

**WIMN'S CONTRIBUTION TO SR ON MIGRANTS' REPORT ON GENDER AND MIGRATION:
Existing or forthcoming good practices or initiatives of gender-responsive migration
legislation, policies or practices at the country or regional levels.**

Dear Special Rapporteur on the Rights of Migrants Felipe González Morales,

Many thanks for inviting us to provide input to your forthcoming report and for focusing on gender and migration issues. This focus is very much welcome. We are writing on behalf of the Women in Migration Network (WIMN) and are basing our contributions on existing or forthcoming good practices and initiatives on this area.

Women in Migration Network (WIMN)

WIMN includes national, regional and global organizations from women's, migrant, labor, human rights, development and faith communities representing all regions of the globe.

We work to impact national and global migration and development policy as it affects women and to hold States accountable for human rights commitments regarding women in migration. We recognize that 48% of migrants are women.

WIMN has been very active in the consultations and negotiations that led to the development and adoption of the Global Compact for Migration (GCM). In particular, we are advocating for a gender responsive compact and for the rights of women and girls in migration at the centre of the GCM's development and implementation.

Existing or forthcoming good practices or initiatives

Some of these practices include:

- The Mercosur Residency Agreement signed in 2002 by member countries and associate members Bolivia and Chile—which was later extended to most of the associate member countries—establishes shared rules for residency permit processing procedures in the signatory states for all citizens of the countries that form part of the trade bloc, facilitating residency and simplifying requirements. Laws in Argentina, Brazil and Uruguay include regularisation parameters based on regional agreements (Argentina, Law 25.871 of 2003, art. 23; Brazil, Law 13.445 of 2017, arts. 30.II.a and 111; Uruguay, Law 18.250 of 2008, art. 34).
- The government of Peru “favors migratory regularisation as a permanent action that facilitates the protection of individuals and prevents or corrects situations that infringe upon or affect human dignity as well as their rights and liberties” (Legislative Decree No.1350, 2017, art. XII).
- Argentina Regularisation Programme for regionals “Patria Grande”

In 2003, Argentina was one of the first countries to recognize migratory regularisation as an obligation of the state and a right of migrants in an irregular situation (Law 25.871). One of the major changes established by the Migration Act 25.871 is the regularisation of immigrants. Article 17 specifies that, “The State will provide what is conducive for the adoption and implementation of measures aimed to regularize the migration status of foreigners,” which enables the Executive branch to create programmes to make it effective. By means of Decree 836/2004, the National Programme for Normalization of Migration Documents (Programma Nacional de Normalización Documentaria Migratoria) was created. This programme was arranged to regularize the immigration status of natives of foreign countries belonging to MERCOSUR (Argentina, Bolivia, Brazil, Paraguay, Uruguay and Venezuela) and their associate member countries (Chile, Colombia, Ecuador, Guyana, Peru and Suriname), that were residing in Argentina prior to April 17th, 2006.

Along the same lines, Decree 1169 of September 6, 2004 consisted of a migration status regularisation programme for citizens from countries outside of MERCOSUR and its Associated States, who in fact resided within Argentine national territory on June 30, 2004. This measure favoured a great number of regularisation requests made by Asian citizens. Furthermore, during this period, Argentina suspended the “measures of expulsion or order to abandon the country, already dictated, firm, and consented, regarding foreigners whose migration status may be categorized within the terms of this current measure (...).”

The key to the Patria Grande programme lies in the simplification of the regularisation process: once enrolled, the applicant receives a certificate of precarious residency with which he/she can work legally (in addition to study, enter and exit the country when desired, etc.); this is followed by a second phase in which temporary residency is processed (for two years), which can later be converted to permanent residency. The Patria Grande programme, unlike other regularisation processes, is not an amnesty; it does not have limited validity. Its purpose is as a State policy and will be permanently in effect for nationals of MERCOSUR and its Associated States that reside in Argentine territory, and for those who enter in the future.

Studies¹ estimated that the Patria Grande Program contributed to diminish 13 % of labor informality (which also impacted on more access to social protection both in the right to retirement and access to health insurance) and improved 7.5% the access to education of migrants.

- Family unity as a regularisation criteria in Brazil²: In Brazil, residency may be granted to those who meet the criteria for family reunification, including a spouse or partner, without any discrimination; to the child of a migrant beneficiary of a residency permit or who has a Brazilian child or migrant child beneficiary of a residency permit; relatives in the ascending and descending line up to the second degree or the sibling of a

¹ Perera, M. and Velázquez, C. (2013), “Impacto del programa de regularización migratoria ‘Patria Grande’ en Argentina” in Estudios Económicos. Vol. XXX (N.S.), N° 61, July-December 2013. Pgs.43-69.

² CELS, FUNDAR, CAREF, CONECTAS, Asylum Access and Universidad Diego Portales, Global Compact on Migration. Recommendations for a Global Compact with a Rights-based Approach, CELS, 2018.

Brazilian or of a migrant beneficiary of a residency permit; or those who have a Brazilian national under their trusteeship or guardianship (Brazil, Law 13.445 of 2017, arts. 30 and 37).

- Self-employment as regularisation criteria in Argentina: In early 2013, the Argentine government created two specific regularisation programs for migrants from Senegal and the Dominican Republic – countries that do not benefit from the Mercosur’s regional agreements. These programs were limited to certain dates of entry into the country and enabled a temporary migratory category for “autonomous workers,” based on the payment of self-employment tax. In the case of people from the Dominican Republic, the program was responsible for 60% of temporary residencies between 2004 and 2013. Since Dominican migration is feminized in Argentina (75 % of Dominican migrants are women) the impact of this program was mainly in favor of women, who were able to start their own small businesses (from a total of 2,000 Dominicans that achieved regularisation, 1,460 were women)³. In this way, Dominican women were able both to access social protection and become more autonomous.
- Peru’s migration law establishes that residency is authorized “for foreigners in the country, who do not qualify for asylum or refugee status, who face a life-threatening situation or one of great vulnerability in the event that they leave Peru or those who require protection in response to a serious threat or act of violation or infringement of their fundamental rights. In the same way, it shall be applicable to refugee and asylum seekers or those who have migrated due to natural and environmental disasters; or for those who have been victims of human trafficking or smuggling; or for unaccompanied children and adolescents; or stateless persons. It also applies to persons who are not in the national territory in exceptional situations of humanitarian crisis recognized internationally, and request to come to Peru to obtain protection” (Peru, Legislative Decree No. 1350 of 2017, art. 29.2.k).
- In Chile, pregnant women can obtain a visa, so that they have access to medical care, ensuring that their pregnancies and child birth do not become high risk as a result of the lack of medical care. This same visa is available for any persons undergoing a medical treatment.
- In Mexico, parents of a child born in a country, who is granted citizen by birth are granted a resident visa on the basis of their relationship to their child. This is particular important for mothers of newborns that may not be able to work due to their child care responsibilities.
- In the US women victims of domestic violence from a partner or spouse who is a citizen or a permanent resident, can request a visa as victims of violence, enabling them to break their dependent migratory status There is a maximum number of visas or a cap.
- In the UK women survivors of domestic violence on a spouse or partner visa can access the Destitution Domestic Violence Concession Rule and secure an Indefinite Leave to

³ OIM-CAREF, La Migración Dominicana en Argentina. Trayectorias en el nuevo siglo (2000-2013), Buenos Aires, December 2015.

Remain (ILR) and financial support for three months. This also applies if the abuse is from another member of the family different from the partner. There is no distinction on physical and emotional violence and there is a fee waiver for women survivors.

- In Australia the migration regulations enable women applying for a permanent residence to continue with their application after the breakdown of the relationship if this has been as a result of domestic violence under the Family Violence provisions for partner visas. This also covers other members of the family unit.
 - In New Zealand, women can apply for permanent residence after a relationship breakdown if they can't return to their home country because they don't have a way of supporting themselves financially, or because they'd be abused or excluded from the community because of social stigma (this could be stigma associated with domestic violence, or with being separated or a solo parent, or other associated stigma). There are two visas for domestic violence survivors – one is for 6 months and is a work visa (to ensure that a woman can work and have funds to make arrangements to leave the country), and the other is a residency permit for women from not Western countries.
 - Currently in Australia, the women's sector, migration, asylum and trafficking sectors are jointly working to develop a model to ensure that the Family Violence Provisions extend to cover all women on temporary visas. The Government's Office for Women has witnessed and participated in these joint efforts. This is an example of best practice as sectors that usually don't work together are working jointly for the same cause and developing a unified model for women on temporary visas.
 - In the US, there is an inclusion of gendered violence crimes, whose victims can request a visa on the basis of their reporting and collaboration with immigration enforcement. There is a maximum number of visas.
 - In Australia there is a specific type of visa called Women at risk visa for women living outside of their country of origin, without the protection of a male relative and in danger of victimization, harassment or serious abuse because of their gender. Women with this visa can obtain a permanent residence and can sponsor relatives.
 - In the UK recently there has been a regulation that prevents the Police from passing details on immigration status to the Home Office for women victims of crime and abuse (and other victims of crime). This is likely to enable safer reporting. This will operate like a firewall with the Home Office. This has been one of the results of the Step Up Migrant Women campaign led by a grassroots migrant women organization called the Latin American Women's Rights Service (LAWRS)
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- In Mexico, migrant and refugee shelters include a section for transsexual persons.
 - In Spain, there is free access to healthcare for pregnant women regardless of their immigration status including undocumented migrant women. Some regions in Spain including Catalonia, Andalusia and Valencia provide free access to health to all migrants regardless of their status. The new government in Spain has said that they will restore full access to healthcare for all migrants in all the country regardless of their status.

If you need additional information about any of these cases please feel free to contact us:

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