



International
Labour
Office

DOMESTIC WORK POLICY BRIEF

6

“Meeting the needs of my family too”

Maternity protection and work-family measures for domestic workers

With the increasing participation of women in the labour market and as the world undergoes major social, economic and demographic changes, families worldwide are facing a growing care deficit. Today, home-based care, both paid and unpaid, remains the predominant response to the needs of workers with family responsibilities, and domestic workers play a crucial role in providing this service (ILO, 2011e). Domestic workers have become indispensable to the functioning of societies and economies. It is therefore in the mutual interest of workers, employers and care recipients that decent work is guaranteed to domestic workers.

Maternity protection and work-family balance are essential to promoting gender equality at work and advancing decent work for women and men and for vulnerable categories of workers, among them domestic workers. The benefits of maternity protection and work-family balance to families, workers, employers and the society as a whole are broadly recognized. Yet, these measures hardly reach domestic workers, of whom the great majority is women in reproductive age who face important challenges in starting their own family and providing care to their own children and household members. More than a third of domestic workers are excluded from maternity protection laws. It is common that pregnancy results in employment termination and income loss. Since domestic work is generally not regarded as “real work”, the parenting needs and rights of domestic workers are often not acknowledged, placing them in intense work-family conflicts.

As part of a series on domestic work, this Policy Brief:

- explains why maternity protection and work-family policies are relevant to promoting decent work for

domestic workers and provides the ILO framework on these topics;

- canvasses the issues and gaps in the provision of maternity protection and promotion of work-family balance;
- presents some approaches to overcoming obstacles with reference to country experiences; and
- proposes policy considerations for concerned stakeholders.

1. Maternity protection and work-family balance: Key dimensions of decent work for domestic workers

Domestic workers are women and mothers with family responsibilities

Guaranteeing effective maternity protection along with measures that enable workers to reconcile work and family responsibilities is a critical ingredient of policy approaches that advance decent work. For domestic workers, this is especially important for several reasons. First, 83 per cent of domestic workers are women (ILO, 2011). Globally, one in every thirteen female wage workers is a domestic worker, but the ratio is much higher in certain regions – one in four in Latin America and the Caribbean and almost one in three in the Middle East (ILO, 2013). Second, around half of domestic workers are of childbearing age, likely to have young children or experience pregnancy while being employed. For example, in Viet Nam 52 per cent of domestic workers are 15–39 years old (Labour Force Survey, 2009), while in Uruguay, 50 per cent of these workers are found in the 14–44 age group (Encuesta

Continua de Hogares, 2010). In the absence of formal employment contracts and legal protection, pregnant domestic workers are at a serious disadvantage: they may be fired or forced to quit their jobs or face undue health risks to themselves and their new-born. Third, a majority of domestic workers tend to be “live-out”, residing outside the employer’s house. For example, in the Philippines more than 60 per cent of domestic workers are live-out (Labour Force Survey 2010). Similarly, in Bolivia the share of live-in domestic workers in urban areas decreased from 31 per cent in 2001 to 22 per cent in 2007 (Encuesta de Hogares 2007). While live-out workers usually enjoy a clearer separation between work and family life than live-in workers, they may be working long daily and weekly hours as a way to increase earnings, spending more time commuting to and from the employer’s residence, or working under unpredictable schedules closely dependent on the day-to-day demands of employer-households (ILO, 2013).

As time-use surveys show, “unpaid care work”, which also includes indirect care tasks such as preparing meals, cleaning, shopping or fetching water, is predominately performed by women (Razavi, 2007; UNRISD, 2010). Hence, domestic workers face the daunting challenge of combining paid work, often vital for the subsistence of their households, with their maternal role and long hours of unpaid care work. In addition, since they are among the lowest-paid workers, they can ill-afford to lose their job and are unable to buy care services or time-saving appliances on the market. They are more likely to resort to unfavourable coping strategies, such as leaving children alone at home, enlisting the “help” of an older sibling or young relative, or taking children to work, if allowed, with adverse consequences on children’s health and education as well as workers’ productivity (Cassirer and Addati, 2007).

The ILO framework

International labour standards on maternity protection have recognized its critical value to domestic workers. The Maternity Protection Convention (Revised), 1952 (No. 103) explicitly recognizes that those who perform “domestic work for wages in private households” (Art. 1.3 (h)) require protection during pregnancy, maternity and nursing periods. More recently, the Maternity Protection Convention, 2000 (No. 183) applies to all employed women, including those in atypical forms of dependent work (Art. 2.1), and aims to ensure that work does not threaten the health of women and their new-born during pregnancy and nursing, and that women’s reproductive role does not jeopardize their economic security. Convention No. 183 defines the five core elements of maternity protection at work, namely: maternity leave; cash and medical benefits; employment protection and non-discrimination; health protection and breastfeeding arrangements at the workplace.

Combatting all forms of maternity-based discrimination at work and safeguarding the employment of pregnant workers form an integral part of maternity protection. Convention No. 183 protects women against maternity-related dismissal during pregnancy, maternity leave or during the period following their return to work; gives women the right to return to the same or an equivalent position paid at the same rate at the end of their maternity leave; and prevents discrimination, including the prohibition of pregnancy tests. These principles have also been affirmed in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which obliges countries to prohibit dismissal on the grounds of pregnancy (Art. 11.2.a). The Termination of Employment Convention, 1982 (No. 158), explicitly declares that pregnancy is an invalid reason for dismissing a worker (Art. 5(d)).

Workers with Family Responsibilities Convention, 1981 (No. 156) aims to enable men and women workers to exercise their right to participate and advance in employment while meeting their unpaid family responsibilities. Among the work-family measures included in Convention No. 156, affordable and quality childcare services are essential

Box 1. Maternity protection and work-family provisions in the Domestic Workers Convention (No. 189) and Recommendation (No. 201), 2011

1. Each Member shall take appropriate measures, in accordance with national laws and regulation and with due regard for the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Convention No. 189, Article 14

25. (1) Members should, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, establish policies and programmes, so as to:

[...] (b) address the work–life balance needs of domestic workers; and

(c) ensure that the concerns and rights of domestic workers are taken into account in the context of more general efforts to reconcile work and family responsibilities.

Recommendation No. 201, Paragraph 25

to vulnerable workers, including those in domestic work. The Domestic Workers Convention, 2011 (No. 189) and accompanying Recommendation (No. 201) recognize the right of domestic workers, like other workers, to maternity protection and need for work-life balance, and acknowledge that these may require progressive steps and may be part of broader efforts to achieve these objectives for workers in general (Box 1).

2. Main issues and challenges

Despite international commitments to maternity protection and work-family measures, and recognition of their benefits, numerous challenges to extending these measures to all workers still remain. These challenges affect women and men workers everywhere, but are more pronounced among domestic workers because of the nature of their work. Using the frameworks provided by the Maternity Protection Convention (No. 183) and the Workers with Family Responsibilities Convention (No. 156), this section focuses on the principal elements of maternity protection and work-family balance. It highlights some of the principal issues and challenges that prevent domestic workers from enjoying the same benefits and protection that other working mothers and workers with family responsibilities enjoy.

Maternity Leave

Maternity leave is key to placing women on an equal footing with men in the labour market, while protecting the health of the mother and her child. Commitments to women's human right to paid maternity leave have been

Box 2. Maternity leave provisions in international human rights treaties

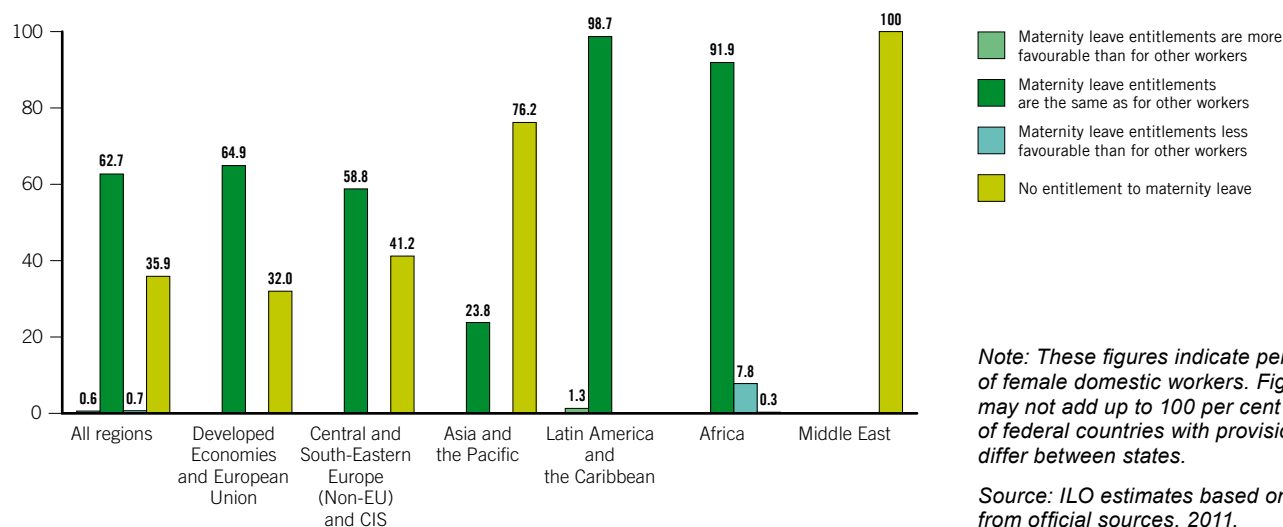
The International Covenant on Economic, Social and Cultural Rights, 1966 states that the State Parties recognize that special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits (Article 10.2).

The Convention on the Elimination of All Forms of Discrimination Against Women, 1979 states that in order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, State Parties shall take appropriate measures to introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowance (Article 11.2b).

affirmed repeatedly in international treaties, which have been universally ratified.

Consequently, women workers' right to maternity leave has been enshrined in national legislation almost everywhere (ILO, 2010a). Yet, it remains a major gap in the domestic work sector. Globally, around 15.6 million women domestic workers (36 per cent of the total) are not legally entitled to maternity leave, while this right is guaranteed to other categories of workers. An additional 0.3 million (0.7 per cent) have some maternity leave entitlements, although the duration is shorter than that for other workers.¹ As Figure 1 shows, legal coverage broadly varies at the regional level, with Africa and Latin

Figure 1. Share of domestic workers entitled to maternity leave under national law, by region, 2011 (%)



¹ The Bolivian Labour Code provides domestic workers with better maternity leave entitlements than other workers, 90 days instead of 60, an exceptional example for this category of workers.

America providing the most inclusive maternity protection (although sometimes on less favourable terms than other workers).

Restrictive prerequisites and eligibility criteria can result in *de facto* exclusion. Convention No. 183 mandates a minimum leave period of 14 weeks and identifies a single prerequisite to claim maternity leave, i.e., a medical certificate indicating the presumed date of birth (Art. 4.1). Imposing additional eligibility criteria, such as a minimum period of continued employment (e.g. two years, in Zambia), a cap on the number of maternity leave entitlements (e.g. twice throughout the period of employment in Egypt) or citizenship requirements (e.g. Mongolia), decreases the likelihood that women will actually enjoy maternity leave. In contrast, some countries such as Israel, Sweden and Uzbekistan, provide that all women residing in the country have the right to maternity leave (ILO, 2010a).

Where law is silent or ambiguous in its application in domestic work (e.g. Guatemala, Lao People's Democratic Republic), domestic workers may experience exclusion because labour law has historically never covered them and because of the predominantly informal nature of their employment relationship.

Even where adequate legal provisions exist, there are other factors that prevent domestic workers from claiming their right to maternity leave. Isolation from other workers and support networks, high income insecurity, close physical and personal proximity to their employer, the fact that one is very young, being a migrant – these factors put domestic workers at a weak bargaining position and make it difficult for them to claim their rights. Reports of job termination once an employer finds a worker is pregnant abound in Asia (HRW, 2006). Live-in migrant domestic workers are particularly vulnerable to abuse and employers may

vigorously discourage pregnancy, for example, by restricting workers' freedom of movement as in the Gulf countries (HRW, 2008). Lack of reliable information on maternity protection laws also reduces women's access to their rights.

Cash Benefits

Adequate cash benefits during maternity leave ensure workers' economic security while they make an invaluable contribution to the reproduction and wellbeing of the labour force. This short-term income support also ensures that women actually enjoy the right to maternity leave. Without such support, most workers cannot afford to suspend their economic activity and are forced to compromise their health and that of their children in order not to forego earnings. Loss of earnings around childbirth exacerbates their income insecurity (ILO, 1999).

Domestic workers in particular face a number of obstacles to receiving cash benefits during maternity leave. They may not be entitled to maternity cash benefits under national law. Globally, this exclusion affects almost 40 per cent of women domestic workers, with important variations by region (Figure 2). None of domestic workers in the Middle East have such entitlement and more than three quarters in Asia are excluded. A substantial share of domestic workers lacks the right to maternity cash benefits in developed economies (33 per cent) and Eastern Europe and CIS countries (41 per cent). In addition, the informality of employment contracts, irregularity and low level of earnings, and in-kind payments are other factors that prevent domestic workers from being registered with, or contributing to, benefits schemes, even when they are entitled to do so.

Exclusion of domestic workers may result from restrictive qualifying conditions, which domestic workers are likely

Figure 2. Share of domestic workers entitled to cash benefits under national law, by region, 2011 (%)

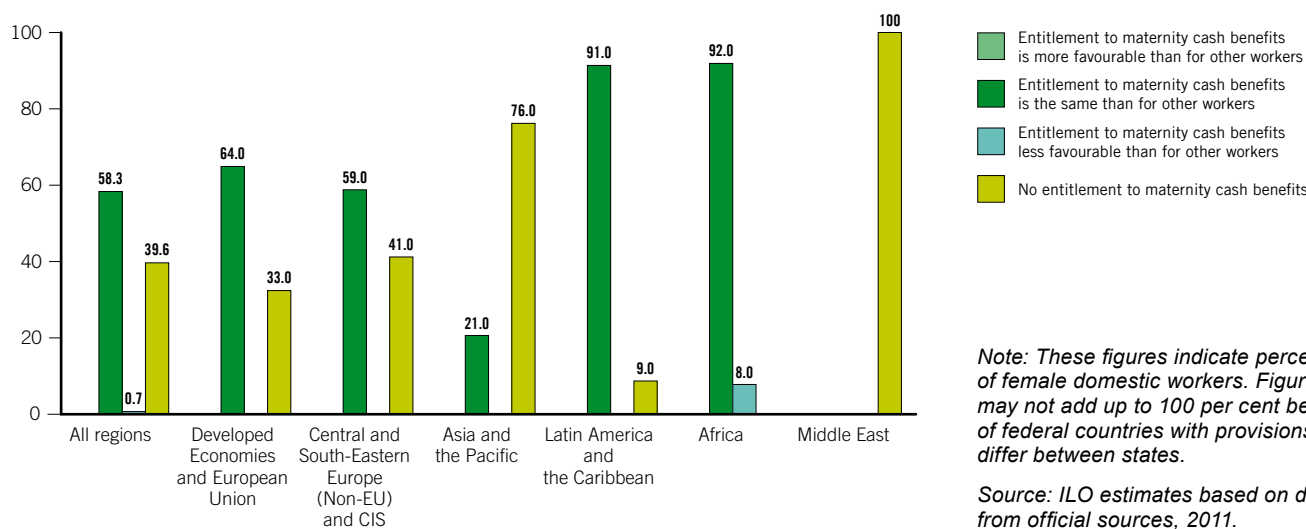
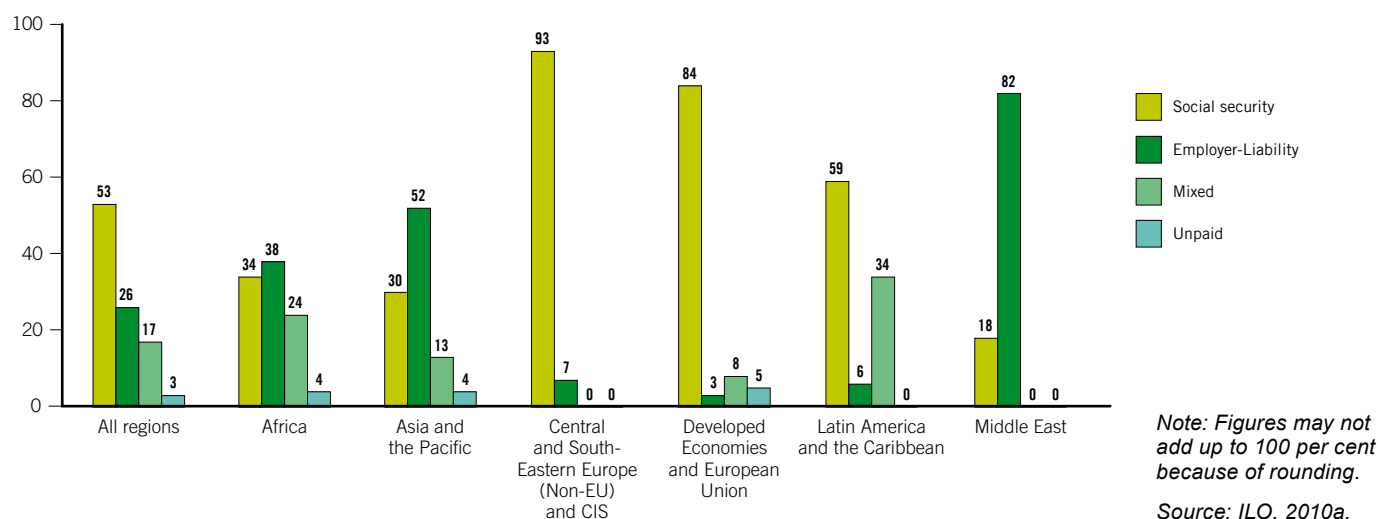


Figure 3. Who pays maternity cash benefits, by region, 2009 (167 countries) (%)



unable to meet. These may include an extensive minimum period of employment or social security contributions (e.g. 36 monthly contributions in the United Republic of Tanzania) or a limited number of times paid leave can be granted (e.g. only once in a 24-month period in Zimbabwe). In 2004, the ILO Committee of Experts accepted a qualifying period “*provided that it is set at a reasonable level and that women who do not meet the condition are provided, subject to certain means-related conditions, with appropriate benefits financed through social assistance funds*”. The Committee also observed that in certain cases “*national programmes have as an objective the progressive elimination of this qualifying period, thereby affording a greater number of working women improved financial and health protection during their maternity leave*” (ILO, 2004).

Who finances the cash benefits also matters. A private household, which employs a domestic worker, is likely to be unable to pay a substantial share of a worker’s wage during maternity leave. Schemes that make employers individually liable for the full or partial cost of income replacement during maternity leave tend to create disincentives to hiring of women who could become pregnant, leading to gender discrimination (CEACR, 1998). In 26 per cent of countries with available data (Figure 3), cash benefits are paid solely by the employer (e.g. Bangladesh, Democratic Republic of Congo, Nigeria, Malta), while in 17 per cent employers and social security systems share to varying extents the cost of maternity cash benefits (e.g., Costa Rica, Egypt, Madagascar, Thailand).

Medical Benefits

The availability of quality, comprehensive and affordable maternal and child health care is a fundamental human right and contributes to reduce maternal, infant and under-five mortality. Access to health care during pregnancy

is important in preventing and treating complications or illnesses at an early stage (WHO et al., 2010). Without medical benefits, too many women and their children could simply not afford prenatal, childbirth and postnatal care, and be forced to forego necessary medical attention (ILO, 2007).

Domestic workers face financial and physical difficulties in gaining access to these vital services. Even in countries where maternal health care is nominally free, user fees, co-payments or other direct payments for drugs, medical supplies, examinations and tests may still be requested. Indirect costs, such as transportation to health facilities, and other “under-the-table” payments may hamper access and cause differed catastrophic expenditure for low-income families, particularly in case of complications (ILO, 2010b). In addition, where medical benefits are not provided, employers may opt to deduct advances on health costs from domestic workers’ salaries (e.g. in Morocco) (HRW, 2006). Lack of time-off during pregnancy to undergo prenatal medical examinations is another factor that jeopardizes workers’ access to prenatal and maternal health care. In some cases, domestic workers are socialized to disregard their medical needs (e.g. in Indonesia) (HRW, 2006). Lastly, as previously mentioned, exclusion from legal coverage and the informality of domestic workers’ employment relationship reduce their chances of coverage under social security schemes (ILO, 2010).

Employment protection and non-discrimination

Despite the universal recognition of the principle of non-discrimination based on sex, potential or actual maternity still constitutes a source of discrimination in relation to access to employment, equal opportunities and treatment at work, and employment termination. In domestic work, it is not uncommon for an employer to terminate a worker’s employment upon learning that she is pregnant, or to

replace her while she is on maternity leave and refuse her to return to work. The frequency and occurrence of dismissal on grounds of pregnancy is alarming despite legislative protection. Migrant domestic workers are particularly vulnerable, since some countries link work-permits to a negative pregnancy status. In Singapore, foreign domestic workers must undergo a pregnancy test every six months. Failing this exam results in immediate repatriation (Ministry of Manpower, Singapore, 2011).

Health protection at work

Pregnancy, childbirth and the postnatal period are three phases in a woman's reproductive life that require special protection from workplace hazards and risks. In order to safeguard the woman and support the healthy development of her child, pregnant or breastfeeding workers shall not be obliged to perform work that is prejudicial or poses significant risks to their health or that of their child (Convention No. 183, Art.3).

Domestic work often involves hazardous or unhealthy work, in particular: exposure to solvents and other chemical agents, such as toxic cleaning products, or extreme temperatures, when handling hot water, oil, irons etc.; arduous work, involving bending, lifting, pushing or carrying heavy loads, including young children; work involving physical strain, such as repetitive movements, prolonged periods of standing, irregular or long working hours, night work, or lack of daily and weekly rest (ILO, 2009). Live-in domestic workers are dependent on their employers for adequate food and accommodation, which are crucial for healthy pregnancies and breastfeeding. Violence and sexual harassment at work are serious occupational hazards affecting domestic workers all over the world (HRW, 2006). Due to lack of personal protective equipment and training, domestic workers are at risk of occupational exposure to HIV or tuberculosis, when caring for affected household members (Alfers, 2011). Hazardous or unhealthy working conditions can all have potentially negative effects for the health of pregnant or breastfeeding women and their foetus or new-born, including complications during pregnancy, miscarriage and stillbirth, foetal growth retardation, premature birth and other problems (ILO, 2007). For example, a study on domestic work in Nigeria identified long working hours, prolonged standing, physical exertion and poor nutrition as risk factors associated with low birth rate and preterm birth (Omokhodion et al., 2010).

Breastfeeding after maternity leave

The right to continue breastfeeding upon return to work enhances child health and development and a mother's ability to provide the best nutrition option to her baby, while remaining employed. It increases workers' morale and loyalty, minimizes absenteeism due to child illnesses

and eliminates unnecessary work disruptions. However, domestic workers face social and legal barriers to access the right to daily breaks or reduction of working hours with pay to breastfeed their child, as set out in Convention No. 183 (Art.10). First, labour laws may not afford them this right as other workers (e.g. India, Mexico, Republic of Korea). Second, going back home in order to breastfeed or taking their child to work may not be feasible or affordable in terms of time and cost. In addition, employers may not allow the worker to leave the workplace during the day or to bring her child to work (which has other risks on the child's health).

Childcare and work-family reconciliation

Long or intermittent working hours, continuous on-call expectations, and little control over working conditions are some of the characteristics of domestic work. These run against a healthy work-life balance (ILO, 2004). Faced with lack or unaffordable quality childcare services, domestic workers are often forced to place the care needs of their employers' dependants ahead of their own families.

As a result, domestic workers may be forced to quit their jobs, or pass on their family responsibilities to other relatives or neighbours. In some cases, domestic workers have no choice but to leave their children at home without supervision (Palriwala and Neetha, 2009). Migrant domestic workers are particularly concerned. Many parents migrate in hopes of mitigating the effects of poverty by supporting their families through remittances. Grandparents and older daughters, many who require care themselves, usually meet the care gaps migrant domestic workers leave behind (Bastia, 2009). The absence of paid annual leave, restrictive work migration policies and travel costs extend the separation period into years, sometimes decades. Children of migrant workers have been found to be at higher risk of relational, behavioural and psychological problems despite the better educational and living standard opportunities offered by domestic workers' remittances (Giannelli and Mangiavacchi, 2010; Heymann, 2009).

3. Policy responses: Drawing from national experiences

This section presents some of the approaches and measures in various countries that have been adopted to overcome the barriers and difficulties discussed in the preceding section.

Legal and policy frameworks for effective protection

Effective protection rests on labour legislation that enshrines, explicitly, the right of women domestic workers to maternity protection and work-family balance, such

as paid maternity leave, adequate rest periods, time for breastfeeding, childcare facilities and freedom from maternity-based discrimination. The first step, therefore, in extending effective maternity protection and work-family measures to the domestic work sector is assessment of the gaps in current legal and policy frameworks. Are workers who work for or in private households excluded, explicitly or implicitly, from coverage? If they are entitled under the law, are the guidelines for application of law and policy clear, adequate and appropriate for the sector? Do the eligibility criteria, prerequisites and procedures facilitate access to the benefits or do these make it more difficult for domestic workers than other workers to claim their benefits?

Campaigns that disseminate information on the provisions of law and policy, and enhance appreciation of the benefits of maternity protection and work-family balance to both workers and employers, promote compliance. For example, the affiliation of domestic workers to social insurance can be enhanced by registration campaigns at local level. Engaging national trade union confederations, employer associations, representative organizations of domestic workers as well as community-based organizations broadens the outreach of these campaigns.

Comprehensive approach to preventing discrimination

A comprehensive approach to preventing and combating the multiple forms of maternity-based discrimination in domestic work requires, in addition to the establishment of a solid legal framework (mentioned above), a reliable, accessible and efficient judicial system. Governments can create specialized authorities to deal with these matters (see Box 3). While sanctions are one way of deterring discrimination, another method is putting the burden of proof on the employer that a dismissal is not based on maternity (Convention No. 183, Art.8.1). Periodic review of anti-discrimination frameworks, enhanced guidance to both employers and workers on how to comply, as well as collection and publication of data on maternity-based discrimination will increase accountability and public awareness of this issue.

Extending maternity cash and medical benefits

Policy approaches to extend maternity cash and medical benefits to domestic workers should consider the following lessons from national experience. First, it is primordial that employers are not individually liable for the full or partial cost of income support during maternity leave. The Maternity Protection Convention, 2000 (No. 183), prescribes that maternity leave benefits “*shall be provided through compulsory social insurance or public funds*” (Article 6.8), in order to better protect the situation of women in the labour market. This provision is particularly relevant for domestic workers. In some

Box 3. Approaches to eliminating maternity-based discrimination

In **South Africa** the dismissal of an employee on account of her pregnancy, intended pregnancy, or any reason related to her pregnancy, is automatically deemed unfair. The definition of dismissal in section 186 of the Labour Relations Act, 1995, includes the refusal to allow an employee to resume work after she has taken maternity leave in terms of any law, collective agreement or her contract.

In **Brazil**, Act No. 11.324, section 4(a), prohibits dismissal of a domestic worker without just cause from the time a pregnancy is discovered until five months after the delivery.

The prohibition of pregnancy tests is not widespread in labour legislation around the world, except in Europe and Latin America. For example, **El Salvador**, **Nicaragua** and **Panama** have provisions banning pregnancy tests, which cover also domestic workers.

In **Hong Kong (SAR, China)**, the Equal Opportunities Commission is a statutory body responsible for implementing the sex discrimination ordinance, which covers pregnancy-based discrimination. The Commission is based on a complaint system that involves investigation and conciliation, which is at its discretion and free of charge. If conciliation is unsuccessful, complainants may apply for legal assistance.

In **France**, the Defender of the Rights is the administrative authority that examines, investigates, prosecutes and enforces all forms of discrimination prohibited by national law or by an international instrument to which France is bound. It provides support to complainants and provides mediation services.

countries (see Box 4) these workers are legally entitled to maternity cash benefits financed by social insurance on the same conditions as those applicable to workers generally, in line with Art. 14 of Convention No. 189.

Even where social insurance is mandatory for domestic workers, many employers do not comply with the obligations to register their workers with the social insurance fund. For instance, in Namibia, the Maternity Leave, Sick Leave and Death Benefits Fund explicitly covers domestic workers, and employers are obliged to register any domestic worker who works at least one day per week with the Social Security Commission (SSC). Yet, in 2008, only 6,200 of the country's 36,000 domestic workers were actually affiliated to the SSC (Labour Force Survey, 2008).

An increasing number of countries have taken active steps to improve affiliation of domestic workers to social insurance schemes including maternity benefits (see Box 4). Accessible qualifying conditions are key. For example, in Brazil, a woman must simply be employed in

Box 4. Social insurance schemes covering domestic workers

In **South Africa**, domestic workers are entitled to at least four months of maternity leave, paid by the Unemployment Insurance Fund, a compulsory contributory social security system introduced by the Basic Conditions of Employment Act (2002). A key success factor was government's sectoral approach. Strategies focusing on domestic workers and their employers were developed to overcome resistance and enforce the law (Samson, 2009).

In **Uruguay**, a tripartite commission for equal opportunities led to the adoption of the Domestic Service Law (2008), which establishes decent working conditions for domestic workers, including maternity benefits. This initiative has been crucial in substantially reducing the share of undeclared domestic workers (ILO and UNDP, 2009).

In 2010, **El Salvador** launched a national campaign to extend social security coverage to domestic workers. Maternity cash benefits are paid at 100 per cent of the insured salary during 12 weeks, plus access to outpatient health care services for the worker and her/his children up to the age of 12 years. The scheme is based on voluntary monthly contributions by workers and employers and provides for income tax breaks to employers as a means to promote take-up rates (ILO, 2012, Module 7).

In **Brazil**, efforts to improve the effective coverage of domestic workers have been undertaken since the mid-1990s. The proportion of domestic workers who are contributing to the Social Security Institute has increased from 18.2 per cent in 1993 to 30.6 per cent in 2007. The Institute covers 120 days of paid maternity leave for all insured domestic workers (Instituto Brasileiro de Geografia e Estatística (IBGE), retrieved 2012).

insured employment to qualify for maternity cash benefits (ILO, 2010a). Belgium and France provide incentives for both employers and workers, such as tax allowances or credits, or simplified registration and payment of social security contributions, for instance through a voucher system for service employment (Hein and Cassirer, 2010). El Salvador has introduced a benefit package combining maternity cash benefits with health care for the mother and her children.

Some countries provide maternity cash benefits to domestic workers through non-contributory social assistance programmes targeting low-income residents or informal workers (see Box 5). These schemes are financed by public funds and provide a minimum level of income support to pregnant and breastfeeding women. Some conditionality related to the recipient's behaviour may apply, e.g. the mother may be required to undergo

Box 5. Social assistance schemes covering vulnerable workers

In **India**, the Indira Gandhi Matritva Sahyog Yojana (IGMSY) is a conditional cash transfer pilot programme in 52 districts across the country. IGMSY reaches out to nearly 1.3 million pregnant and lactating mothers. On the fulfilment of certain conditions relating to maternal and child health care practices, including breastfeeding, a total of INR 4,000 (nearly US\$100) is given to the mothers as partial wage compensation and as an incentive to promote self-caring behaviour (ILO, 2012, Module 7).

In **Argentina**, Decreto No. 406/2011 set up a new social protection programme, the Universal Pregnancy Allowance for Social Protection (*Asignación Universal por Embarazo para Protección Social*), which provides that pregnant women from the 12th week of pregnancy until delivery or miscarriage have access to cash benefits. Beneficiaries of the scheme include informal workers (legal citizen of Argentina or a legal resident) with a salary below the minimum wage. The benefit consists of a monthly cash benefit of 220 Argentine Pesos (approximately US\$50). The programme plans to cover about 180,000 women per year (ILO, 2012, Module 7).

regular medical check-ups during pregnancy or to give birth in a health facility (ILO, 2012).

The new ILO Recommendation concerning national floors of social protection, 2012 (No. 202) includes “*essential health care, including maternity care*” and “*basic income security*” in case of maternity, among the basic social security guarantees that social protection floors should comprise (Paragraph 5, (a)(c)).

Ensuring that women workers and their new-born receive “*prenatal, childbirth and postnatal care as well as hospitalization care when necessary*”, in line with Convention No. 183 (Art. 6.7), also requires Governments' commitment to universal health coverage as well as the availability of quality services and facilities, which are well staffed and provide adequate working conditions and training to health workers.

Recommendation No. 202 sets out that when defining national basic social security guarantees, ILO member States should consider that “*persons in need of health care should not face hardship and an increased risk of poverty due to the financial consequences of accessing essential health care. Free prenatal and postnatal medical care for the most vulnerable should also be considered*” (Paragraph 8(a)). Box 6 shows examples of programmes relevant to low-income workers, including domestic workers, who cannot afford to buy these services and/or are probably not members of a contributory social insurance scheme.

Box 6. Non-contributory and contributory maternity medical benefits

In 2001, **Thailand** took a decisive step towards achieving full population health coverage, including maternity benefits. It created the “UC scheme,” entirely funded by taxes (ILO, 2010).

Ghana implemented the National Health Insurance Scheme. Its purpose is to ensure equitable universal access to quality essential health services for all residents. The benefit package includes prenatal care, normal deliveries and some complicated deliveries (ILO, 2010).

In **India**, the *Janani Suraksha Yojana*, a conditional cash transfer scheme, promotes deliveries in facilities attended by skilled medical providers and aims to

reduce maternal and neonatal mortality. Payments are made to both mothers and health care providers. Its beneficiaries multiplied from 0.74 million in 2005-06 to 8.63 million in 2008-09. Studies show a positive impact on neonatal mortality (Paul, 2010).

In the framework of the Special Program for the Protection of Employees of Private Households (PRECAPI), **Guatemala** has recently extended maternal and infant health care services to domestic workers and their children in Guatemala City. The package also includes maternity cash benefits and workplace accidents insurance and it is expected to be gradually extended to all the country (ILO, 2011b).

Box 7. Safeguarding domestic workers’ safety and health in the workplace

In **Brazil**, the Integrated Program of Environmental and Workers’ Health (PISAT) at the Federal University of Bahia, collects data on occupational injuries and diseases in both the formal and informal economy, including domestic work. It works in collaboration with workers’ organizations, such as the National Federation of Domestic Workers and the Domestic Workers’ Labour Union, in order to raise workers’ awareness of occupational risks and promote their participation in the formulation and implementation of OSH policies and regulations (WIEGO, 2011).

In **Mexico**, the CONLACTRAHO trade union confederation runs a placement service for domestic workers. At the Support and Training Centre for Domestic Workers, prospective employers receive information on

their obligations, including OSH issues. It also provides domestic workers with training before their first interview. After a successful placement, the union stays in contact with the worker and the employer and acts as a watchful third party to ensure that the domestic worker’s rights are respected (ITUC, 2009).

The maternal health communication card issued by **Japan**’s Ministry of Health, Welfare and Labour is a communication tool between health-care providers and the employer. Through the card, all necessary information on health problems and required arrangements at the workplace are transmitted to the employer in order for him/her to take timely measures for health protection of workers during maternity (ILO, 2012, Module 8).

Ensuring a safe and healthy work environment

Creating a safe and healthy working environment for pregnant and nursing workers includes a range of possible measures, from identifying risks and removing hazards in the workplace (i.e. the home); giving them unrestricted access to the lavatory and potable water; re-organizing their tasks; and adjusting their working time so that pregnant and breastfeeding workers have regular breaks to rest and eat adequately, and attend prenatal and postnatal medical visits.

Supporting breastfeeding upon return to work

Enabling domestic workers to breastfeed or to express and safely store breast milk upon return to work results in benefits for the worker and for the employer (minimizes absenteeism, reduces turnover, and eliminates unnecessary work disruptions). Measures include providing for “one or more daily paid breaks or a daily reduction of hours of work to breastfeed” (Art. 10, Convention No. 183), and for a place for expressing and storing breast milk.

Box 8. Breastfeeding breaks for domestic workers

In 2002, **Belgium** enacted the right to breastfeeding breaks paid by the national health insurance at 82 per cent of one’s gross hourly wage. Women, including domestic workers, are entitled to a 30-minute break to breastfeed or to express milk for every four hours of work or two 30-minute breaks for every seven and a half hours of work.

In **India**, the Association for Consumers Action on Safety and Health implemented a project to raise awareness about the benefits of breastfeeding among domestic workers from the slum community of Mumbai and their employers. It succeeded in both identifying the obstacles these workers faced in combining work and breastfeeding and creating an enabling environment for this practice (WABA, 2007).

In **Russia**, mothers can choose to combine their breastfeeding breaks and take the allowed time at the beginning or end of the day.

In **Tajikistan**, these breaks also can be added up to the regular lunch or rest breaks (ILO, 2010a).

Box 9. Meeting the needs of the most vulnerable through childcare

In 2006, **Chile** launched “Chile grows up with you”, a comprehensive social protection programme that provides free childcare for the most vulnerable 40 per cent of the population. It covers children under the age of two, whose mothers are either working or jobseekers. In 2009, around 3,500 new free centres were opened, caring for 70,000 infants (ILO and UNDP, 2009).

In **Mexico**, the Federal Daycare Programme for Working Mothers provides childcare services to children aged one to four from households with less than six minimum wages per month. It also includes a financial support for the setting up of day-care centres. In 2009, the programme cost less than 0.01 per cent of GDP, covered 261,728 children (in 8,923 centres) and generated around 45,000 paid jobs for childcare providers and assistants. Childcare centres are open at least eight hours per day, five days a week (ILO, 2011e).

In **India**, the Integrated Child Development Services (ICDS) Scheme assures nutritional support and health care for expectant mothers and infants, while also providing pre-school education to children under six through a vast network of ICDS centres or *anganwadis* pre-schools (ILO, 2011e).

Protecting domestic workers’ family responsibilities

Whether through subsidized or state-sponsored services, the availability of childcare is particularly important in addressing the care needs of women and men in lower paying jobs, such as domestic workers. It also benefits their employers, usually working parents, who would otherwise be called in to fill the care gap. Employers also stand to benefit from other measures, including the right to annual, paternity, parental and emergency leave, which relieve their workers’ work-family conflicts.

4. Conclusions: Points for consideration

Promoting effective gender equality

Achieving gender equality should be at the heart of all social policies, including laws and measures to promote decent work for domestic workers. This is especially important when it comes to household and care work as the majority of these providers, paid and unpaid, are women. Domestic workers supply care but, in return, they and their families often experience care deficits. Providing all domestic workers with decent working conditions, including comprehensive maternity protection and

work-family measures, is not only essential to address the gendered nature of domestic work and to protect domestic worker’s parenting rights; it is also a key element of integrated policies to meet the work-life needs of their employers.

Inclusive laws and policies

Maternity protection and care services for working parents are fundamental labour rights enshrined in all universal human rights treaties. The ILO Constitution makes the “*provision for child welfare and maternity protection*” (Art.III.h) one of the key aims and purposes of the ILO. Domestic workers’ rights to maternity protection and work-family balance should be clearly enshrined in labour laws and policies, providing for not less favourable protection than that applicable to workers generally. Attention should be paid to the situation of migrant domestic workers. Governments should also ensure that adequate enforcement mechanisms exist in order to deter and correct non-compliance.

Comprehensive social protection based on the principle of solidarity

Domestic workers are some of the most vulnerable workers in the world. Safeguarding their maternal health is part of addressing global health concerns, reducing maternal and infant mortality and maintaining a healthy workforce, as set out in the Millennium Development Goals Declaration. Ensuring that domestic workers and their children have access to quality prenatal, childbirth and postnatal care as well as adequate maternity cash benefits funded by social insurance or public funds should be a priority. The principle of solidarity in financing maternity benefits is essential to promote non-discrimination at work, preventing employers from bearing the direct cost of maternity protection. The set-up of national social protection floors including maternity benefits and health services offers an important way to reach the most vulnerable.

Establishing a preventative safety and health culture in private households

Governments, employers and workers should actively participate in securing a safe and healthy working environment for all domestic workers, with the highest priority placed on the principle of prevention. Social dialogue at legislative and policy levels is critical to setting up a system of defined rights, responsibilities and duties.² At the workplace, employers and workers, including those who are pregnant and breastfeeding, should work together at all stages to jointly develop a culture of prevention in private households, to establish

² Article 1(d) of the ILO Convention concerning the promotional framework for occupational safety and health, 2006 (No. 187).

rules and procedures, as well as information and awareness-raising initiatives.

Developing affordable and quality care services for all workers

In light of the growing need for care services around the world, domestic workers, like all workers, deserve real options that address their work-family conflicts. Sound and viable social care services addressing the needs of the most vulnerable are essential. Research shows that where childcare services are designed to meet the needs of working parents and are integrated into a partnership framework that involves local governments, social security institutions, employers, trade unions, NGOs and

working parents, the benefits are tremendous for families, the society and the economy (Hein and Cassirer, 2010).

Role of ILO Constituents

Governments should set up and implement an inclusive policy framework as well as create an enabling climate for social dialogue on maternity protection and work-family measures for domestic workers. As stated in Convention No. 156, in devising and applying these measures, employers' and workers' organizations have a key role to play. The participation of representatives of this category of workers and their employers would help strengthen this process and increase the likelihood of achieving decent work for domestic workers.

References

- Alfers L. (2011): "Occupational Health and Safety and Domestic Work. A synthesis of research findings from Brazil and Tanzania", WIEGO Social Protection Programme Research Paper.
- Bastia T. (2009): "Women's migration and the crisis of care: grandmothers caring for grandchildren in urban Bolivia", in *Gender & Development*, Vol. 17, No. 3, pp. 389-401.
- Cassirer N. and Addati L. (2007): "Expanding women's employment opportunities: Informal economy workers and the need for childcare", Conditions of Work and Employment Branch, Working Paper (ILO, Geneva).
- CEACR: Individual Direct Request concerning Convention No. 103, Maternity Protection (Revised), 1952 Guatemala (ratification: 1989) Submitted: 1998.
- Equal Opportunity Commission, Hong Kong, at: <http://www.eoc.org.hk/eoc/GraphicsFolder/default.aspx>
- Giannelli CG. and Mangiavacchi L. (2010): "*Children's Schooling and Parental Migration: Empirical Evidence of the "Left Behind" Generation in Albania*", The Institute for the Study of Labour, Discussion Paper No. 4888 (Bonn).
- Hein C. and Cassirer N. (2010): *Workplace Solutions for Childcare* (ILO, Geneva).
- Défenseur des droits (Defender of the Rights), France, at www.defenseurdesdroits.fr.
- Heymann J. et al. (2009): "The impact of migration on the well-being of transnational families: new data from sending communities in Mexico" in *Community, Work & Family*, Vol. 12, No. 1, pp. 91-103.
- Human Rights Watch (HRW) (2006): *Swept Under the Rug: Abuses against Domestic Workers Around the World* (New York).
- (2008): *As If I Am Not Human: Abuses against Asian Domestic Workers in Saudi Arabia* (New York).
- International Labour Office (ILO) (1999): *Social security for the excluded majority: Case studies of developing countries* (Geneva).
- (2004): *Gender & Migration in Arab States The Case of Domestic Workers* (Beirut).
- (2004): *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1A), International Labour Conference, 92nd Session, 2004 (Geneva).
- (2007): *Safe Maternity and the World of Work* (Geneva).
- (2009): *Decent work for domestic workers*, Report IV(1), International Labour Conference, 99th Session, 2010 (Geneva).
- (2010): *Extending social security to all: A guide through challenges and options* (Geneva).
- (2010a): *Maternity at Work: A review of national legislation, Findings from the ILO Database of Conditions of Work and Employment Laws*, Second Edition (Geneva).
- (2010b): *World Social Security Report: Providing coverage in times of crisis and beyond. 2010/2011* (Geneva).
- (2011): *Global and regional estimates on domestic workers*, Domestic Work Policy Brief No. 4 (Geneva).
- (2011a): *Measuring the economic and social value of domestic work*, Domestic Work Policy Brief No. 3 (Geneva).
- (2011b): *Protección de la maternidad: un derecho de las trabajadoras domésticas remuneradas*, Notas OIT, El trabajo doméstico remunerado en América Latina y el Caribe, No. 6 (Santiago).
- (2011c): *Remuneration in domestic work*, Domestic Work Policy Brief No. 1 (Geneva).
- (2011d): *Working hours in domestic work*, Domestic Work Policy Brief No. 2 (Geneva).
- (2011e): *Work-life balance*. GB.312/POL/4. Governing Body, 312th Session, Geneva, November 2011 (Geneva).
- (2012): *Maternity Protection Resource Package. From Aspiration to Reality for All* (Geneva), at: <http://mprp.itcilo.org>.
- (2013): *Domestic workers across the world: Global and regional statistics and the extent of legal protection* (Geneva).

ILO and UNDP (2009): *Work and Family: Towards new forms of reconciliation with social co-responsibility* (Santiago).

ITUC (2009): *Interview with Marcelina Bautista of CONLACTRAHO* at: <http://www.ituc-csi.org/spotlight-interview-with-marcelina.html?lang=en>.

Lee S. and McCann D. (2011): "The impact of labour regulations" measuring the effectiveness of legal norms in a developing country" in S. Lee and D. McCann (eds.) *Regulating for Decent Work: New directions in labour market regulation* (London: Palgrave and ILO), pp. 291-312.

Ministry of Manpower, Singapore (2011): *Working Permit (Foreign Domestic Worker) – Inform MOM 6-Monthly Medical Examination* at <http://www.mom.gov.sg/foreign-manpower/passes-visas/work-permit-fdw/inform-mom/Pages/medical-examination.aspx> (accessed November 2012).

Omokhodion FO. et al. (2010): "Paid work, domestic work and other determinants of pregnancy outcomes in Ibadan, southwest Nigeria" in *International Journal of Gynecology and Obstetrics*.

Palriwala R. and Neetha N. (2009): "Paid Care Workers in India: Domestic Workers and Anganwadi Workers", Research Report 4 (UNRISD, Geneva).

Paul VK. (2010): "India: conditional cash transfers for in-facility deliveries", in *The Lancet*, Vol. 375, No. 9730, pp. 1943-1944.

Razavi S. (2007): *The political and social economy of care in a development context: Conceptual issues, research questions and policy options*, Gender and Development Programme Paper No. 3 (Geneva, UNRISD).

Samson M. (2009): *Good practice review: Extending social security coverage in Africa*, Working Paper No. 2 (ISSA, Geneva).

UNRISD (2010): *Why Care Matters for Social Development*, Research and Policy Brief No. 9 (Geneva).

WABA (2007): *Innovative Initiatives. Supporting Working Women's Right to Breastfeed*, L. Menon and C. Mulford (eds.), (WABA, Penang), pp. 100-107.

WHO, UNICEF, UNFPA and The World Bank (2010): *Trends in Maternal Mortality 1990 to 2008* (Geneva).

WIEGO (2011): *Occupational Health and Safety for Informal Workers*, Issue No. 2, February 2011.

National laws

Belgium

Arrêté royal du 21 janvier 2002 (Moniteur belge du 12 février 2002) <http://staatsbladclip.zita.be/moniteur/lois/2010/12/20/loi-2010205973-print.html>

Bolivia

Act No. 2450 on Domestic Workers, dated 9 April 2003 (*Ley de Regulación del Trabajo Asalariado del Hogar*) <http://www.lexivox.org/norms/BO-L-2450.xhtml>

General Labour Act (*Ley General del Trabajo*) <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/46218/65057/S92BOL01.htm>

India

Maternity Benefits Act, 1961 <http://india.gov.in/govt/acts.php>

Mexico

Federal Labour Act (*Ley Federal del Trabajo*) <http://info4.juridicas.unam.mx/juslab/leylab/123/>

Republic of Korea

Labour Standards Act, 2007 <http://www.scribd.com/doc/12960127/Korean-Labor-Standards-Act-amended-in-2007>

South Africa

Basic Conditions of Employment Act, 2002 <http://www.labour.gov.za/find-more-info/all-about-domestic-workers>

Labour Relations Act, 1995 <http://www.acts.co.za/lra/index.htm>

Uruguay

Ley No. 18.065, Trabajo Doméstico, Normas para su regulación <http://www.parlamento.gub.uy/leyes/AccesoTextoLey.asp?Ley=18065&Anchor>

ILO

ILO Database of Conditions of Work and Employment Laws – Maternity Protection www.ilo.org/travdatabase

Acknowledgements: Laura Addati (Specialist on Maternity Protection and Work-Family Balance, TRAVAIL) and Lindsay Tina Cheong (ILO Consultant) wrote this policy brief. Contributions and comments to this paper were provided by Philippe Marcadent, Malte Luebker, Yamila Simonovsky, Amelita King Dejardin and Manal Azzi.

The Domestic Work Policy Brief series aims to stimulate and inform policy debates on advancing decent work for domestic workers. It provides information on terms and conditions of employment in domestic work, policy issues and different views on these issues, and varied approaches to addressing them around the world.