conditions restrict freedom of movement for women migrant workers to go home</i>		Rec. 26, subs. d)	Art. 8 and 39	Para. 13 a), and d), and para. 39
<i>Coercion and abuse are obstacles for returning to their countries</i>		Rec. 26, subs. d)		
Obstacle: Limitations to the right to health (including children)				
<i>Access to health (including daughters)</i>	Arts. 2 and 12	Para. 17	Art 27	Paras. 42-44
<i>Sexual and gender discrimination in health</i>		Rec. 26, subs. i)	Art. 25, Para. 1, subs. a) Art. 43	Para. 43 and 59
<i>Obstacles that prevent their children from having access to health services, including medical emergencies</i>		Rec. 26, subs. j)	Art. 25, Para. 1 subs. a) Art. 28, Art. 45	

Violations and/or obstacles to the HR of Women Migrant Workers	CEDAW	General Recommendation No. 26 CEDAW	CMW	General comment 1 on domestic migrant workers
<i>No access to sexual and reproductive health services and counseling</i>	Arts. 2 and 12	Paras. 17, and Rec. 26, subs. i)	-	-
<i>Discrimination due to HIV/AIDS</i>		Para. 17	-	Para. 61
Obstacle: Obstacles in accessing education				
<i>Obstacles that prevent their children from accessing education</i>	Art.10	Rec. 26, subs. k)	Art. 30,	Para. 57 and 59
Obstacles to accessing justice				
<i>Obstacles to accessing justice</i>	Art. 2, 15	Para. 21, and Rec. 26, subs. b) c), l)	Art. 6, 4, 5, 6 7, 8 Art.18 (1) (3)	Para. 49 and 50
<i>Restrictions to accessing legal counseling (free) and the justice system</i>				
<i>Stereotyping means that women have less access to justice than men do.</i>		Rec. 26, subs. b)	-	-
<i>No access to protection (and emergency housing), health and justice after being abused</i>		Rec. 26, subs. f) and i)	-	Para. 50
<i>No protection in situations of deception</i>		Rec. 26, subs. d)	-	-
<i>There are no mechanisms that protect women against reprisals from recruiters, employers or former spouses</i>		Rec. 26, subs. b) and f)		
Obstacle: Restrictions to collective bargaining and organization				
<i>Restrictions on organizing and associating for collective protection and negotiation</i>	Art.11 y 15	Para. 22, Rec. 26, subs. b)	Art. 26	Paras. 45-47
Obstacles to accessing migration documentation				
<i>Obstacles to accessing migration documentation</i>	Art. 2	Rec. 23, subs. a, and 26, subs.	Art. 69 Paras. 1 and 2	Paras. 51-53
Obstacle: Restrictions to marrying a Mexican citizen				
<i>Obstacles which prevent them from marrying a Mexican citizen</i>	Art. 2 f)	Rec. 26, Subs. a)	-	-
Obstacle: Obstacles to achieving family unity				
<i>Obstacles to family unity</i>	-	Paras. 19, Rec. 26, Subs. e)	Art. 44 Paras. 1, 2	Paras. 54 and 55
Obstacle: Obstacles to accessing the right to an identity				
<i>Obstacles that prevent their children from accessing education</i>	-	Rec. 26, subs. k)	Art. 29	Paras. 58

Source: UN women, IMUMI, based on the CEDAW and its General Recommendation 26, the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) and the General Comment No. 1 on migrant domestic workers.





OBSERVATIONS OF  
THE COMMITTEE  
FOR MIGRANT  
WORKERS TO  
MEXICO



As mentioned earlier, in 2004 the Committee for the Protection of the Rights of All Migrant Workers and Members of their Families (Committee for Migrant Workers) met for the first time in order to assess effective compliance with the CMW by the States Parties. As a result, Mexico presented its first report to this Committee (CMW/C/ MEX/1) on November 18, 2005. The second report was presented in 2010 (CMW/C/MEX/2).

In order to contribute to the assessment of the human rights situation of migrant workers and the compliance with the Convention, the Committee for Migrant Workers accepts alternative or "shadow" reports. These reports, whether public or not, are drafted by members of academia and civil society organizations, and accompany and complement the reports prepared by the Government of Mexico.

### 2.1 First Report by Mexico Presented to the Committee for Migrant Workers (2005)

#### *Report*

The initial report submitted by Mexico to the Committee for Migrant Workers presented the steps taken for giving migrant persons access to the rights recognized by the CMW and the CEDAW GR 26. However, it does not include specific information on women migrant workers in Mexico.

To complement this, the Migrations Forum<sup>14</sup> presented a thorough report to the Committee for Migrant Workers (Migrations Forum, 2005). The document contains detailed recommendations that the

Mexican government should implement for the effective guarantee of the human rights of migrant persons in Mexico, and includes several specific recommendations on women migrant workers.

In addition to receiving alternative reports, the Committee, as part of the process of reviewing compliance with the Convention by States Parties, may ask the governments to provide additional information which is usually based on the information provided in shadow reports. In general, it sends a series of very precise questions that must be answered. With respect to the Committee's concerns for Mexico in 2006, they asked for information that ranged from migration volume and flow at the southern border to the measures taken to facilitate participation of migrant workers in the decisions which affect the lives and administration of local communities—an issue which addresses Mexico's refusal to acknowledge political rights to foreigners (article 33 of the Constitution) (CMW/C/MEX/Q/1). For example, as a result of the request for information on the measures which guarantee protection of the rights of women migrant domestic workers, Mexico indicated that during a domestic work forum in 2003, 908 records were distributed which make reference to women migrant workers in Mexico (para.136, CMW/C/MEX/Q/1/Add.1).

#### *Observations of the Committee*

In 2006, the Committee for Migrant Workers presented its final comments to Mexico (CMW/C/ MEX/CO/1). In paragraph 23 it expresses its concerns and recognizes that indigenous women and migrant

women “suffer from dual discrimination in the enjoyment of their rights [...], and are more vulnerable to violations and abuses.” However, it cannot be considered that the recommendations were made from a gender perspective. In fact, the Committee for Migrant Workers only issues specific recommendations to promote the rights of women domestic workers or to combat human smuggling and trafficking, particularly of women.

The following are the recommendations made by the Committee for Migrant Workers to the Mexican State in 2006 regarding the rights of migrant women:

*15. Direct its efforts towards the formulation of a migration law which corresponds to the new migration situation in Mexico and is in conformity with the provisions of the Convention and other applicable international instruments. This law should, inter alia, annul the classification of illegal entry into the country as an offense punishable by deprivation of liberty.*

*26. Ensure that in legislation and in practice, migrant workers and members of their families, including those in an irregular situation, have the same rights as nationals of the State party to file complaints and have access to redress mechanisms before the courts.*

*34. The Committee recommends that the State party continue to take appropriate measures to protect female domestic workers, including access to regular migration status and greater and more systematic involvement of the labor authorities in monitoring their working conditions. It also recommends that women migrant workers in domestic service should have access to mechanisms for bringing complaints against employers and that all abuses, including ill-treatment, should be investigated and punished.*

*36. The Committee recommends that the State party should take the necessary measures, including legislative amendments, to guarantee to migrant workers*

*and members of their families the right to form, and to form part of the leadership of, associations and unions, in accordance with article 40 of the Convention.*

*38. The Committee recommends that the State party take the necessary steps to improve the working conditions of seasonal agricultural workers, for example by ensuring systematic monitoring by the Federal Labor Inspectorate of compliance with the standards governing the work of agricultural day laborers. It also recommends that all allegations of abuses, including ill-treatment, should be investigated and the culprits punished.*

The Committee's observations to Mexico focus on the terms and conditions of exploitation in the workplace, the restrictions to collective bargaining and organization, and the promotion of access to justice and migration documentation. Although the Committee's comments do not include all the obstacles identified by the CEDAW GR 26 and do not cover all the recommendations of the alternative report presented by the Migrations Forum, they are detailed and relevant.

For example, in order to address the terms and conditions of exploitation in the workplace, the Committee manages to link a fundamental problem which exists both in law (*de jure*) and in practice (*de facto*), and its recommendations are therefore aimed at promoting the inspection of working conditions and access to justice of migrant women (women domestic workers, para. 34, and agricultural workers, para. 38).

The Committee picked up on the recommendations made in the alternative report for the eradication of restrictions to collective bargaining and organization. (para. 36). Likewise, it follows up on the indications made by the Migrations Forum concerning the need to guarantee access to justice for migrant persons, regardless of their migration status (para. 6). It even went further into this matter by asking Mexico to ensure that

women migrant workers in domestic service have access to mechanisms for bringing complaints against employers and that all abuses should be investigated and punished (para. 34).

The Committee recommended that Mexico that take appropriate steps to protect women domestic workers, including access to regular migration status (para. 34). However, it did not make any statements on the access to migration documentation unconnected to an employer or spouse in order to prevent situations of abuse or violence, which is a need highlighted by the shadow report.

Finally, the 2006 recommendations of the Committee for Migrant Women in Mexico has the following limitations: it does not make any statements regarding discrimination in the labor market against migrant women; the intersection of gender-based discrimination with racism and xenophobia against migrant women; gender-based violence in the workplace; restrictions to freedom of movement; or limitations to accessing health, education, family unity, identity and migration documentation.

In 2008, Mexico presented a follow-up report to the 2006 recommendations of the Committee for Migrant

Workers (CMW/C/MEX/CO/1/Add.1). In this document, it announced the adoption of a measure that would help prevent abuse and ill-treatment of women domestic workers by enacting the General Law on Women's Access to a Life Free from Violence (2006) (para.77). Furthermore, it reported that the Ministry of Labor and Social Security (STPS) was carrying out publicity activities on the labor rights and obligations of persons employed as domestics, as well as campaigns to enhance the value of domestic work in measures to reconcile labor and family obligations (para. 81).

## 2.2 Second Report by Mexico Presented to the Committee for Migrant Workers (2010)

### Report

In Mexico's second report to the Committee for Migrant Women (CMW/C/MEX/2) presented on January 14, 2010, the country emphasized the advances made in legislation and public policies for the acknowledgment and exercise of the rights of women migrant workers in observance of the Committee's 2006 recommendations. In this respect, the Government of Mexico reported the following:

Table 2.  
Advances Reported by Mexico to the Committee for Migrant Workers, 2010

Rights	Advances Reported by Mexico to the Committee in 2010
<i>Access to non-discrimination</i>	The design and implementation of policies and actions to promote the rights of migrant women and their families and to eradicate prejudices and discrimination (para.59).
<i>Access to labor rights</i>	The recognition by the Supreme Court of Justice in 2008 that foreign workers, irrespective of their migratory status, have the same labor rights as Mexican nationals (para. 29).  The acquired labor rights of men and women migrants are recognized, even when they do not prove that they are legal residents in the country (para. 30).
<i>Access to health</i>	In accordance with the CEDAW GR 26, the Ministry of Health (SS) calls on the state ministries of health to provide access to health care for working migrant women, regardless of their nationality or migration status (para. 58).

Rights	Advances Reported by Mexico to the Committee in 2010
<i>Access to justice</i>	<p>Conciliation and arbitration boards are no longer obliged to require foreign workers to prove they are legally resident in the country (para. 30).</p> <p>Foreign workers are entitled to bring legal action before the national courts, irrespective of their migration status (para. 30).</p>
<i>Access to migration documentation</i>	<p>The implementation in 2008 of the Border Worker Migration Form (FMTF) to facilitate the entry of Guatemalans and Belizeans who wish to work as temporary border workers in the south of Mexico (para. 121).</p> <p>The extension of access to documentation to women workers in various production sectors through the FMTF, since the previous Migration Form was only for agricultural work (para. 123).</p>

Source: UN Women/IMUMI

As shown in Table 2, there have been significant advances in the implementation of the SMW in Mexico, particularly in the legal field (*de jure*). For example, it is worth noting the 2011 reform of the Constitution in the area of Human Rights, by virtue of which the government enacted the Migration Law (2011), the General Anti-Trafficking Law (2012) and the reform to the Federal Labor Law (2012), among others. Although these laws still need to be harmonized to achieve full compliance with the CNW and human rights standards, effective implementation of the existing legal framework is deficient.

However, Mexico's reports to the Committee for Migrant Workers do not present relevant results in terms of public policies and implementation of the law for two reasons:

#### a. Lack of programs aimed at this population

For example, the Government of Mexico tells the Committee that the lack of programs to assist migrant women is due to the fact that "Mexico, unlike other regions in Europe and North America, is not one of the main receptors of female migration." (CMW/C/MEX/Q/2/ Add.1, para. 243).

The Committee for Migrant Workers requested further information on the efforts made

to guarantee that undocumented women migrant workers, particularly those employed as domestic workers, have access to the legal remedies established in the General Law on Women's Access to a Life Free of Violence. A request was also made for the number of victims who received protection and assistance under this law (CMW/C/MEX/Q/2, para. 23).

In response, the Government listed the PROIGUALDAD 2009-2012 action plans —with no specification of whether they had been carried out—, which do not necessarily provide access to justice to women migrant workers, regardless of their migration status (CMW/C/MEX/2, paras. 57-72 and CMW/C/ MEX/Q/2/Add.1, para. 271).

#### b. No information, monitoring and evaluation system for existing programs

When there are programs in place to provide access to rights, there is no relevant information, as shown in the following examples:

- i. The Committee for Migrant Workers asked Mexico to provide detailed information on the number of disputes over unfair dismissal, employment-related complaints and compensation for injury suffered by foreign workers in an irregular situation, that are before conciliation and arbitration boards and the courts

(CMW/C/MEX/Q/2, para. 22). However, the Government did not respond to these questions, and explained that the Boards only monitor "the number of issues that are in pre-trial, sentencing proceedings or the judicial action of *amparo*, with no monitoring of the types of disputes or the nationality of the claimants" (CMW/C/MEX/Q/2/Add.1, para.242).

- ii. The Government stated that it provides free legal counseling on labor issues from a human rights and gender perspective through the Federal Office for the Defense of Workers (PROFEDET) (para. 252). However, it cannot identify whether any women migrant workers were involved in the actions taken by PROFEDET (para. 253).
- iii. The Government indicates that it helps to strengthen the protection of women migrant workers, in particular those who perform domestic work, by facilitating migration documentation, in particular through the FMTF and the Migrant Regularization Program. While it reports that between January and October 2010, 3,637 FMTF were issued to women migrant workers, their occupation is unknown because the government did not register any information on sex and occupation. It also fails to provide the number of regularized persons (CMW/C/MEX/Q/2/Add.1, para. 256).

As a consequence, a large part of the information provided in the report does not include relevant indicators of compliance with the CMW, in particular to assess the effective guarantee of the rights of women migrant workers.

#### *Alternative Reports*

Civil society organizations in Mexico sent eight reports to the Committee for Migrant Workers. Only two of them address the situation of Central American men and women migrants in Chiapas. The following complaints are worth noting:

- The absence of actions against workplaces committing violations of the labor rights of migrant workers in Chiapas (RNOCDH, 2011);
- The difficulties that migrant workers face when registering their Mexican sons or daughters at the civil registry office (IMUMI, Sin Fronteras, et.al, 2011);
- The lack of access to justice for migrant workers due to scant knowledge on the part of justice officials with respect to the human rights of this population (IMUMI, Sin Fronteras, et.al, 2011).

#### *Observations of the Committee*

The Committee for Migrant Workers published its final recommendations on April 6, 2011 (CMW/C/MEX/CO/2/ CRP.1). Although it included proposals to address the obstacles to rights not mentioned in 2006 (the intersection of gender-based discrimination with racism and xenophobia against migrant women, as well as the obstacles to accessing the right to an identity), the Committee had to repeat several of the recommendations made in 2006, many of which are still valid:

16. The Committee recommends that adequate measures be taken to ensure that the migration bill is wholly compatible with the Convention (establish adequate safeguards for the right to due process in the case of deportation, access to information, the gender perspective and the protection of unaccompanied children) and other human rights international instruments.<sup>16</sup>

24. The Committee reiterates its recommendation that the State party intensify its efforts to ensure that all migrant workers and members of their families receive nondiscriminatory treatment (especially discrimination based on ethnicity and gender)<sup>17</sup> and it encourages the State party to carry out campaigns to sensitize

migration officials and the general public in order to combat discrimination against migrants and to include the media in these activities.

26. The Committee recommends that the State party intensify its efforts to adopt specific and effective measures so that all persons whose rights or freedoms under the Convention have been violated have access to effective remedies and appropriate redress, even if they opt for voluntary repatriation. Particular attention should be paid to ensuring access to justice for women migrants who have been victims of sexual assault.

38. The Committee recommends that specific measures be adopted to protect women domestic workers and that their access to complaint mechanisms against their employers be ensured. The Committee also recommends that the State party strengthen its supervision of their working conditions and that it investigate and punish those responsible for abuses against them. To this end, the Committee urges the State party to refer to its General Comment No. 1 on migrant domestic workers, adopted in 2010 (document CMW/C/GC/1).

48. The Committee reiterates its recommendation that the State party make further efforts to improve the working conditions of seasonal agricultural workers, enhance monitoring of labor standards and investigate and punish those responsible for violations.

46. The Committee reiterates its recommendation that the State party take the necessary measures, including legislative amendments, to guarantee to all migrant workers the right to form part of the leadership of unions, in accordance with article 40 of the Convention.

40. The Committee recommends that the State party adopt effective measures, including amendments to

article 68 of the Population Act, to ensure that Civil Registry officials and other relevant authorities register all births of children of migrant workers in the State party on an entirely non-discriminatory basis, regardless of those workers' migration status.

54. The Committee encourages the State party to redouble its efforts to establish and implement a comprehensive migration regularization policy that is accessible to all migrant workers and members of their families in an irregular situation and satisfies the principle of non-discrimination.

Annex 2 of this document shows the 2006 and 2011 recommendations of the Committee for Migrant Workers to Mexico organized according to the obstacles to accessing the rights identified by CEDAW GR 26 (Table 4). It also provides information on *de jure* compliance by the Mexican State.

The above-mentioned table shows a series of pending issues on the part of Mexico concerning its commitment to the CMW Committee:

1. The recommendations of the Committee for Migrant Workers to strengthen the protection of labor rights and to promote access to justice and the migration documentation of domestic workers made in 2006 and reiterated in 2011 are still valid. The Federal Labor Law does not give domestic workers the same rights as it does to other workers in terms of working hours and basic social security coverage, among others. Insufficient regulations make it difficult to progress with the migration documentation of domestic workers. Mexico has not ratified the ILO Convention 189 on domestic work.
2. The recommendations of the Committee for Migrant Workers to ensure access to foreigners to the leadership of unions have also not been



addressed. Although this appears to be a minor recommendation, it is important because it addresses a political right, and in Mexico political rights are forbidden for foreign persons. Even residents do not have access to the leadership of unions (Art. 33 of the Constitution). Access to political rights and to citizenship for male and female immigrants is an issue that Mexico will soon have to begin exploring and discussing.

3. In 2011, the Committee included proposals to address the obstacles to accessing the rights not mentioned in 2006, such as the intersection of gender-based discrimination with racism and xenophobia against migrant women, and the obstacles to accessing the right for their children to have an identity. The 2013-2018 National Plan establishes action plans for addressing these situations. However, these recommendations which were taken from the 2005 and 2011 alternative reports are still valid today.



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OBSERVATIONS OF  
THE CEDAW  
COMMITTEE TO  
MEXICO



### 3.1 Fifth Report by Mexico Presented to the CEDAW Committee (2000)

The Committee on the Elimination of Discrimination against Women (CEDAW Committee) consists of a group of experts on women's rights who monitor the CEDAW implementation. Mexico has presented eight reports to the CEDAW Committee, the first one in 1983. For the purposes of this study we will take into consideration reports V (2000), VI (2006) and VII-VIII (2012).

In the fifth report presented by Mexico to the CEDAW Committee in 2000 (CEDAW/C/MEX/5), the Government of Mexico discusses migration in the Annex, where it only presents statistical data on the immigration of Mexican women to the United States. Civil society organizations presented an alternative report (CLADEM *et. al.*, 2002). This report focuses on access to justice, the right to interrupt pregnancy and the labor rights of the women who work in *maquiladora* industries.

In its final observations (CEDAW/C/2002/EXC/CRP.3/Rev.1) the CEDAW Committee did not present recommendations for addressing the rights of women migrant workers in Mexico, other than measures to combat human smuggling, trafficking and the exploitation of women and girls through prostitution. It also recommended that information be collected and systematized according to gender, in order to formulate a strategy for eliminating these practices and punishing the perpetrators (para. 29).

Furthermore, the CEDAW Committee recommended the adoption of any necessary reforms to the Federal Labor Law in order to prohibit discrimination against women and guarantee their participation in the labor market in equal conditions as men and to comply with the principle of equal retribution for work of equal value (para. 33).

### 3.2 Sixth Report by Mexico Presented to the CEDAW Committee (2005)

In observation of the above-mentioned recommendation made by the CEDAW Committee to Mexico in 2002, in its sixth report (CEDAW/C/MEX/6) the Government of Mexico addressed the situation of women in different migration contexts more extensively. Paragraphs 147-220 provide details of the actions—mainly for dissemination and training—taken during this period to address different aspects of women in migration contexts (domestic migrations, women in their original communities and Mexican migrant women, as well as immigrants in Mexico). Among those actions, they report that a draft Migration Bill is being discussed in the Senate (para. 214). Furthermore, this report includes the proposals for the reform of the Federal Labor Law promoted by the National Institute for Women (INMUJERES) to guarantee non-discrimination of women in the workplace and full substantive equality with men (para. 224). Civil society organizations also presented two alternative reports without making any observations on the rights of women migrant workers.

In February 2006, the CEDAW Committee sent a list of questions to Mexico (CEDAW/C/MEX/Q/6/Add.1). In the document, the CEDAW Committee cites the Special Rapporteur's 202 report on the human rights of migrants (E/CN.4/2003/85/Add.2) when it addresses the abuses and sexual violations suffered by migrant women who work in agriculture or perform domestic work. It also requests the Government of Mexico to provide information with regard to the actions taken to discover the incidence of violence against these women and girls. It also requested statistical data on the profile of migrant women and girls, such as their predominant occupations, nationalities and other demographic data. Finally, it also asked the Government to indicate whether it had plans to establish a comprehensive policy (para. 27). In addition to providing migration statistics, Mexico's response stated that it was implementing initiatives such as the creation of the Border Worker Migration Form (FMTF), and the design of a comprehensive migration policy for the southern border to assist the victims of migrant smuggling and trafficking, with special assistance to minors and women (CEDAW/C/MEX/Q/6/Add.1, p.35).

It emphasized that this report was the first time that the Government of Mexico addressed the migration issue more extensively, and this raised questions in the Committee with respect to the protection of the rights of migrant women workers at the southern border. However, in its observations to Mexico's reply, the Committee did not follow up on the subject and did not make any recommendations on the rights of women migrant workers (CEDAW/C/MEX/CO/6).

### 3.3 Seventh and Eighth Reports from Mexico Presented to the CEDAW Committee (2010)

In 2010, Mexico consolidated its seventh and eighth reports (CEDAW/C/MEX/7-8). In response to the Committee's observations on human trafficking and prostitution, the Government included a paragraph with general information on migration (para. 85). At the very end, in the annex on gender mainstreaming and incorporation, it makes

reference to CEDAW GR 26. In relation to this, the Government states that it has trained INM employees to improve their ability to design, execute and assess public policies from a gender perspective. Furthermore, within the framework of the Convention for the Cooperation between the INM and INMUJERES, specific actions were taken to strengthen the promotion, protection, respect and dissemination of the human rights of foreign women. It also published books, articles and leaflets on female migration (General Annex 1.B, p. 98). On this occasion, the Committee did not request any additional information.<sup>18</sup> Civil society organizations presented 15 shadow or alternative reports, in which they did not specifically address the situation of women migrant workers.

In 2012, among the observations made to Mexico, the CEDAW Committee recommended the harmonization of labor legislation with article 11 of the Convention<sup>19</sup> Among other actions, it recommends that the State make a series of reforms and take actions to guarantee the rights of women domestic workers in Mexico, thus contributing to the promotion of the rights of many migrant women in Mexico (CEDAW/C/MEX/CO/7-8, para. 29):

- a. Provide the General Labor Inspectorate Directorate with the necessary and effective human and financial resources to monitor and sanction discriminatory practices against women in their field of employment.
- b. Take steps to prevent sexual harassment in the private sector.
- c. Take steps to enhance the situation of women in the informal sector to ensure the provision of health services to these women (*Seguro Popular Program*).
- d. Revise the legal social protection framework to formulate a comprehensive policy that ensures domestic workers equal access to equal remuneration and treatment

for work of equal value, including benefits, as well as equal access to social security and safety in working conditions.

- e. Ratify the ILO Convention No. 156 on workers with family responsibilities and No. 189 on decent work for domestic workers.

Table 5 of the Annex presents the 2006-2012 recommendations of the CEDAW Committee to Mexico,<sup>20</sup> organized according to the obstacles to accessing the rights identified by the CEDAW GR 26. It also provides information on *de jure* compliance up to the first half of 2014.

With respect to the recommendations shown in this table, there are a series of pending issues on the part of Mexico concerning its commitment to the CEDAW Committee, as follows:

1. Consolidate equality of opportunities between men and women in the field of employment and ensure their access to decent working conditions by ratifying and implementing ILO Conventions 156 and 189.
2. Strengthen labor inspection by increasing economic and human resources.
3. Sanction discriminatory practices against women in the workplace.





REPORTS BY  
THE UN SPECIAL  
RAPPOORTEURS  
ON  
VIOLENCE AGAINST  
WOMEN AND THE  
HUMAN RIGHTS OF  
MIGRANTS



#### 4.1 United Nations Special Rapporteur on the Human Rights of Migrants

The mandate of the Special Rapporteur on the Human Rights of Migrants was created in 1999 by the Commission on Human Rights of the United Nations Organization. The mandate covers all countries, irrespective of whether a State has ratified the CMW. The main functions of the Special Rapporteur are (A/HRC/ RES/26/19, 2014):

- a. To examine ways and means to overcome the obstacles existing to the full and effective protection of the human rights of migrants, recognizing the particular vulnerability of women, children and those undocumented or in an irregular situation;
- b. To request and receive information from all relevant sources, including migrants themselves, on violations of the human rights of migrants and their families;
- c. To formulate appropriate recommendations to prevent and remedy violations of the human rights of migrants, wherever they may occur;
- d. To promote the effective application of relevant international norms and standards on the issue;
- e. To recommend actions and measures applicable at the national, regional and international levels to eliminate violations of the human rights of migrants;
- f. To take into account a gender perspective when requesting and analyzing information, and to give special attention to the occurrence of multiple forms of discrimination and violence against migrant women;
- g. To give particular emphasis to recommendations on practical solutions with regard to the implementation of the rights relevant to the mandate, including by identifying best practices and concrete areas and means for international cooperation;
- h. To report regularly to the Human Rights Council, according to its annual program of work, and to the General Assembly, at the request of the Council or the Assembly, taking into account the usefulness of taking full advantage of the reports.

Since this Special Rapporteur began in 1999, three people have been Rapporteurs: Gabriela Rodríguez Pizarro (1999-2005), Jorge A. Bustamante (2005-2011) and François Crépeau, who began his mandate in 2011. The first two Rapporteurs visited Mexico in 2002 and 2008, respectively. The following are their observations and recommendations on the situation of the rights of women migrant workers in Mexico.

#### 4.1.1 Report by Special Rapporteur, Gabriela Pizarro, on her visit to Mexico (2002)

Special Rapporteur, Gabriela Pizarro, presented her report (E/CN.4/2003/85/Add.2) on October 30, 2002. During her visit the Rapporteur collected information on the situation of women, minors and men, most of them Guatemalan, who come to Mexico to work. She issued a statement on the terms and conditions of exploitation in the workplace, access to justice and migration documentation.

##### *Terms and conditions of exploitation in the workplace*

The Special Rapporteur underlined the need to consolidate the regulatory and protective actions of federal and local authorities with respect to the rights of migrant laborers who are vulnerable to a myriad of abuses, such as wrongful dismissal, withholding of wages and documents, excessively long working hours, physical abuse and discrimination (para. 42).

##### *Access to justice*

The Special Rapporteur recommended that the attorneys general of the federation units and the government commissions on human rights take further action toward the protection of migrants' human rights in their programs. It is of utmost importance that the migrants have access to complaint mechanisms. The Rapporteur proposes the creation of accessible reporting mechanisms and programs in conjunction with civil society to provide assistance to undocumented migrant women who are the victims of abuse by public officials, employers or family members (para. 55).

##### *Access to migration documentation*

The Special Rapporteur considered that it was important to continue offering migration regularization programs and to ensure that they are accompanied by extensive dissemination and information campaigns with the support of civil society, since the vulnerability of migrants is mainly caused by their irregular status (para. 54).

She also considered it necessary to reform Mexican legislation to ensure equality between men and woman and acknowledge that their migration status should be considered individually (para. 54).

#### 4.1.2 Report by Special Rapporteur Jorge Bustamante on his visit to Mexico (2009)

After his visit to Mexico between March 9 and March 15, 2008, Special Rapporteur Jorge Bustamante presented his report (A/HRC/11/7/Add.2) on March 24, 2009. Although he did not make any special recommendations on women migrant workers, or with a gender perspective, he did invite Mexico to take a series of steps that could contribute to the defense of the rights of these people:

##### *Terms and conditions of exploitation in the workplace*

Regarding the abuse of domestic workers, the Special Rapporteur recommends that the Government of Mexico devote further resources to improving the data on migrant work in the domestic sphere, including but not limited to the research of numbers and nationalities of domestic workers and employers of domestic migrant workers (para. 91).

He further recommends that it examine potential abuse in the recruitment process, through investigations involving recruitment agencies and registration systems for migrant workers destined for the domestic sphere (para. 91).

##### *Access to justice*

The Special Rapporteur recommends that appropriate legislative reforms address impunity of human rights violations. In this regard, the Special Rapporteur recommends to the Government that it establish obligations to report annually the number of cases that involve judicial actions such as arrests and convictions for the persecution of perpetrators of violations of the human rights of

migrants, particularly of the number of cases of judicial actions against perpetrators of child labor abuses (para. 92).

Table 6, Annex 2 of this publication shows the recommendations from both Special Rapporteurs along with information on the level of *de jure* compliance. As shown in the information presented in the above-mentioned table, back in 2002 Special Rapporteur Gabriela Rodriguez made recommendations to Mexico concerning the conditions of exploitation in the workplace, access to justice and access to migration documentation for women migrant workers. She also pointed out that another particularly vulnerable migratory group are domestic workers, who are exposed to long working hours, low pay and no medical insurance. They are subjected to physical, psychological, and verbal abuse and are victims of sexual harassment and assault. They are threatened with being reported to migration authorities on the grounds of their illegal status or are dismissed without good cause (para. 43).

In turn, Special Rapporteur Jorge Bustamante stated that he received information on discrimination against women migrant workers, and acknowledged the vulnerability of domestic workers, the scarcity of programs to protect them, and insufficient data regarding the size and nationalities of the population (para. 91).

Another source of concern for the Special Rapporteurs has been the varying quality of information and the lack of measuring indicators with respect to the situation of women migrant workers.

#### 4.2 Special Rapporteur on Violence against Women, its Causes and Consequences

The mandate of this Special Rapporteur was created in 1994 through resolution 1994/45 for a period of three years, which has been extended consecutively

until today. According to his/her mandate, the Special Rapporteur should:

- a. Seek and receive information on violence against women, its causes and consequences from governments, treaty bodies, specialized agencies, other special rapporteurs responsible for various human rights questions and intergovernmental and non-governmental organizations, including women's organizations, and to respond effectively to such information;
- b. Recommend measures, ways and means at the local, national, regional and international levels to eliminate all forms of violence against women and its causes, and to remedy its consequences;
- c. Work closely with all special procedures and other human rights mechanisms of the Human Rights Council and with the treaty bodies, taking into account the request of the Council that they regularly and systematically integrate the human rights of women and a gender perspective into their work, and cooperate closely with the Commission on the Status of Women in the discharge of its functions;
- d. Continue to adopt a comprehensive and universal approach to the elimination of violence against women, its causes and consequences, including causes of violence against women relating to the civil, cultural, economic, political and social spheres.

In the discharge of the mandate, the Special Rapporteur shall also transmit urgent appeals and communications to States regarding alleged cases of violence against women, undertake country visits, and submit annual thematic reports (OHCHR, 2014).

#### 4.2.1 Report by Special Rapporteur Yakin Ertürk, on her visit to Mexico (2006)

Rapporteur Yakin Ertürk visited Mexico in February of 2005 and issued her final report the following year (E/CN.4/2006/61/Add.4). The main reason behind her mission was to analyze the situation in Ciudad Juárez, where a high number of femicides were reported. However, throughout her report she addressed issues regarding migrant women on the southern border. The following is worth noting:

- She underscores the situation of violence against women in other parts of Mexico, especially on the southern border with Guatemala, where it is not visible (para. 6).
- She indicates that some groups of women, such as migrant and indigenous women, are particularly vulnerable to violence due to generalized gender-based discrimination and inequality. This situation becomes worse when it is compounded by other types of discrimination on the basis of ethnicity or socio-economic condition associated to a lack of fair access to the protection of the State (para. 26).
- Widely held prejudices against women who travel unaccompanied, coupled with their irregular status, make undocumented migrant women likely targets of violence. As a result, the patterns of violence against migrant women in Chiapas, on the border with Guatemala, increasingly resemble those observed in the State of Chihuahua. According to information provided by the National Human Rights Commission (CNDH), 1,000 women have been killed in the south of the country over the past three years, far exceeding the figures in Chihuahua (para. 28).

The Rapporteur then made two recommendations on this issue, related to the intersection of various forms of discrimination and access to justice:

#### *Intersection of gender-based discrimination with racism and xenophobia against migrant women*

Remove all gender-discriminatory provisions still contained in federal or state law; link labor law with reproductive rights and laws governing migration with trafficking in women; (para. 69, subs. a-ii).

#### *Access to justice*

Strengthen the administration of justice, with specific attention to the obstacles in law and procedure that impede the access of women, especially indigenous and migrant women, to effective judicial remedies and protection. This would include a swift implementation of the memorandums of understanding with Guatemala and El Salvador on protecting migrants, especially women, children and victims of trafficking. (para. 69, subs. a-v).

The recommendations of the Special Rapporteur on violence against women, along with the information on the level of *de jure* compliance are shown in Table 7, Annex 2 of this document.<sup>21</sup>

The information presented shows that the Special Rapporteur acknowledged the situation of vulnerability to violence to which migrant women are subjected due to the intersection of various forms of discrimination (gender, nationality, ethnicity, migration status). The recommendations made on this issue are still valid, and it is evident that legislation in the state of Chiapas needs to be aligned with federal migration and labor laws in order to eliminate discrimination and guarantee the rights of women.



# UNIVERSAL PERIODIC REVIEW (UPR)





The Universal Periodic Review is a circular process; each cycle lasts four and a half years<sup>22</sup> and is composed of three phases:

1. Review of the human rights situation of the State. Three documents are considered: a) A report prepared by the State; b) A compilation prepared by the Office of the High Commissioner on Human Rights (OHCHR) containing information from treaty bodies, special procedures and UN agencies; c) A summary prepared by the OHCHR containing information from civil society.<sup>23</sup> When the review has been completed, the reviewed State receives a series of recommendations to which it should respond in writing, choosing to accept or note them. When the State adopts the recommendations it pledges to comply with them by the next UPR.
2. The follow-up addresses the implementation of the recommendations and the voluntary pledges and commitments made during the review.
3. During the second review the State is expected to provide information on what they have been doing to implement the pledges and recommendations made during the first review, as well as on any other developments in the field of human rights.

### 5.1 First Universal Periodic Review submitted by Mexico: 2009

Mexico has presented the Universal Periodic Review on two occasions. During the first review (February 10, 2009) Mexico received 159 recommendations, adopted 83 and took note of 8 (Working Group Report A/HRC/11/27). It should be noted that when the recommendations are organized by subject, the category with the highest number of observations and recommendations (26 in total) by the reviewing states was on the subject of Women's Rights. Of the 159 recommendations, 7 were on migration, as shown in Table 7 below. All of these were accepted by Mexico. In February 2012, a follow-up session of the UPR of Mexico was held with the following results: 94 recommendations had not been implemented, 39 recommendations had been partially implemented, and no response had been received regarding 6 of the 159 recommendations<sup>24</sup> by the Mexican State.

**Table 7.**  
**Recommendations to Mexico during the Universal Periodic Review, 2009**

Themes	Recommendation	Mexico's Response
International Instruments, Migration, Work	93.125 Continue promoting ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	Accepted
Human rights violations by state officials, Work, Migration, Torture and other cruel, inhuman or degrading treatment or	93.63 Continue to improve the working conditions of farm laborers and to consolidate the work of labor inspectors	Accepted
Migration, Indigenous Population, Right to Education, Children's Rights	93.73 Ensure effective access for all children to education, in particular migrant and indigenous children, and adopt efficient measures against their exclusion from the education system	Accepted
Migration	93.79 Ensure full enjoyment of the rights of immigrants in the State territory, by enacting laws and training the competent officials	Accepted
Migration, Special Procedures	93.80 Give priority to the Special Rapporteur's recommendations on the human rights of migrants	Accepted
Migration and Work	93.81 Adopt all measures necessary to protect the rights of migrant workers and their families (Uzbekistan), in particular, guarantee access to justice and effective judicial remedies before a competent authority for the protection of their rights (Guatemala), and prosecute and sanction the public officials who are responsible for abuse and crimes against these persons	Accepted
Indigenous population, Migration	93.62 Take steps to remedy the marginalization of indigenous and migrant populations, in accordance with the important role played by Mexico on the international scene	Accepted

Source: UN Women/Imumi.

## 5.2 Second Universal Periodic Review submitted by Mexico: 2013

During the second review (October 23, 2013) Mexico received 276 recommendations, adopted 166 and took note of 10 (Report of the Working Group A/HRC/25/7). As in the first review, in the second UPR presented by Mexico, the subject of women's human rights received the highest number of observations and reviews by the reviewing States (43 in total). With regard to migration, as

shown in Table 8 below, the Mexican State received 12 recommendations, accepted 11 and only took note of 1. It is important to highlight two recommendations which, although not specific to migrant persons, are directly related to their labor rights: ratification of the ILO Convention 156 on equality of opportunities and treatment between men and women workers, and Convention 189 on decent work for men and women domestic workers. Both recommendations were accepted by Mexico, and the country will have to show proof of the progress made in implementing these and the other accepted

recommendations in the follow-up session of April, 2016.

The advances presented by Mexico with regard to the first Universal Periodic Review on the subject of migration are as follows:

- Reform of the Federal Labor Law (2012) which provides further access to people with disabilities and promotes the rights of migrant workers, particularly in the agricultural sector, by extending them the coverage of medical services and the economic benefits of social security, and expressly prohibiting discriminatory practices. (A/HRC/25/7. Para.43)
- The Migration Law (2011) entered into effect. This creates the Groups for the Protection of Migrants, known as Beta Groups, to protect and defend the rights of migrants who are in transit in Mexico, regardless of their migration status, by providing them with guidance, humanitarian assistance, rescue and legal counseling; this law decriminalizes undocumented situations and guarantees the protection of the rights and the security of foreign migrants. (A/HRC/25/7. Paras. 104, 105, 111)

Programs and public policies:

- Special Migration Program (2013-2018) (A/HRC/25/7/Add.1. Para. 63)
- The National Migration Institutes's Manual of Criteria and Migration Procedures for the regularization of migration and stay for humanitarian reasons of foreigners who have been victims or witnesses of a crime. (A/HRC/25/7. Para.106)

- Implementation of the sixth migration regularization program 2008-2011. (A/HRC/25/7. Para. 107)
- Implementation of the Human Repatriation Program and the Procedure for Interior Repatriation in Mexico. (A/HRC/25/7. Para. 108)
- Implementation of the Farm Labor Assistance Program to support laborers and their families through economic help, food, health, education services and infrastructure improvement (2012). (A/HRC/25/7. Para. 110)
- Creation of a Network of Transit Modules and Shelters (2009-2012). (A/HRC/25/7. Para. 113)
- Implementation of the Integral Strategy for the Prevention and Combat against the Kidnapping of Migrants and execution of the Framework Cooperation Agreement on the prevention and Combat of the Kidnapping of Migrants, among various agencies of the federal government (A/HRC/25/7. Para. 114)
- Creation of a Strategic Alliance for the Prevention and Combat of Migrant Smuggling between UNODC and the Mexican Government. (2009-2012) (A/HRC/25/7. Para.115)


Mexico states that it has made significant progress in the area of human rights, stemming from the implementation of a fundamentally new paradigm, in which the whole migration problem is approached from a human rights perspective. (A/HRC/25/7. Para.103)

**Table 8.**  
**Recommendations to Mexico during the Universal Periodic Review, 2013<sup>26</sup>**

Themes	Recommendation	Mexico's Response
International Instruments, Work, Migration	148.4 Consider its position with regard to Articles 22.4 and 76 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	Note was taken
Forced disappearance s. Migration	148.58 Create a database of the missing or lost migrants; all authorities should cooperate to prevent and sanction the crimes against this group	Accepted
Migration, Women's Rights	148.79 Continue taking the steps necessary to prevent violence against women, especially migrant women, and to punish those persons who commit these acts of violence	Accepted
Smuggling and Trafficking of Persons,	148.89 Continue strengthening the measures aimed at combating migrant and human trafficking	Accepted
Smuggling and Trafficking of Persons, Migration	148.31 Ensure the efficient implementation of the Protection Mechanism of the Law for the Protection of Human Rights Advocates and Journalists in order to reduce impunity, in particular with regard to the crimes committed against the advocates of migrants' human rights	Accepted
Refugees and Asylum Seekers, Indigenous Population, Migration, Children's Rights,	148.146 Strengthen the institutions and infrastructure developed for the defense of human rights, the policies and measures for achieving social inclusion, gender equality and non-discrimination, and favorable conditions for vulnerable groups such as women, children, indigenous persons,	Accepted
Migration, Work	148.73 Continue working for the protection and defense of migrants' rights	Accepted
Migration, Work	148.73 Continue making efforts to improve the situation of migrant workers in their territory	Accepted
Smuggling and Trafficking of Persons,	148.89 Strengthen the measures to combat human trafficking, as well as violence against migrants	Accepted
Migration	148.74 Continue working with the countries of the region on special programs to combat crime against migrants	Accepted
Migration, Children's Rights, Women's Rights	148.75 Efficiently protect and guarantee the security and human rights of migrants, especially of women and children, including those in transit through the national territory, guaranteeing access to justice, education, health and civil registration, and incorporating the principle of best interests of the child and the family unity	Accepted
Justice, Migration, Right to an Education, Right to Health	148.76 Maintain the humanitarian policy that guarantees the protection of the rights of migrants and their access to justice, education and health, regardless of their migration status	Accepted
Work, International Instruments, Women's Rights	148.8 Consider the possibility of ratifying Convention 156 of the International Labour Organization (ILO) on the equality of opportunities and treatment between men and women workers	Accepted
International Instruments, Work	148.9 ILO Convention 189 on decent work for men and women domestic workers	Accepted

Source: UN Women/IMUMI Archive

RECOMMENDATIONS  
FOR COMPLIANCE  
WITH THE HUMAN  
RIGHTS STANDARDS  
OF WOMEN MIGRANT  
WORKERS





### 6.1 Framework for promoting the protection of the human rights of women migrant workers created in the National Plan 2013-2018

Mexico is signatory to both the CMW and the CEDAW, and is therefore legally bound by these Conventions and by the recommendations made by the Committees of each of these instruments. Since the 2011 reform of the Political Constitution of the United Mexican States in the area of Human Rights,<sup>27</sup> Mexico has made significant efforts to harmonize its legislation with international instruments on human rights. In this respect, during recent years there have been changes in favor of women migrant workers: Firstly, the 2011 Migration Law meant significant progress in the issue of immigration. Secondly, the 2012 Federal Labor Law was reformed, in order to, among other aims, provide it with a gender perspective<sup>28</sup> and strengthen labor inspections. Although these new laws and reforms represent some progress toward the protection of the rights of women migrant workers, they do not fully address the human mobility and labor dynamics which are characteristic of the southern border, in particular with respect to women.<sup>30</sup> These efforts to harmonize the law with International regulations have been continued by the Government of Mexico in its programmatic framework for the 2013-2018 period. Additionally, this National Plan goes beyond the legal sphere and sets a precedent for the development of a comprehensive migration policy.<sup>31</sup>

### 6.2 Dialog with the Mexican Government on policies and legal harmonization

The SRE Sector Program aims at strengthening the cooperation with UN Women for the purpose of exchanging knowledge and good practices on the subject of gender (line of action 6.5.7). UN Women is responsible for promoting and strengthening the follow-up mechanisms to the recommendations made by the Treaty Bodies, in particular the CEDAW, and for ensuring their compliance by the Mexican State.

Some of the actions carried out by UN Women are:

- Promote Mexican ratification of ILO Convention 189 on the rights of domestic workers, as a follow-up measure to the PRONAIND line of action, as well as ILO Convention 156 on workers with family responsibilities.
- Interact with both the executive and legislative branches in order to promote the harmonization of Mexican legislation on labor and social security with international labor regulations on decent work for domestic women. Table 1, Annex 1, shows the action plans of the National Plan 2013-2018 with respect to the harmonization of Mexican legislation with international instruments on human rights.

- Strengthen the Mexican Government's information system to allow the development of evidence-based policies. Table 2, Annex 1, shows the action plans of the National Plan 2013-2018 with respect to the development of an information system.
  - Encourage the Mexican Government to create a monitoring and assessment system of the policies and programs with relevant measuring indicators, including a gender-impact evaluation. Table 3, Annex 1, shows the action plans of the National Plan 2013-2018 with respect to the development of a monitoring and assessment system.
3. Help connect social society organizations with the United Nations mechanisms for the defense of the rights of women and of the men and women migrants.
  4. Facilitate the development and dissemination of studies and research to expand existing knowledge.

The last two items are extremely important because, apart from the legal reforms and *de jure* compliance, Mexico does not have any statistical data (broken down by sex, age, nationality and occupation) available for creating reports on the protection of the rights of women migrant workers and *de facto* commitment to its international obligations.

### 6.3 Support for Civil Society Organizations

1. Strengthen the knowledge and capabilities of participating organizations and networks devoted to the promotion and protection of the rights of women migrant workers and women in general, thus contributing to the advancement of the agenda for the protection of their rights.
2. Train civil society organizations in order to draft and submit to the Committees alternative reports from a gender perspective concerning the situation of women migrant workers in Mexico.<sup>32</sup>



# ANNEXES

## Annex 1:

### 1. Action plans for harmonization with international regulations

In order to protect the human rights of women workers it is necessary to have a legal framework which is consistent with Mexico's international commitments in the area of human rights. In Mexico, the 2011 reform of the Political Constitution of the

United Mexican States in the area of human rights brought about significant progress in this direction, giving rise to the enactment of new laws, such as the anti-trafficking law, and the reform of others, such as the labor law. However, harmonization has not been completed, and the National Plan 2013-2018 therefore provides different action plans for harmonization of the legislation with international instruments in order to facilitate compliance.

Table 1.

Action plans provided in the National Plan 2013-2018 which contribute to the harmonization of national legislation with CEDAW GR 26

PEM	PROIGUALDA D	PSRE	PSTPS	PRONAIND	PNT	PEDCH
1.1.1 Analyze and present reforms to the regulatory framework of migration, using comprehensive, transversal and multi-sector criteria. SEGOB, SRE, INMUJERES, SS-DIF, and SEP.	1.1.5 General Law to Prevent, Punish and Eradicate Crimes relating to Trafficking in Persons and to Protect and Assist the Victims of these Crimes in the federal entities. INMUJERES Coordinates the strategies.	2.2.10 Promote legal harmonization at federal and local level with international treaties on women's rights.	3.5.1 Promote the ratification of ILO Convention 156 (line of action derived from PROIGUALDAD ).	4.5.2 Promote measuring mechanisms to assess compliance with international obligations in the area of equality and non-discrimination. SRE; CONAPRED-SEGOB; SEGOB.	3.1.2 Promote reforms to the General Anti-Trafficking Law in order to harmonize it with the General Victims Law. PGR, SEGOB and CEAV.	Promote harmonization of the legal framework and public policies in order to comply with women's rights.

PEM	PROIGUALDAD	PSRE	PSTPS	PRONAIND	PNT	PEDCH
1.1.2 Harmonize federal and local legislation in the areas of health, education and civil registration with the regulatory framework of migrations. SEGOB, SS and SEP.	3.5.1 Promote ratification of ILO Convention 156 (STPS).	2.5.1 Disseminate the international obligations to human rights throughout the three branches of government and civil society.	–	6.1.1 Promote the ratification of international instruments on equality and non-discrimination. CONAPRED-SEGOB; SEGOB, SRE; CJEF.	3.1.4 Promote legal harmonization of the types of crimes associated with human trafficking throughout the country. PGR, SEGOB and	–
1.1.3 Reform the regulatory framework on population in order to guarantee the right to an identity to migrants and their family members. SEGOB.	6.1.1 Include the human rights of women and girls in national legislation and regulations in accordance with Article 1 of the Constitution. INMUJERES Coordinates the strategies.	2.5.2 Contribute to the efforts to harmonize the national legal framework with international obligations in the area of human rights.	–	6.1.2 Promote ILO Convention 189 on decent work for men and women domestic workers. STPS; SRE; CONAPRED-SEGOB; SEGOB; CJEF; INMUJERES.	–	–
1.1.5 Evaluate and follow up on the proposals for the reform of the regulatory framework of migration. SEGOB and SRE.	6.1.2 Promote legislative agreements which will help to advance the reforms necessary to harmonize legal frameworks. INMUJERES Coordinates the strategies.	2.5.3 Promote compliance with the recommendations and decisions of national and international human rights organizations.	–	6.1.4 Promote the withdrawal of interpretations and reservations to international instruments on equality and non-discrimination. CONAPRED-SEGOB; SEGOB; SRE; CJEF; INMUJERES	–	–
1.2.2 Strengthen the active involvement of the Legislative Branch in the development of a migration policy with a gender and human rights perspective	6.1.3 Promote the implementation of conventions and intentional treaties on women's human rights in the three branches of government.	2.5.5 Cooperate in the implementation of a legal framework consistent with all Mexico's international commitments.	–	6.2.8 Promote legal reforms in the area of domestic work to further guarantee their rights. STPS; IMSS; CONAPRED-SEGOB; SEGOB; INMUJERES; CJEF	–	–

PEM	PROIGUALDAD	PSRE	PSTPS	PRONAIND	PNT	PEDCH
-	6.1.4 Guarantee compliance with the decisions of national and international organizations regarding the violations of women's rights.	2.5.6 Promote the appropriate implementation of the legal and regulatory framework in the area of combating violence against women.	-	6.4.2 Design analytical methods to promote harmonization in the area of equality and non-discrimination. CONAPRED-SEGOB.	-	-
-	6.1.7 Generate quality, timely and reliable information on the legislative progress made.	2.5.7 Promote and follow-up on compliance with international commitments in the area of gender violence.	-	6.4.3 Carry out diagnoses in conjunction with the federal and/or state authorities, OSC and specialists to identify discrimination in legislation. APF.	-	-
-	-	-	-	6.4.4 Consult with specialists, OSC and victims of discrimination on legislation proposals in the area of equality and non-discrimination. APF.	-	-

Source: UN Women, IMUMI based the National Plan documents, 2013-2018.

## 2. Action plans for the creation of information and evidence systems

The creation of public policies to guarantee the rights of women should take into consideration the dynamics of migration and the conditions of the population involved. In this respect, it is essential that the laws, programs and actions aimed at the migrant population are based on

evidence and use information broken down by sex, nationality, age, occupation, etc. Furthermore, the need to develop an information system at national level which permits the design of effective public policies has been addressed in various instruments of the National Plan. They therefore contain different action plans for the creation of robust information systems and evidence-based public policies.

Table 2.

Action plans included in the National Plan 2013-2018 which contribute to the development of an information system and to the design of evidence-based programs and actions

PEM	PROIGUALDAD	PSTPS	PRONAIND	PSRE	PEDCH
1.5.1 Strengthen institutional capabilities in the area of migration planning including distinct criteria (SEGOB, SRE, SHCP, INMUJERES, SFP).	1.5.9 Generate statistical data for measuring the progress of gender and socio-cultural change (SNIEG).	2.2.1 Generate reliable and timely statistics on labor productivity for the economy as a whole and the main economic activities.	4.1.3 Encourage the INEGI to incorporate relevant information on equality and non-discrimination in censuses and in official counts and surveys (CONAPREDSEGOB).	6.5.6. Establish a system of indicators to measure the application of the conventions and international treaties in the area of gender (PROIGUALDAD line of action)	Promote statistical and geographical systems to provide support to the decision-making process.
1.5.2 Create a national migration information and statistics system which takes into account sex, nationality, ethnicity and age, among other variables (for all offices and entities involved in the PEM.)	2.5.10 Make further efforts to generate gender-based statistics in judicial processes in the SNIEG (SNIEG).	3.1.7 Promote and develop studies, statistics or research on the occupation and employment of persons in situations of vulnerability.	4.5.2 Promote measuring mechanisms to assess compliance with international obligations in the area of equality and non-discrimination (SRE; CONAPRED-SEGOB; SEGOB).	—	—
1.5.6 Generate records and statistics on migration which takes into account sex, nationality, ethnicity and age, among other indicators. (for all offices and entities involved in the PEM).	3.6.7 Generate better statistics with a gender perspective on paid and unpaid domestic work (SNIEG).	3.1.8 Develop and manage mechanisms of inter-agency communication and coordination in order to improve the employability of persons in situation of vulnerability.	4.5.3 Customize databases and ways of systematizing recommendations and international obligations in the area of equality and non-discrimination (SRE; CONAPRED-	—	—
1.5.7 Promote the creation of surveys and studies on migration which take into account sex, nationality, ethnicity and age, among other indicators. (SEGOB, SRE, STPS, CONACYT).	—	—	—	—	—
2.4.1 Promote the use of migration criteria and a gender-based perspective in the design and execution of public policies (SEGOB, SRE, CONAPRED, INMUJERES, SE, SAGARPA,	—	—	—	—	—

Source: UN Women, IMUMI based the National Plan documents, 2013-2018.

### 3. Action plans for the creation of an assessment system

One of the problems found in public policies on the migrant population is a lack of baselines or quality statistical information on the access of migrants to government programs, as well as a lack of measurements of the impact made by the programs on men and women

(IMUMI, 2014b). To fill this gap, once the information systems shown in Table 1 of this document have been implemented, several assessment mechanisms have been established in order to identify the inequalities between men and women, and plan actions and allocate resources so that the programs can eliminate these inequalities.

**Table 3.**  
Action plans included in the National Plan 2013-2018 which contribute to the assessment of the impact of gender-based public policies<sup>33</sup>

PEM	PROIGUALDAD	PNT	PSRE	PEDC
1.2.4 Promote inter-agency cooperation and coordination mechanisms to help organize federal and local actions in the area of migration (SEGOB).	6.3.2 Develop and consolidate inter-agency coordination mechanisms in the area of gender in federal entities and municipalities (Strategy Coordination).	4.1.3 Promote performance evaluations and make diagnoses in order to implement improvements to programs and actions.	6.5.7 Promote technical cooperation in the international arena for the exchange of knowledge and good practices.	Integrate the interests and needs of men and women into the design, implementation, monitoring and evaluation of policies, programs and actions in order to reduce inequality between men and women
1.5.3 Promote the application of budget allocations to address migration issues by adding an annex to the budget (SEGOB, SRE, SHCP).	6.3.3 Promote the adoption of budgets allocated to gender equality in the federal entity governments and municipalities (Strategy Coordination).	4.1.4 Strengthen inter-agency communication in order to carry out a periodic review of the programs and actions and to identify the progress made.	—	Promote the evaluation of health programs with a gender perspective.
1.5.4 Generate specific information on the planning and execution of budgets in the area of migration from a gender perspective (for all offices and entities involved in the PEM).	6.5.6 Establish a system of indicators to measure the application of the conventions and international treaties in the area of gender (SRE, INMUJERES).	4.1.5 Make recommendations and agree on actions to support areas of opportunity detected in the programs and actions.	—	—
1.5.5 Provide more funds for intra- and inter-agency research on the subject of migration (SEGOB, SRE, CONACYT).	6.6.4 Encourage the involvement of social organizations and academia in the design and evaluation of equality policies (Strategy Coordination).	4.1.6 Design and implement result evaluation instruments to verify the effectiveness of the National Plan in the federal entities.	—	—

PEM	PROIGUALDAD	PNT	PSRE	PEDCH
1.5.8 Develop mechanisms for the monitoring, follow-up and evaluation of the migration programs and actions using distinct criteria (for all offices and entities involved in the PEM).	6.7.3 Promote the use of inclusive language in official reports and documents (General).	4.1.7 Conduct comparative studies between the data obtained in the diagnoses and the results of implementing actions.	–	–
1.5.9 Promote and encourage academic discussions on the analysis of the migration phenomenon and migration policy (SEGOB, SRE).	–	4.1.8 Use the results to improve programs in the area of human trafficking.	–	–
1.5.10 Strengthen social participation in the analysis, monitoring, assessment and accountability of migration (SEGOB, SRE, SEDESOL, SFP).	–	–	–	–

Source: UN Women, IMUMI based the National Plan documents, 2013-2018.

## Annex 2:

The recommendations below were made by the Committees and the CEDAW and CMW Special Rapporteurs to Mexico, and are organized following the obstacles to accessing the rights identified by CEDAW GR 26. There is also information on *de jure* compliance by the Mexican State.

Following this are the recommendations made to Mexico during the Universal Periodic Review (UPR) in 2009 and 2013 (previously presented in the body of the document).

Table 4.

Recommendations to Mexico from the Committee for Migrant Workers on the obstacles identified in the CEADAW GR 26 (2006-2011)

Observations to Mexico		<i>De jure</i> Compliance <sup>34</sup>
CMW Committee 2006	CMW Committee 2011	
<i>Obstacle: Labor market discrimination against women migrant workers</i>		
<i>No recommendations</i>	<i>No recommendations</i>	<p><i>Partial Compliance</i></p> <p>The Federal Labor Law (LFT) does not generate structures for domestic work to comply with decent working conditions.</p> <p>Principle of substantive equality of men and women workers, LFT, Art. 2, 56, and 132.</p> <p>Right to non-discrimination due to migration status, LFT, Art. 3.</p>
<i>Obstacle: Intersection of gender-based discrimination with xenophobia</i>		
<i>No recommendations</i>	Ensure that all migrant workers and members of their families receive non-discriminatory treatment (especially ethnicity and gender based discrimination) and carry out campaigns to sensitize officials, the public, and the media (para. 24).	<p>Federal Law for the Prevention and Elimination of Discrimination Art 1, LM, Art. 2</p> <p>LFT, Art. 2, 3, 56</p> <p>Anti-Trafficking Law Art. 3</p>
<i>Obstacle: Gender-based violence in the workplace</i>		
<i>No recommendations</i>	<i>No recommendations</i>	<p>LFT Art.133 prohibits harassment and sexual harassment.</p> <p>General Law on Women's Access to a Life Free of Violence, art. 15.</p>
<i>Obstacle: Terms and conditions of exploitation in the workplace</i>		
Take measures to protect women domestic workers, including access to regular migration status and greater and more systematic involvement of the labor authorities in monitoring their working conditions (para.34)	Strengthen monitoring of the working conditions of domestic workers (para. 38).	<p><i>Partial Compliance</i></p> <p>The LFT does not foresee the monitoring and inspection of the labor conditions of domestic workers.</p>
Improve the working conditions of seasonal agricultural workers by, for example, ensuring systematic monitoring by the Federal Labor Inspectorate of compliance with the standards governing the work of agricultural day laborers (para. 38)	Make further efforts to improve the working conditions of seasonal agricultural workers (para. 48).	<p><i>Partial Compliance</i></p> <p>LFT (Chapter V and art.523).</p> <p>The 2012 Reform of the LFT and the 2014 Inspection Regulations Reform extended sanctions to employers (art. 994, LFT) and incorporated technical assistance, extraordinary reviews and alternative mechanisms to labor inspection (arts.18, 28, and 46 of the Inspection Regulations, respectively).</p>
<i>Obstacle: Restrictions to freedom of movement</i>		
<i>No recommendations</i>	<i>No recommendations</i>	Migration Law (LM) Arts. 7 and 48

Observations to Mexico		<i>De jure</i> Compliance <sup>34</sup>
CMW Committee 2006	CMW Committee 2011	
Obstacle: Limitations to the right to health (including children)		
<i>No recommendations</i>	<i>No recommendations</i>	ML Art. 8
Obstacle: Obstacles in accessing education (including children)		
<i>No recommendations</i>	<i>No recommendations</i>	LM, Art. 8
Obstacle: Access to		
Ensure that women migrant workers have access to mechanisms for bringing complaints against employers (para. 34).  Ensure that in legislation and in practice, migrant workers and members of their families, including those in an irregular situation, have the same rights as nationals of the State party to file complaints and have access to redress mechanisms before the courts (para. 6).	Adopt specific measures to protect women domestic workers and guarantee that they have access to complaint mechanisms against their employers (para. 38).	LM, Art. 11 (Partial, Convention 189 was not ratified)  SCJN thesis establishing that under the CMW, foreign workers, regardless of their migration status, have the same labor rights and access to justice as nationals.
Ensure that all abuses are investigated and punished (para. 34).	Investigate and punish the persons who are responsible for abuses against domestic workers (para. 38).	<i>Partial Compliance</i>  General Law on Women's Access to a Life Free of Violence (Title II, Chapter II) No specific sanctions.  General Anti-Trafficking Law, Art. 21 and 22 contemplate sanctions for whoever exploits the labor of a person and/or subjects a person to forced labor.
<i>No recommendations</i>	Investigate and punish those persons who are responsible for violations of the rules regulating agricultural work (para.48).	<i>Partial Compliance</i>  LFT (Title Sixteen)
Obstacle: Restrictions to collective bargaining and organization		
Guarantee to all migrant workers the legal right of association and of the leadership of unions (article 40 of the Convention) (para. 36).	Take steps, including legislative amendments, to guarantee to all migrant workers the right of leadership of unions (para. 46).	<i>Partial Compliance</i>  In articles 354 and 357, the LFT gives men and women the right to associate, but in Art. 372 it expressly prohibits their involvement in union leadership.
Obstacles to accessing migration documentation		
Take appropriate steps to protect women domestic workers, including access to regular migration status (para. 34).	<i>No recommendations</i>	LM, Articles 52, -57, 132 -134.  Partial Compliance Convention 189 not ratified



Observations to Mexico		<i>De jure</i> Compliance <sup>34</sup>
CMW Committee 2006	CMW Committee 2011	
<i>No recommendations</i>	Establish and implement a comprehensive migration regularization policy that is accessible to all migrant workers and members of their families who are in an irregular situation and satisfies the principle of non-discrimination (para. 53).	LM, articles 132-134.
Obstacle: Restrictions to marrying a Mexican citizen		
<i>No recommendations</i>	<i>No recommendations</i>	-
Obstacle: Obstacles to achieving family unity		
<i>No recommendations</i>	<i>No recommendations</i>	LM, Arts. 2, 10, 54, and 55.
Obstacle: Obstacles to accessing the right to an identity		
<i>No recommendations</i>	Adopt efficient measures, if necessary through legal reform, to ensure that civil registry officials and competent authorities register all the births of the children of migrant workers, regardless of their migration status (para. 40).	LM, Arts. 9 and 12 State of Chiapas Civil Code, <sup>35</sup> Art. 56

Source: UN Women/IMUMI

**Table 5.**  
Recommendations to Mexico from the CEDAW Committee on women migrant workers (2000-2012)<sup>36</sup>

Observations from the CEDAW Committee to Mexico	<i>De jure</i> compliance
<i>Obstacle: Labor market discrimination against women migrant workers</i>	
Prohibit discrimination against women and guarantee their participation in the labor market in equal conditions as men and comply with the principle of equal retribution for work of equal value (2002).	<i>Partial Compliance</i> The Federal Labor Law (LFT) does not generate structures for domestic work to comply with decent working conditions. Principle of substantive equality of men and women workers, LFT, Art. 2, 56, and 132. Right to non-discrimination due to migration status, LFT, Art. 3.

Observations from the CEDAW Committee to Mexico	<i>De jure</i> compliance
Revise the legal social protection framework to formulate a comprehensive policy that ensures domestic workers equal access to equal remuneration and treatment for work of equal value, including benefits.	<p><i>Partial Compliance</i></p> <p>Domestic work is treated as special work in the LFT, however, the above-mentioned rights are limited.</p> <p>Social Security Law, Art.13 and Art.12 paragraph I (it is optional for the employer to register domestic workers for social security)</p> <p>IMSS agreement on the authorization for employers (individuals) to make bimonthly payments for the insurance of domestic workers (2014).</p>
<b>Obstacle: Intersection of gender-based discrimination with xenophobia</b>	
<i>No recommendations</i>	<p>Federal Law for the Prevention and Elimination of Discrimination Art 1 LM, Art. 2</p> <p>LFT, Art. 2, 3, 56</p> <p>Anti-Trafficking Law Art. 3</p>
<b>Obstacle: Gender-based violence in the workplace</b>	
Take steps to prevent sexual harassment in the private sector.	<p>LFT Art.133 prohibits harassment and sexual harassment</p> <p>General Law on Women's Access to a Life Free of Violence, art. 15</p>
<b>Obstacle: Terms and conditions of exploitation in the workplace</b>	
Provide the General Labor Inspectorate Directorate with the necessary and effective human and financial resources to monitor and sanction discriminatory practices against women in the workplace.	<p><i>Partial Compliance</i></p> <p>The LFT does not provide for monitoring and inspection of the labor conditions of domestic workers</p> <p>LFT, arts. 540-542 and 994</p>
Ratify ILO Convention 189 on decent work for men and women domestic workers.	<p><i>Ratification pending</i></p> <p>The LFT does not provide for decent working conditions for domestic workers.</p>
<b>Obstacle: Restrictions to freedom of movement</b>	
<i>No recommendations</i>	Migration Law (LM) Arts. 7 and 48
<b>Obstacle: Limitations to the right to health (including children)</b>	
<i>No recommendations</i>	LM, Art. 8
<b>Obstacle: Obstacles in accessing education (including children)</b>	
<i>No recommendations</i>	LM, Art. 8
<b>Obstacle: Access to justice</b>	
<i>No recommendations</i>	<p><i>Partial Compliance</i></p> <p>LM, Art. 11</p> <p>SCJN thesis establishing that under the CMW, foreign workers, regardless of their migration status, have the same labor rights and access to justice as nationals.</p> <p>General Law on Women's Access to a Life Free of Violence (Title II, Chapter II) no sanctions specified.</p> <p>General Anti-Trafficking Law, Art. 21 and 22 contemplate sanctions for whoever exploits the labor of a person and/or subjects a person to forced labor.</p>

Observations from the CEDAW Committee to Mexico		<i>De jure</i> compliance
Obstacle: Restrictions to collective bargaining and organization		
<i>No recommendations</i>		<i>Partial Compliance</i> In articles 354 and 357, the LFT gives men and women the right to associate, but in Art. 372 it expressly prohibits their involvement in union leadership.
Obstacles to accessing migration documentation		
<i>No recommendations</i>		LM, Articles 52-57, 132-134
Obstacle: Restrictions to marrying a Mexican citizen		
<i>No recommendations</i>		-
Obstacle: Obstacles to achieving family unity		
<i>No recommendations</i>		LM, Arts. 2, 10, 54, and 55.
Obstacle: Obstacles to accessing the right to an identity		
<i>No recommendations</i>		LM, Arts. 9 and 12 State of Chiapas Civil Code, <sup>37</sup> Art. 56

Source: UN Women/IMUMI

**Table 6.**  
Recommendations to Mexico from the UN Special Rapporteurs on the rights of Migrants (2002-2009)

Observations to Mexico		<i>De jure</i> Compliance
Special Rapporteur 2002	Special Rapporteur 2009	
Obstacle: <i>Labor market discrimination against women migrant workers</i>		
<i>No recommendations</i>	<i>No recommendations</i>	-
Obstacle: Intersection of gender-based discrimination with xenophobia		
<i>No recommendations</i>	<i>No recommendations</i>	-
Obstacle: Gender-based violence in the workplace		
<i>No recommendations</i>	<i>No recommendations</i>	-
Obstacle: Terms and conditions of exploitation in the workplace		
<i>No recommendations</i>	Allocate more resources to improving the information on migrant work in the domestic sphere (numbers and nationalities, as well as employers) (para. 91).	<i>Pending</i>
<i>No recommendations</i>	Examine potential abuse in the recruitment process, through investigations involving recruitment agencies and registration systems for migrant workers destined for the domestic sphere (para. 91).	The legislation does not provide for specific monitoring processes for agencies which hire domestic workers.

Observations to Mexico		
Special Rapporteur 2002	Special Rapporteur 2009	<i>De jure</i> Compliance
Consolidate the regulatory and protective actions of federal and local authorities with respect to the rights of migrant laborers, regardless of their migration status (unjustified abuse, withholding of wages and documents, excessively long working hours, physical abuse and discrimination) (para. 42).	<i>No recommendations</i>	<i>Partial Compliance</i> LFT, arts. 540-542
Obstacle: Restrictions to freedom of movement		
<i>No recommendations</i>	<i>No recommendations</i>	-
Obstacle: Limitations to the right to health (including children)		
<i>No recommendations</i>	<i>No recommendations</i>	-
Obstacle: Obstacles in accessing education (including children)		
<i>No recommendations</i>	<i>No recommendations</i>	-
Obstacle: Access to justice		
Strengthen the actions of the attorneys general of the federation units and the government commissions on human rights through their programs for the protection of the human rights of migrants (para. 55).  Create accessible reporting mechanisms and programs in conjunction with civil society to provide assistance to undocumented migrant women who are the victims of abuse by public officials, employers or family members (para.55)	<i>No recommendations</i>	Migration Law (Art. 11, 28, 73)  -
Obstacle: Restrictions to collective bargaining and organization		
<i>No recommendations</i>	<i>No recommendations</i>	-
Obstacle: Access to migration documentation		
Reform Mexican legislation to ensure equality between men and woman and acknowledge that their migration status should be considered individually (para. 54).	<i>No recommendations</i>	<i>Partial Compliance</i> Migration Law (Art. 5257)
Continue the migration regularization programs along with dissemination campaigns with the support of OSC (para. 54).	<i>No recommendations</i>	Migration Law (articles 132-134)
Obstacle: Restrictions to marrying a Mexican citizen		
<i>No recommendations</i>	<i>No recommendations</i>	
Obstacle: Obstacles to achieving family unity		
<i>No recommendations</i>	<i>No recommendations</i>	

Source: UN Women/IMUMI

Table 7.

Recommendations to Mexico from the Special Rapporteur on violence against women, its causes and consequences, 2006

Observations from the Special Rapporteur on Violence against Women 2006	De jure Compliance
Obstacle: <i>Labor market discrimination against women migrant workers</i>	
<i>No recommendations</i>	-
Obstacle: Intersection of gender-based discrimination with xenophobia	
Remove all gender-discriminatory provisions still contained in federal or state law; link labor law to reproductive rights and laws governing migration with trafficking in women. (Para. 69, subs. a-ii).	Federal Law for the Prevention and Elimination of Discrimination (art.1) Art. 2, 3, 56, LFT
Obstacle: Gender-based violence in the workplace	
<i>No recommendations</i>	-
Obstacle: Terms and conditions of exploitation in the workplace	
<i>No recommendations</i>	-
Obstacle: Restrictions to freedom of movement	
<i>No recommendations</i>	
Obstacle: Limitations to the right to health (including children)	
<i>No recommendations</i>	-
Obstacle: Obstacles in accessing education (including children)	
<i>No recommendations</i>	-
Obstacle: Access to justice	
Strengthen the administration of justice, with specific attention to the obstacles in law and procedure that impede the access of women, especially indigenous and migrant women, to effective judicial remedies and protection. This would include a swift implementation of the memorandums of understanding with Guatemala and El Salvador on protecting migrants, especially women, children and victims of trafficking. (Para. 69, subs. a-v).	Migration Law (Art. 11)
Obstacle: Restrictions to collective bargaining and organization	
<i>No recommendations</i>	-
Obstacles to accessing migration documentation	
<i>No recommendations</i>	-
Obstacle: Restrictions to marrying a Mexican citizen	
<i>No recommendations</i>	-
Obstacle: Obstacles to achieving family unity	
<i>No recommendations</i>	-
Obstacle: Obstacles to accessing the right to an identity	
<i>No recommendations</i>	-

Source: UN Women/IMUMI

**Table 8.**  
**Recommendations to Mexico during Universal Periodic Review 2009**

Themes	Recommendation	Mexico's Response	Follow-up <sup>38</sup>
International Instruments, Migration, Work	93.1 <sup>39</sup> Continue promoting ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	Accepted	Partially implemented
Human rights violations caused by state officials, work, migration, torture and other cruel, inhumane or degrading treatment or penalties	93.63 Continue to improve the working conditions of farm laborers and to consolidate the work of labor inspectors	Accepted	Partially implemented
Migration, Indigenous Population, Right to Education, Children's Rights	93.73 Ensure effective access for all children to education, in particular migrant and indigenous children, and adopt efficient measures against their exclusion from the education system	Accepted	Not implemented
Migration	93.79 Ensure full enjoyment of the rights of immigrants in the State territory, by enacting laws and training the competent officials	Accepted	Partially implemented
Migration, Special Procedures	93.80 Give priority to the Special Rapporteur's recommendations on the human rights of migrants	Accepted	Partially implemented
Migration and Work	93.81 Adopt all measures necessary to protect the rights of migrant workers and their families (Uzbekistan), in particular, guarantee access to justice and effective judicial remedies before a competent authority for the protection of their rights (Guatemala), and prosecute and sanction the public officials who are responsible for abuse and crimes against these persons	Accepted	Partially implemented
Indigenous population, Migration	93.62 Take steps to remedy the marginalization of indigenous and migrant populations, in accordance with the important role played by Mexico on the international scene	Accepted	Not Implemented

Source: UN Women/IMUMI

Table 9.

Recommendations to Mexico during Universal Periodic Review 2013<sup>40</sup>

Themes	Recommendation	Mexico's Response
International Instruments, Work, Migration	148.4 Consider Mexico's position with regard to Articles 22.4 and 76 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	Note was taken
Forced disappearances, Migration	148.58 Create a database of the missing or lost migrants; all authorities should cooperate to prevent and sanction the crimes against this group	Accepted
Migration, Women's Rights	148.79 Continue taking the steps necessary to prevent violence against women, especially migrant women, and to punish those persons who commit these acts of violence	Accepted
Smuggling and Trafficking of Persons, Migration	148.89 Continue strengthening the measures aimed at combating migrant and human trafficking	Accepted
Smuggling and Trafficking of Persons, Migration	148.31 Ensure the efficient implementation of the Protection Mechanism of the Law for the Protection of Human Rights Advocates and Journalists in order to reduce impunity, in particular with regard to the crimes committed against the advocates of migrants' human rights	Accepted
Refugees and Asylum Seekers, Indigenous Population, Migration, Children's Rights, Women's Rights	148.146 Strengthen the institutions and infrastructure developed for the defense of human rights, the policies and measures for achieving social inclusion, gender equality and non-discrimination, and favorable conditions for vulnerable groups, such as women, children, indigenous persons, migrants and refugees	Accepted
Migration, Work	148.73 Continue working for the protection and defense of migrants' rights	Accepted
Migration, Work	148.73 Continue making efforts to improve the situation of migrant workers in their territory	Accepted
Smuggling and Trafficking of Persons, Migration	148.89 Strengthen the measures to combat human trafficking, as well as violence against migrants	Accepted
Migration	148.74 Continue working with the countries of the region on special programs to combat crime against migrants	Accepted
Migration, Children's Rights, Women's Rights	148.75 Efficiently protect and guarantee the security and human rights of migrants, especially of women and children, including those in transit through the national territory, guaranteeing access to justice, education, health, and civil registration, and incorporating the principle of best interest of the child and family unity	Accepted
Justice, Migration, Right to an Education, Right to Health	148.76 Maintain the humanitarian policy that guarantees the protection of the rights of migrants and their access to justice, education and health, regardless of their migration status	Accepted
Work, International Instruments, Women's Rights	148.8 Consider the possibility of ratifying Convention 156 of the International Labour Organization (ILO) on the equality of opportunities and treatment between men and women workers	Accepted
International Instruments, Work	148.9 ILO Convention 189 on decent work for men and women domestic workers	Accepted

Source: UN Women/IMUMI





# NOTES

## Introduction

1 Document 1: UN Women and IMUMI (2015) *Compromisos internacionales y recomendaciones a México desde el Examen Periódico Universal, los Comités y las Relatorías del Sistema de Naciones Unidas sobre los derechos de las trabajadoras migrantes 2000-2015*. Document 2: UN Women and IMUMI (2015) *Derechos de las trabajadoras migrantes en México en la Planeación Nacional 2013-2018*.

## 1. Framework for promoting the rights of women migrant workers in Mexico.

2 The incorporation of the domestic worker category into the definition of "migrant worker" made by the CMW highlights the dynamic nature not only of this instrument, but also of the human rights international framework in general, given that it adapts to the new realities and helps fulfill the guarantees acknowledged within the instrument. For example, General Comment No. 1 recognizes that a migrant worker performing domestic work is potentially more vulnerable because,

in general, these people "run greater risk of suffering from certain forms of exploitation and ill-treatment" (Committee, 2011, para. 8). Their vulnerability stems mainly from their situation of dependence and segregation.

3 Concept Note: *Promoting and Protecting the Rights of Women Migrant Workers in the World. Alliances for Migration and Human Development: Shared Prosperity* -Shared Responsibilities. Consultation prior to the fourth session of the FMMD organized by UNIFEM (currently UN Women) in association with the Government of Mexico. (Mexico, September 7 and 8, 2010).

4 This general recommendation specifies that the CEDAW aims to help the States parties comply with their obligation to respect, protect and facilitate the exercise of human rights by women migrant workers, as well as with the legal obligations assumed under other treaties, their commitments to the actions plans of world conferences and the important

work of the bodies created under the treaties on the subject of migration, in particular, the Committee for the Protection of the Rights of All Migrant Workers and Members of their Families. To see the content of GR 26 you may visit: [http://www2.ohchr.org/english/bodies/cedaw/docs/GR\\_26\\_on\\_women\\_migrant\\_workers\\_sp.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/GR_26_on_women_migrant_workers_sp.pdf)

5 The CMW Committee is composed of 14 independent experts. Members are elected for a term of 4 years with the right to reelection by the States parties, pursuant to article 72 of the Convention. The Committee meets twice a year in Geneva. Mexico must submit a report to the Committee every five years. The CEDAW Committee is composed of 23 independent experts. Members are elected for a term of 4 years by the States parties. The elections must comply with geographic and cultural representation requirements. The Committee is convened to a meeting by the Secretary General of the United Nations every two years in New York. Mexico must submit a report to the Committee every five years.

- 6 The United Nations first voiced concern about the rights of migrant workers in 1972, when the Economic and Social Council, in its resolution 1706 (LIII), expressed alarm at the illegal transportation of labor to some European countries and at the exploitation of workers from some African countries “in conditions akin to slavery and forced labour.” (OHCHR, 2006)
- 7 <http://www.ohchr.org/EN/HRBodies/CMW/Pages/CMWIndex.aspx>
- 8 Committee for the Protection of the Rights of All Migrant Workers and Members of their Families (2011), “Observación General No.1 sobre Trabajadores domésticos migratorios (CMW/C/GC/1)”, [confdts1.unog.ch/1%20SPA/Tradutek/Derechos\\_hum\\_Base/CMW/00\\_7\\_obs\\_grales\\_CMW.html](http://confdts1.unog.ch/1%20SPA/Tradutek/Derechos_hum_Base/CMW/00_7_obs_grales_CMW.html)
- 9 Ratification status of Convention 189: [http://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:2551460](http://www.ilo.org/dyn/normlex/es/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:2551460)
- 10 In a footnote to paragraph 18, the General Comment No. 1 of the Committee for Migrant Workers points out that: “The core international human rights treaties all contain standards and safeguards which are of relevance to the protection of migrant domestic workers. Several of the bodies created through other human rights treaties have paid specific attention to the situation of migrants and migrant workers, including migrant domestic workers. See, in particular, Committee on the Elimination of Discrimination against Women, General Recommendation No. 26 (2008) on women migrant workers; Committee on Economic and Social Rights, General Comment No. 18 (2005) on the right to work; 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; Committee on the Elimination of Racial Discrimination, General Recommendation No. 30 (2004) on discrimination against non citizens; Human Rights Committee, General Comment No. 15 (1986) on the position of aliens under the Covenant. (document CMW/C/GC/1, February 23, 2011)
- 11 <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Recommendations.aspx>
- 12 [http://www2.ohchr.org/english/bodies/cedaw/docs/GR\\_26\\_on\\_women\\_migrant\\_workers\\_sp.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/GR_26_on_women_migrant_workers_sp.pdf)
- 13 In accordance with the arguments made by feminist trends in the analysis of the role of women in migration. See for example, Salazar Parreñas, 2001; Boyd and Grieco, 2003; Parella, 2003; Dobrowolsky and Tastsoglou, 2006.
2. **Observations of the Committee for Migrant Workers to Mexico**
- 14 Network composed of more than forty civil society organizations, academics and activists from the field of migration. For more information see: <http://www.sinfronteras.org.mx/index.php/es/foro-migraciones#foro-migraciones>.
- 15 Amnesty International; Belén, Posada del Migrante; IMUMI, Sin Fronteras, et.al.; Global Workers Justice Alliance, et al.; International Catholic Migration Commission ICMC; National Network of Civil Human Rights Organizations “All Rights for All” (RNOCDH), et al.; and Scalabrini International Migration Network, et al., (2010). Full references can be found in the bibliography.
- 16 The information between parenthesis was taken from paragraph 15 of the same document.
- 17 The information between parenthesis was taken from paragraph 23 of the same document.
3. **Observations of the CEDAW Committee to Mexico**
- 18 It is worth noting that while the CEDAW Committee did not request more information; the CMW Committee did so in paragraph 23 (CMW/C/ MEX/2):

"indicate the specific results derived from the round-table between INMUJERES and the INM on "the complaint mechanisms for human rights violations against men and women migrants."

19 It should be noted that within the framework of the European Union and UN Women Mexico project "Promoting and Protecting Women Migrant Workers' Labor and Human Rights: Engaging with National and International Human Rights Mechanisms to Enhance Accountably," a series of analyses and recommendations were made to develop Mexican migration legislation with a gender perspective and to harmonize national laws with international regulations. For example, the publication "Legislación mexicana y derechos de las trabajadoras migrantes. Un análisis del cumplimiento de la Convención sobre la Eliminación de todas las Formas de Discriminación contra la Mujer (CEDAW) y su Recomendación General No 26 sobre trabajadoras migrantes en la legislación", proposes action plans based on the 2013-2018 National Plan which contribute to the harmonization of national legislation with CEDAW GR 26: the Special Migration Program, PROIGUALDAD, the Ministry of Foreign Affairs Program, the Sectoral Program of Work and Social Security, the National Program for Equality and Non-Discrimination, and the National Program to Prevent, Punish and Eradicate

Crimes related to Trafficking in Persons and for the Protection and Assistance of Victims of these Crimes.

20 In addition to the 2012 observations, the CEDAW Committee made recommendations to Mexico in 2002 and 2006. However, they do not appear in the table because they are not explicit proposals for women migrant workers. Only one of the 2002 recommendations was included, on the elimination of discrimination against women in the labor market, which affects migrant women directly.

#### 4. Reports by the United Nations Special Rapporteurs on Violence against Women and the Human Rights of Migrants

21 It is not the purpose of this document to analyze of the level of *de facto* compliance with the recommendations of the Committees and Special Rapporteurs. Although the Government and civil society have taken various measures, it is not possible to speak of *de facto* compliance. This document therefore presents the National Plan action plans which are related to the recommendations made by the Special Rapporteur and may contribute to effectively guaranteeing the rights of women migrant workers in Mexico.

#### 5. Universal Periodic Review (UPR)

22 Each year the Working Group holds 3 sessions (in January/February, May/June, and October/November)

in which 42 Member States are evaluated.

23 Civil society organizations may participate in the UPR process through different activities. In addition to sharing information on the human rights situation in the country, they can also lobby members of the Working Group, take the floor at the Human Rights Council during the adoption of the report (not during the assessment) and monitor and contribute to the implementation of the UPR recommendations.

24 Mexico Mid-term Implementation Assessment of February 2012, prepared by UPR Info. [http://www.upr-info.org/sites/default/files/document/mexico/session\\_04\\_-\\_february\\_2009/miamexico.pdf](http://www.upr-info.org/sites/default/files/document/mexico/session_04_-_february_2009/miamexico.pdf)

25 Numbering as presented in Working Group Report A/HRC/11/27

26 This table does not include the implementation of the recommendations by the Mexican State because the follow-up session to the 2013 UPR will held up to April, 2016.

#### 6. Recommendations for Compliance with the Human Rights Standards of Women Migrant Workers.

27 Since the 2011 reform, observance of the law in Mexico implies respect for international treaties. This means that

these international instruments are an essential part of the Mexican legal order and their principles are mandatory for the Mexican Government. In this respect, the first article of the Constitution establishes the control of conventionality: "In the United Mexican States, all individuals shall be entitled to the human rights granted by this Constitution and the international treaties signed by the Mexican State, as well as to the guarantees for the protection of these rights. Such human rights shall not be restricted or suspended, except for the cases and under the conditions established by this Constitution itself." Supreme Court of Justice of the Nation, 2013).

28 The principles of substantive equality between women and men workers, as well as new rights of responsible paternity and of conciliation and co-responsibility in family life and work, were included to accompany reproductive and maternity rights.

29 The 2012 reform to the Federal Labor Law increased the penalties for employers (art.994). This reform led to the reform of the Regulations on Labor Inspections, including technical assistance, extraordinary reviews and alternative mechanisms to labor inspections (arts.18, 28, and 46, respectively).

30 For more information on *de jure* compliance of the

Mexican legislation with General Recommendation No. 26 on the effective protection of the rights of women migrant workers from Central America in Chiapas see: UN Women and IMUMI (2014b), *Legislación mexicana y derechos de las trabajadoras migrantes. Un análisis del cumplimiento de jure de la Convención sobre la Eliminación de todas las formas de Discriminación Contra la Mujer (CEDAW) y su Recomendación General no. 26*, Mexico, UN Women.

31 The Mexican Government established a programmatic framework for the 2013-2018 six-year period. This includes the National Development Plan, cross-cutting programs such as the gender and migration programs, and the programs of each ministry. In these instruments the Executive Branch sets forth the objectives, priorities and strategies that will guide the actions of the public federal administration during the six year period. To find out more on the action plans for women migrant workers in Mexico, please see the document in this collection: UN Women and IMUMI (2015), *Derechos de las trabajadoras migrantes en la Planeación Nacional de México 2013-2018*, Mexico, UN Women.

32 It is important to mention some of the material prepared by the United Nations to strengthen cooperation with civil society. An important example is a series of practical guides for civil society drafted by the

United Nations High Commissioner for Human Rights. See: <http://www.ohchr.org/SP/AboutUs/Pages/CivilSociety.aspx>

#### Annex 1:

33 This table does not include either the PSTPS or the PRONAIND because these programs do not propose any actions that could contribute to an assessment of the gender impact.

#### Annex 2.

34 Although the tables in this document focus on showing *de jure* compliance by the Mexican State with the recommendations made by the CEDAW and CMW Committees, they also aim to identify the actions taken by the Government to rectify the obstacles to accessing the rights identified by CEDAW General Recommendation 26, regardless of the fact that said Committees did not make any recommendations.

35 The 2009 amendment of article 56 of this Code established that the registration of minors born within the State should not be denied under any circumstances, even when one or both parents are foreigners and do not have legal residence in the national territory.

36 It should be noted that, unlike the CMW Committee, the CEDAW Committee has made very few recommendations on women migrant workers in Mexico.

- 37 The 2009 amendment of article 56 of this Code established that the registration of minors born within the State should not be denied under any circumstances, even when one or both parents are foreigners and do not have legal residence in the national territory.
- 38 Based on the Mexico Mid-term Implementation Assessment of February 2012, prepared by UPE Info. The method used in the assessments is as follows: the delegates representing the country under review and the permanent mission of the United Nations in New York or Geneva, the civil society organizations involved in the process, and the National Human Rights Commissions of the State under review are provided with a data sheet containing all the recommendations made to the State. Each participant can evaluate the implementation of the recommendations by the State Party in accordance with the three categories of an index designed by UPR Info: Not Implemented, Partially Implemented, Totally Implemented. For more information see: <http://www.upr-info.org/es/review/Mexico/Session04--February-2009/Follow-up#top>
- 39 Numbering as presented in Working Group Report A/HRC/11/27
- 40 This table does not include the implementation of the recommendations by the Mexican State because the follow-up session to the 2013 UPR will be held up to April, 2016.



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- Economic empowerment of women.
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