

# Reframing Immigration, Integration and Asylum Policies from a Gender Perspective: Ensuring Gender-Fair Policies

A new gender-based migration approach is urgently needed to address the inequalities and discrimination that migrant women suffer.

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While migration and gender has for a long time remained an invisible issue in policies, especially at the EU level, since the 1980s research projects have been flourishing at the local, national, European and international levels. These research projects have challenged both mainstream research and immigration policies, which have for a long time focused on the male migrant worker, reinforcing a model of migrant women as only expected to assist their husbands and children, rather than seen as active in their own right. This representation of migrant women does not reflect the reality of women's migration, as argued by Kofman et al. (2000), who point out that "women were present almost from the beginning of post-war migration both as primary migrants and working alongside male partners". However, this representation has been at the heart of the different migratory regimes, which are highly gendered<sup>3</sup>.

We need to question policies and, for this, the voice of migrant women's organisations needs to be heard to understand what is really happening on the ground: What are the specific impacts of immigration policies on women? Are asylum procedures sensitive enough to gender? Do supposedly gender neutral integration policies actually work for migrant women? This report will highlight key challenges to demonstrate the need to reframe these policies and underline key recommendations to move in the direction of policies that take into account the real situation of women.

1 The European Women's Lobby (EWL) is the largest alliance of women's non-governmental organisations in the European Union, bringing together thousands of member organisations in Europe <[www.womenlobby.org](http://www.womenlobby.org)>.

2 This article has benefited from key inputs from all the members of the European Network of Migrant Women (ENoMW) ([www.migrantwomennetwork.org](http://www.migrantwomennetwork.org)) through the project "Equal Rights. Equal Voices. Migrant Women in the European Union", carried out by EWL in partnership with ENoMW. We would also like to thank Eleanore Kofman, Middlesex University, for her valuable comments.

3 It is essential to take into account that gender is intersectional: race, age, sexual orientation, marital status, socioeconomic status and other grounds of discrimination interconnect with gender.

## Reframing labour and family immigration policies

The first challenge towards a reframing of immigration policies is to challenge the dominant perception of female migrants as 'unskilled' migrants<sup>4</sup>: they are indeed rarely seen as having the skills needed to contribute to the knowledge economy, which is restricted to occupations dominated by men in areas such as finance, science and technology. This perception is even more dominant in relation to women who come under family immigration. However, the share of women immigrants holding a tertiary degree in Organisation for Economic Co-operation and Development (OECD) countries is only three percentage points below that of men and, in some countries, there is an equal share or even higher proportion of foreign-born non-OECD female migrants in skilled occupations than native-born (Kofman & Raghuram, 2009). However, immigration regulations have an impact on the ability of highly qualified women to migrate. Kofman and Raghuram (2009) compared the modes of selection of highly qualified migrants from a gender perspective and found that the sectoral and earnings based selection practised in most European countries implicitly favours men, while the Canadian system, under which immigration is based on education and language attainment, has led to an increase in highly qualified female migrants.

The second challenge, as pointed out by Gregoriou (2008), is to link the immigration debate to the problem of aging western societies, the issue of care provision and feminised care labour, and to the difficulty of recognising and regulating the informal economy of cheap and flexible labour. This link is essential to deal with the increasing migration of female domestic workers who are providing indispensable care services to a growing number of EU citizens who need support: families with children, those with disabilities, the elderly and others. While their labour is "instrumental for liberating us from the responsibility of reproductive labour and rendering us fit for the gender-blind framework of the workplace", these 'reconciliators' are usually excluded from

4 It should be noted that the categorisation of skilled and unskilled work also needs to be deconstructed as research has long pointed out that the notion of 'skill' is socially constructed and highly gendered (Phillips & Taylor, 1980).

protection under national labour codes and do not have access to labour visas, or face specific barriers to having their status regularised, which results in many of them being undocumented with virtually no social rights<sup>5</sup>.

The third challenge is related to the increasing restrictions imposed by family immigration policies and their gendered-nature. Kraker and Kofman (2009) point out that the criteria (in particular the income requirements) for family reunification make it more difficult for women to qualify. To meet the income requirements, women need to work fulltime, which makes it difficult for those who have childcare responsibilities and no access to subsidised childcare, which is often dependent on having long-term residence status. The fact that women in Southern Europe are concentrated in informal work is an additional barrier to family reunification.

## Recommendations

**1. Frame gender-sensitive labour migration policies:** As highlighted by the Organization for Security and Co-operation in Europe (OSCE, 2009), there is an urgent need to frame gender-sensitive labour migration policies that:

- Develop enabling environments that provide equality of employment opportunities and access to benefits to both migrant men and women
- Follow a 'two-way' approach, encompassing general migrant protection provisions and those specifically targeting female migrant workers in order to empower them with choices, to access resources and to claim rights
- Introduce temporary special measures to compensate for past discrimination that may adversely affect female migrants' current situations

**2. Conduct needs assessments:** Member States should ensure that labour market needs assessments carried out in their countries take into account the need for domestic and private care-related work.

5 This issue has been highlighted by organisations such as the Mediterranean Institute of Gender Studies (MIGS) in Cyprus <[www.medinstgenderstudies.org](http://www.medinstgenderstudies.org)>, Kalayaan in the United Kingdom <[www.kalayaan.org.uk](http://www.kalayaan.org.uk)> and the European network RESPECT <[www.respectnetwork.eu](http://www.respectnetwork.eu)>.

3. **Conduct a gender-impact assessment of bilateral labour agreements and migration policies:** A gender-impact assessment of bilateral labour agreements and all migration policies, including family reunification, must be conducted to ensure that these policies do not discriminate indirectly or directly against migrant women.

### Reframing asylum policies from a gender perspective

Women's experiences of political activities and of persecution may differ from those of men. Both politics and persecution have historically been interpreted by Member States through the framework of male experience, thus often excluding women's political opinions on gender roles as well as acts of gender-based violence and/or discrimination by either state or non-state actors. The 1951 UN Convention on the Status of Refugees does not specifically refer to gender as a ground for persecution, but each ground must be analysed from a gender perspective as asylum is not gender neutral. The European Women's Lobby (EWL) and other organisations, such as the Refugee Women's Resource Project at Asylum Aid in the United Kingdom, have been calling on EU Member States to apply the United Nations High Commission for Refugees (UNHCR) Gender Guidelines (2002) on International Protection with regards to Gender-Related Persecution (see EWL and Refugee Women's Resource Project at Asylum Aid, 2007).

Without such guidance it is very difficult to ensure that the gendered nature of persecution, of which women are the prime victims, is fully understood and that women's asylum claims are given equal and fair assessment. We are referring to situations where heterosexual, bisexual and lesbian women fear various forms of gender-based violence and discrimination by state and non-state actors, including where they are in danger of being killed or subjected to physical and mental violence by their husband/partner, family or the state; persecuted for opposing gender-discriminatory norms or laws; raped in situations of conflict and war; and along with their girl children are subjected to practices that are carried out in the name of 'culture', such as female genital mutilation or forced marriage. Without guidance there is also a risk that some asylum-seeking women struggling for their human rights and those of others will be depoliticised and regarded as passive victims of abuse, instead of being recognised as agents in their own right and as women human rights defenders. Similarly, it is crucial that asylum procedures are gender sensitive to ensure that women benefit equally from a non-discriminatory process, for example, through the choice of the gender of the interviewer and ensuring that country information relating to the situation of women is taken into account.

### Recommendations

1. **Establish a Gender Unit within the European Asylum Support Office:** Such a Unit would prove vital in providing an institutional framework to coordinate gender specific issues within the broader asylum support system.
2. **Member States should adopt, and the European Commission should promote, gender-sensitive asylum guidelines:** Within the framework of practical cooperation, the EWL calls for an EU ad-hoc gender expert group to establish and promote EU gender-sensitive asylum guidelines with the aim of assisting asylum determining authorities in interpreting gender-specific asylum claims.
3. **Develop gender-disaggregated data and studies:** It is particularly urgent in the context of the Dublin system to undertake a study on the disparities between Member States concerning the granting of protection on the basis of gender-based persecution and the forms this protection takes.
4. **Country of origin information (COI) must be gender sensitive:** COI should include information regarding the situation of women in countries of origin, both legally and de facto.

### Removing the main obstacles to migrant women's integration<sup>6</sup>

At the EWL seminar in 2007 on "Equal Rights. Equal Voices. Migrant Women in the European Union", migrant women's organisations (which are now working together in the framework of the newly created European Network of Migrant Women) identified five main areas crucial to migrant women's integration. These areas are:

1. **Legal status:** An important feature of family migration policies is the dependency of the spouse and the right to stay dependent on the sponsor. However, this dependency is reinforced in countries where spouses' access to the labour market is barred. This is an additional obstacle to women who have experienced domestic violence making an official complaint and can result in 'brain waste', with highly qualified migrant women remaining unemployed or in occupations far below their qualifications. Finally, because of the gendered nature of labour migration, as we have seen above, many migrant women are undocumented in Europe, do not have access to fundamental rights and face additional barriers to regularisation because of the informal nature of their work.

2. **Employment and education:** The gendered nature of labour migration results in many women entering European countries through family immigration regimes or in sectors such as domestic work, working below their qualifications. As emphasised by Kofman et al. (2009), the process of recognition of qualifications of non-EU country nationals is a major obstacle to labour integration, as well as the lack of support structures (such as professional, affordable and accessible language courses and childcare facilities). Multiple discriminations in the workplace also need to be tackled.
3. **Sexual, health and reproductive rights:** Migrant women are facing limited awareness and lack of access to sexual health education, while service providers lack understanding of the health needs and cultural specifics of migrant women. Conditional access to health care also needs to be removed.
4. **Violence against migrant women:** Migrant women are not free from violence, and very often their experiences are further exacerbated by their lack of language skills, extended family and knowledge of the existing support system. Furthermore, they may face specific forms of violence such as female genital mutilation or honour-based violence. It is, however, essential to develop a specific approach that does not fall into the trap of stigmatisation and to remove obstacles such as conditional access to shelters based on legal status.
5. **Participation in public and political life:** The right to vote and to access European citizenship are essential to ensure migrants' full participation in public and political life. However, migrants face additional obstacles to using these rights such as lack of information on the host country's political system in different languages, and also lack of migrant women role models or capacity-building programmes for migrant women activists. Migrant women are particularly underrepresented in public and political life.

### Recommendations

#### Legal status:

1. Automatically grant independent status and a work permit to the spouse of the principal legal status holder at the earliest opportunity in order to fully guarantee and protect their rights and to facilitate their social integration.
2. The law of the country of residence should be applied when it comes to personal status.
3. Undocumented migrant women should have full access to their basic fundamental rights and gender-sensitive channels of regularisation need to be developed.

<sup>6</sup> The challenges and recommendations set out in this section are taken from Greiner (2008) and EWL (2007); please consult these documents for full list.

## Employment and education:

- All migrant women, whatever their status, should have access to professional, affordable and accessible language courses, and care services for all dependants (children, older people, disabled persons).
- Recognise qualifications acquired abroad and ensure access to life-long learning.

## Sexual, health and reproductive rights:

- Migrant women, irrespective of their legal status, should have access to public funds to ensure safe, equal, culturally sensitive health services and rights, in particular sexual and reproductive health services and rights.
- Educational health tools on migrant women's health need to be developed for service providers.

## Violence against migrant women:

- Guarantee all migrant women, regardless of their status, access to designated services and shelters for victims of domestic and sexual violence, and further develop the existing infrastructure if necessary.
- Statutory agencies need to involve experts from migrant communities and service providers should be provided with training.
- Specific legislation needs to be implemented that guarantees that abused migrant women do not remain legally and economically dependent on the perpetrators of violence.

## Participation in public and political life:

- Clear, simple and gender-sensitive procedures to acquire permanent status and citizenship rights need to be made available.
- Funding should be made available for migrant women's NGOs to provide training to migrant women activists.

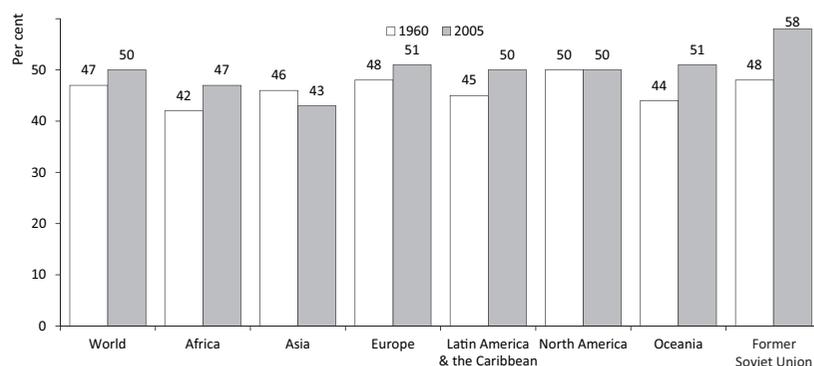
## Conclusion

Despite the Treaty of the European Community requirement that the European Community should "eliminate inequalities and...promote the equality between women and men in all its activities"<sup>7</sup> (i.e., gender mainstreaming), in practice most of the Member States and the European Union have failed to integrate a gender perspective into their policies on immigration, integration and asylum. There has, nevertheless, been increasing acknowledgement of the need to integrate a gender perspective in recent policy papers<sup>8</sup>, but how this will be done

7 A consolidated version of the Treaty establishing the European Community (2002) is available at <eur-lex.europa.eu/en/treaties/dat/12002E/pdf/12002E\_EN.pdf>.

8 See, for example: The European Commission's Communication on "A common agenda for integration" COM (2005) 389; The European Parliament Kratsa report on

Figure 5: Proportion of women in migrant stocks, by region, 1960 and 2005



Source: United Nations 2006

still remains to be seen and is one of the main challenges. The gender bias of current policies needs to be urgently addressed and lessons could be drawn from the Canadian example where a gender-based analysis of immigration, settlement and integration programmes has been instituted. It is also important for civil society to play a key role in supporting the implementation of these commitments. Consultation and funding are essential in this regard. Migrant women's organisations should be included in consultative bodies and in framing research and impact assessments at local, national, European and international levels. This is not possible without funding for migrant women's organisations and organisations supporting migrant women, as well as for gender equality, social and antidiscrimination policies. This is even more important in times of economic crisis, as progress towards women's rights is at risk of being jeopardised.

Finally, it is essential to note that reframing immigration, integration and asylum policies from a gender perspective is an essential step to ensure gender-fair policies, but this needs to be accompanied by a reframing of all policies from a women's rights-based approach to ensure a coherent policy framework. As pointed out by Jean-Michel Baer of the European Commission, "Migration, labour market or education policy initiatives will have only limited success in removing barriers to inclusion and economic growth if they are not articulated with policies that address wider economic and social inequalities" (EC, 2009). This would mean looking at the gendered and fundamental rights impact of not only social and economic policies within the European Union, but also of external relations, development and trade policies. ■

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