



International
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Office



DOMESTIC WORK POLICY BRIEF

9

Making decent work a reality for migrant domestic workers

Domestic work from a migration perspective

In many parts of the world, domestic workers have the face of a migrant woman. For many of them, migration can represent a positive experience and have important emancipating and empowering impacts. Evidence also shows the important contribution these women make to the economies and the societies of destination and origin alike, by sustaining and renewing human life and households, and fostering productivity, economic growth and human development.

Globally, domestic workers face serious decent work deficits, including poor wages, excessive working hours and little rest, but among them migrants are particularly exposed to human rights, including labour rights, violations at each stage of the migration cycle – during recruitment, the journey across borders, working in a foreign country, and returning to their countries of origin or re-migrating. Once in employment, they find themselves in particularly unequal power relations with their employers and face higher levels of isolation and discrimination, as they often do not speak the local language, do not have local support networks, and are unfamiliar with the law and local customs of the country of destination. Vulnerability also increase for those who are in an irregular migration status, whose visa is tied to the employer, and who are required to live in the employers' household, as this limits workers' freedom to leave an unhealthy employment relationship as well as their capacity to report abuse, for fear of deportation.

Migrant domestic workers are caught at the crossroads of origin and destination countries' policies and regulations that govern entry of foreign workers and their insertion into the labour market, as well as their employment and labour protection. Growing inequalities within and between countries are driving more and more women into migrating for domestic work. Family welfare, care and gender equality policies in general, considering that the overwhelming majority of domestic workers are women, also have a significant impact on migrant womens' participation in the sector.

Responses to these complex challenges must therefore be multidimensional and should be placed within broader efforts to promote decent work for national domestic workers, gender equality and good governance of labour migration.

This policy brief seeks to:

- Highlight the trends of migration for domestic work and the specific needs and vulnerabilities of migrant domestic workers;
- Identify the main issues and challenges in improving the governance of labour migration policy for this specific category of workers;
- Present some emerging practices in addressing these challenges throughout the migration cycle.



Main trends and characteristics

Nowadays, women represent about 52% of all migrants in the “global north”, and 43% in the “global south” respectively.¹ Evidence shows that many of them find work as domestic workers at destination or in transit countries.

The ILO estimates² that there are 67.1 million domestic workers in the world, of which 11.5 million are international migrants. This represents 17.2% of all domestic workers and 7.7% of all migrant workers worldwide. In other words, almost every fifth domestic worker in the world was an international migrant in 2013. About 74% (or around 8.5 million) of all migrant domestic workers are women, compared to 80% of national domestic workers. This data show that it is more common for migrant men to be a domestic worker than for national men.

The share of migrants among domestic workers has significant regional variations, especially if male and female data are compared. Nearly 80% of migrant domestic workers tend to be concentrated in high income

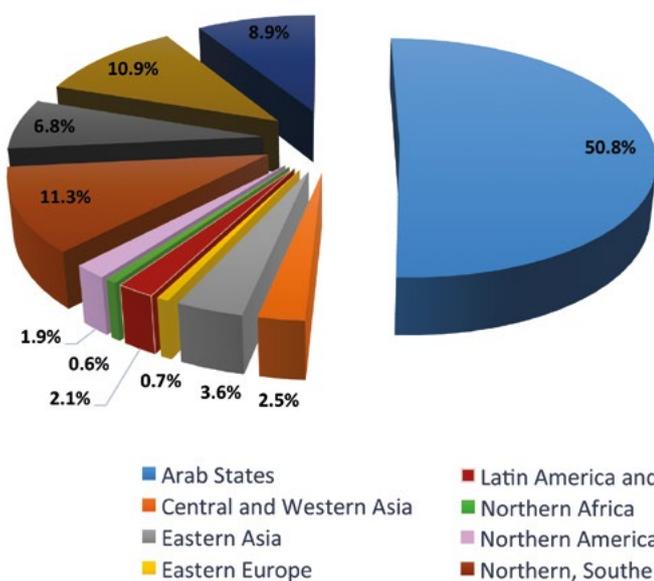
countries. Those countries accounted for 9.1 million out of the estimated 11.5 million migrant domestic workers globally amounting to nearly 80% of the total. Figure 1 provide an overview of their distribution across geographic regions, by sex.

Data from selected countries and regions also shows a correlation between the increasing participation of migrants in domestic work and the growth of the sector,³ and more broadly of the so-called “care economy”. For example migrant women – mostly from eastern European countries – represent the vast majority (more than 80%) of the more than 800.000 registered domestic workers in Italy, with an impressive four-fold growth – from 1994 to 2011 – of both the number of domestic workers and of migrants within it, as illustrated in figure 2.⁴

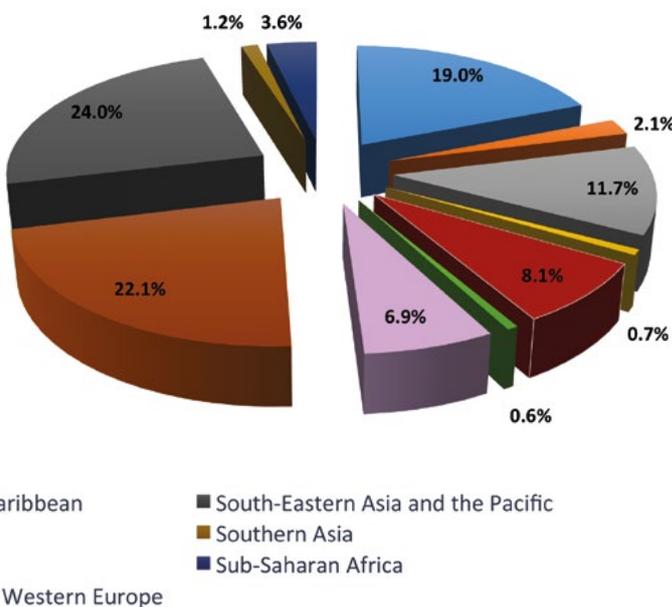
Similar phenomena – though linked to different socio economic and legislative contexts – can be documented in other parts of the world. For example, a steep increase in the number of domestic workers⁵ was also observed in the Arab States over the last couple of decades and in

Figure 1

(a) Distribution of **male** migrant domestic workers by broad sub-region



(b) Distribution of **female** migrant domestic workers by broad subregion



¹ There is no official definition of the “North” and “South”, for statistical purposes, UNDESA defines North and South on the basis of the UN classifications of developed and developing countries, classifies the global North as more developed regions, which includes Europe and Northern America, while the global South encompasses less developed regions including Africa, Latin America and the Caribbean, Asia (except Japan) and Oceania (except Australia and New Zealand).

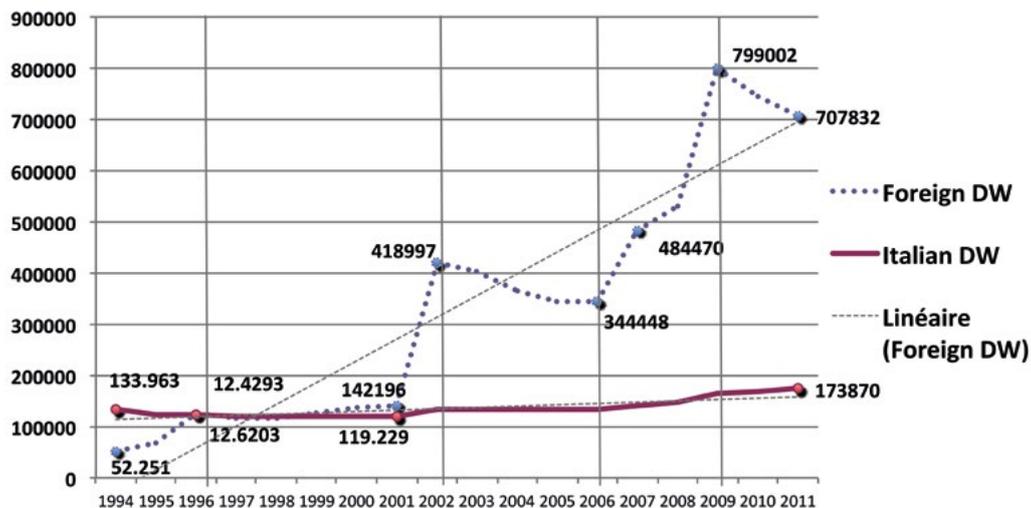
² See ILO Global Estimates of Migrant Workers and Migrant Domestic Workers. Results and methodology, 2015

³ See E. Castagnone, E. Salis, & V.Premazzi, Promoting integration for migrant domestic workers in Italy, ILO, Geneva, 2013. See also M. Abrantes: Yes, but what about numbers? A quantitative contribution to the study of domestic services in Europe. International Labour Review, 2012

⁴ E. Castagnone, E. Salis, & V.Premazzi, op. cit., 2013

⁵ The number of domestic workers rose from 1.1 in 1995 to about 2.1 million in 2010 according to ILO estimates. See: ILO, “Domestic workers across the world: Global and regional statistics and the extent of legal protection”, 2013.

Figure 2. Domestic workers in Italy



Source: Source: INPS (data 1994-2001 in Colombo, 2010; 2002-2011 from Osservatorio sui lavoratori domestici, as included in Castagnone, E., Salis, E., & Premazzi, V., *Promoting integration for migrant domestic workers in Italy*, ILO, Geneva, 2013)

2013 migrants represented 82.7% of all domestic workers in the region. In Asia, approximately 21.5 million people were estimated⁶ to be employed as domestic workers in 2010, rising from 13.8 million in 2008. According to a recent ILO estimate migrants represented 24.7% of all domestic workers in South Eastern Asia and the Pacific, 7.5% in Eastern Asia (including China) and 6.9% in South Asia (including India) respectively.⁷

This is only the tip of the iceberg, as informal workers and migrant domestic workers in an irregular situation often escape statistics. Today it is estimated that between 30 and 40 million international migrants are in an irregular situation⁸ and while it is impossible to accurately estimate their number, we do know that widespread informality in domestic work attracts large number of irregular migrant women, leaving them further exposed to poor working conditions, exploitation and abuse.⁹

Ultimately, whatever the forms and patterns of their migration trajectories, female migrants enter the labour markets in countries of destination and, as workers, face specific challenges and vulnerabilities, as analysed below.

Migrant domestic workers and the global care chain: issues and policy challenges

Factors contributing to female migration for domestic work

Income inequalities within and across countries, demographic aging of the population and increasing female labour participation in countries of destination, coupled with flexible labour forces and unchanged traditional gender roles in families and societies in many parts of the world have led to an increase in the demand for care services. Female migrant workers from lower income countries have filled these jobs opportunities in large numbers, often for low wages and under poor working conditions.

Pushed by the lack of decent work opportunities and increased inequalities at home, women workers seek out work opportunities in wealthier countries, attracted by the prospects of having a paid job or higher salary. Often, they leave behind younger and older family members whose care is left to other family members (who are usually women themselves) and who are financially supported through migrants' wages and remittances alone, as access to social benefits is either restricted or unavailable both at destination and at origin.

⁶ Note that for the 2010 global estimate of domestic workers the "Middle East" regional grouping was used as a reference, while the "Arab states" regional grouping that include two additional countries was used for the 2013 estimate.

⁷ See ILO *Global and Regional Estimation of Migrant Workers and Migrant Domestic Workers*, forthcoming.

⁸ See: OHCHR: *The Economic, Social And Cultural Rights Of Migrants In An Irregular Situation*, 2014: http://www.ohchr.org/Documents/Publications/HR-PUB-14-1_en.pdf

⁹ For an assessment of the situation of irregular migrant domestic workers in Europe, see: *Migrants in an irregular situation employed in domestic work: Fundamental rights challenges for the European Union and its Member States*, European Union Agency for Fundamental Rights, 2011.

This phenomenon has allowed for the emergence of a global care work chain, which not only leaves substantially unchanged the gender composition of the domestic workers workforce globally – with domestic work remaining essentially women’s work – but also carries important consequences in terms of the economic, social, political and cultural impacts on countries of destination, transit and origin as well as on migrant workers and their families.

Failures in labour migration governance and in policy coherence

The main challenge to achieving decent work for migrant domestic workers lies with the fact that they are at the crossroads of two sovereign countries which often have different or even divergent interests, policy objectives and regulatory frameworks with regard to domestic workers and to migrant workers. At the same time, coherence between policies and institutions governing the supply and demand for household and personal care services and those governing labour migration is often weak. For example, overly restrictive or cumbersome migration policies and procedures, including the use of temporary migration schemes to fill structural labour market needs such as the ones for domestic work, can push migrant domestic workers into taking irregular routes and/or fall into irregularity of migration and employment status. Migrant workers hence end up disproportionately negatively affected by the absence of or gaps in governance structures, and competing objectives of migration, labour and care policies.

Protection gaps throughout the migration cycle

A number of policy and institutional factors exacerbate migrant domestic workers’ exposure to abuse, such as the exclusion of domestic workers from national labour laws; poor regulation of recruitment agencies and high fees that push migrants into indebtedness; policies that tie the worker to one individual employer (such as the sponsorship system in the Middle East, Singapore and others); welfare policies that transfer the burden of care of household members to private families without providing adequate institutional support and/or regulatory frameworks; lack or insufficient recognition of skills and diplomas; and restrictive or selective migration policies.

ILO data show that domestic work remains one of the least protected groups of workers under national labour laws or suffer from particularly poor monitoring and implementation of existing laws.¹⁰ Even when the sector is covered by labour legislation, migrants – and particularly those in an irregular situation – might be either excluded from its coverage or face specific difficulties in effectively accessing justice in case of abuse.

In some cases protection gaps relate more to the systems of governance of migration than to the regulatory framework covering the sector. For example, despite sustained demand, countries of destination often fail to recognize labour market needs in this specific sector and tend to progressively restrict migration channels for what they consider low-skilled labour market needs, to be filled by the local workforce. The sealing of regular channels of migration, despite existing demand, can spur irregular migration channels¹¹ and indirectly facilitate the activities of smugglers and traffickers, increasing migrant domestic worker’s informality and their vulnerability to exploitation and abuse, including gender-based violence.

In other cases migration for the purpose of domestic work is directly or indirectly encouraged by countries of origin and destination, but it is largely left in the hands of private recruitment agencies, whose role in the migration process has significantly grown in the past decade, especially in Asia and the Middle East.¹² For example in Lebanon the number of registered domestic workers recruitment agencies raised from 12 in 1997 to 543 in 2013.¹³

The growth of the industry worldwide has not come without concerns. Recent reports have highlighted the abuses perpetrated by unscrupulous recruitment agencies and informal intermediaries operating outside of legal and regulatory framework.¹⁴ Reported abuses relate, among others, to deception about the nature and conditions of work; collection of fees from workers; debt bondage linked to the repayment of recruitment fees and loans; retention of passports; deposits and illegal wage deductions; contract substitutions; threats if workers want to leave their employers, coupled with fears of subsequent expulsion from a country; and in some instances physical and sexual violence.

¹⁰ ILO, *Domestic workers across the world 2013 report*, available at: http://www.ilo.org/travail/Whatsnew/WCMS_173363/lang--en/index.htm

¹¹ *Migrants in an irregular situation employed in domestic work: Fundamental rights challenges for the European Union and its Member States*, European Union Agency for Fundamental Rights, 2011

¹² T. Gammeltoft-Hansen and N. N. Sorensen (eds), *The Migration Industry and the Commercialisation of International Migration*, Routledge London, 2012.

¹³ Katharine Jones, *For a Fee: The business of recruiting Bangladeshi women for domestic work in Jordan and Lebanon*, ILO, 2015.

¹⁴ *Ibid*

Discriminatory attitudes and behaviours

Underlying these governance failures are social, political, cultural norms and values about women's paid and unpaid work and their roles in societies, which shapes both individual attitudes and behaviours and the characteristics of the applicable law and policies. Abuse and discrimination can stem directly from the individual characteristics of workers and employers and the level of information they have about their rights and obligations.

Migrant domestic workers can face specific language and cultural barriers to access information on the legislation and socio-cultural characteristics of the country of destination. They tend to be isolated from other employees and service providers, far from their family and peer networks, limited in their freedom of movement – in particular when the employers hold their passport or work permit or when they are irregularly staying in the country of destination. Evidence shows important wage differentials between national and migrant domestic workers, and in some instances between migrant domestic workers of different nationalities.¹⁵ These differences can by no means be reduced merely to differences in education, training, and work experience.

Another challenge arises from the imposition of mandatory medical testing requirements, in particular with regards to HIV/AIDS and pregnancy tests, which are tantamount to discrimination under international law.

Employers are also not a homogenous group in terms of socio-economic and cultural characteristics and, due to the characteristics of domestic work, often have difficulties perceiving themselves as engaging in an employment relationship, and have different expectations of the types of skills and attitudes expected from the workers.

Selected promising approaches and practices

Before describing policies approaches to protect and empower migrant domestic workers, it important to note that for migration to be an option, rather than an obligation, the creation of decent work opportunities in countries of origin is key. The creation of productive employment and decent work opportunities for women, as well as all efforts to professionalize, formalize and recognize the value of domestic work in countries of origin, should be seen within the broader strategy to allow all women and men to exercise the right to work in their own countries in conditions of freedom and equality.

At the same time, when labour migration takes place, governments of countries of origin and destination have a shared responsibility for its fair and efficient governance, in full respect of labour standards and in accordance with labour market needs. Individual migrants' enjoyment of rights and fair and decent working conditions are key to maximizing their contributions to the economic and social development.

With the view of achieving these policy objectives countries of origin and destination generally have two main policy options: regulatory measures and support services. The section below provides examples of both policy measures.

Protecting migrant women's rights throughout the migration process

i. Extending the coverage of national labour law and ensure coherence with immigration law

In a global context of widespread exclusion of domestic workers from the protection of labour laws, extending the coverage of national labour legislation to domestic workers, in line with ILO Domestic Workers Convention No. 189 (C189), represents a significant step forward in this direction. This means recognizing that domestic work is work as any other and hence guaranteeing, without discrimination based on nationality, their right to, among others, fair wages, to limited working time and to sufficient rest and leave periods, the freedom to dispose of their time outside working hours, the right to their privacy and family life and the right to retain their identity and travel documents.

In recent years, a wide range of countries of destination have undertaken policy and legislative reform either extending the coverage of national labour law or adopting separate specific regulations granting domestic workers

¹⁵ See Oishi: *Women in Motion: Globalization, State Policies, and Labor Migration in Asia*, Stanford University Press, Stanford, 2005. See also Nicola Piper, in "Contributions Of Migrant Domestic Workers To Sustainable Development", UNWOMEN, 2013.

no less favourable conditions than those granted to other workers.¹⁶ Ratification of C189 has in many cases accompanied and supported legislative reforms. For example, in South Africa, one of the first countries that have ratified C189, the adoption of Sectoral Determination 7 for domestic workers in 2002 led to the formalization of the sector and a noticeable improvement in wages and other working conditions.¹⁷ Spain has issued a Royal Decree extending certain protections to these workers, and facilitating their access to social security schemes.¹⁸ In Asia, Hong Kong's labour legislation, which grants foreign domestic workers the same benefits and protection as to their local counterparts, and the Standard Employment Contract stipulate rights and duties with regards to issues such as accommodation, wages, holidays and rest periods, medical and accident insurance, travel expenses, maternity protection, termination of employment, among others. among others.¹⁹

At the same time, granting domestic workers protection under national labour law might not suffice to guarantee that migrants can effectively access decent work opportunities in the sector, either because the migration law often prevails over the labour law (in particular for irregular migrant workers), or because of restrictive admission policies which do not take into sufficient account labour market demand. Some countries, such as Belgium, have linked admission policies with labour market need by making entrance conditional to labour market tests. However, it is important to note that generally these tests tend to underestimate the fact that the attractiveness of the domestic work sector to the national workforce remains low. Similarly, these tests might require that the employer demonstrate that no native worker would be available to take up a given job, which is often overly complex for an employer of domestic workers.²⁰

ii. Tackling irregularity and informality.

Irregularity of status and informality of employment is often predominant among migrant domestic workers. In the absence of regular channels and/or systems to ensure adequate job matching, irregular migration flows and informality are de facto tolerated, if not encouraged. A combination of coordinated policy interventions to promote formalization in the sector and reduce irregular migration is essential. This implies investing in and reforming public welfare services as well as creating regular migration channels grounded on a sound assessment of labour market needs; eliminating policies that tie workers to individual employers and facilitate mobility within the labour market; simplifying overly bureaucratic migration and employment regulations and procedures; setting up effective labour and skills matching services; and adopting fiscal policies or public subsidies aimed at reducing costs for employers. For example, in order to promote formalization, the Swiss canton of Geneva has adopted a voucher system²¹ that can be used by employers to regularly hire domestic workers and hence provide them with social security coverage, even if they are in an irregular migration situation. Regularisation processes, such as the one implemented by Spain in 2005²² and Italy in 2002 and 2009,²³ have brought thousands of migrant domestic workers under a more protective legal framework.

iii. Regulating and supervising recruitment practices

Monitoring, oversight and regulation of recruitment of migrant workers, together with reducing labour migration costs, can help to ensure that migrants do not fall into the hands of unscrupulous or abusive labour recruiters and criminal trafficking organisations. These should also be among government priorities for action.

While the international legal framework clearly underscores that recruitment fees must not be borne by the worker,²⁴ this remains common practice globally and is also permissible by law in several countries, although there is usually a ceiling on how much can be charged

¹⁶ See: ILO, Domestic workers across the world 2013 report, available at: http://www.ilo.org/travail/Whatsnew/WCMS_173363/lang--en/index.htm

¹⁷ See: Sectoral Determination 7 in the official web site of the Ministry of Labour of the Republic of South Africa: <http://www.labour.gov.za/DOL/legislation/sectoral-determinations/sectoral-determination-7-domestic-workers>

¹⁸ See: Developments in Law and Practice 2012: Spain approves new regulations for domestic employees on the legislative reform, ILO, 2012: http://www.ilo.ch/wcmsp5/groups/public/@ed_protect/@protrav/@travail/documents/publication/wcms_173686.pdf

¹⁹ See: Points to Note for Employers on the Employment of Foreign Domestic Helpers, HK Government, <http://www.labour.gov.hk/eng/public/wcp/PointToNotesForEmployersOnEmployment%28FDH%29.pdf>

²⁰ For an analysis of the EU set of selective, sectoral directives for distinct categories of labour migrants (high skilled, seasonal workers, researchers and students, intra-corporate transferees), and the restriction to legal entry channels for migrant domestic workers, including on labour market test, see Triandafyllidou, A. and Marchetti, Europe 2020: Addressing Low Skill Labour Migration at times of Fragile Recovery, European University Institute Robert Schuman Centre for Advanced Studies, 2014, http://cadmus.eui.eu/bitstream/handle/1814/31222/RSCAS_PP_2014_05.pdf?sequence=1

²¹ See: Formalizing domestic work through the use of service vouchers, ILO, here: http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_220717.pdf

²² See: Arango J, Díaz Gorfinkiel and Mualhi, D., Promover la integración de las trabajadoras y los trabajadores domésticos migrantes en España, ILO, 2013

²³ See E. Castagnone, E. Salis, & V. Premazzi, Promoting integration for migrant domestic workers in Italy, ILO, Geneva, 2013.

²⁴ The ILO Private Employment Agencies Convention, 1997 (No. 181) specifically prohibits private employment agencies from charging, directly or indirectly, any fees or costs to workers (art. 7).

to the worker. At the same time even when migrant might not be officially charged with recruitment fees, “security deposits” or “bond” are sometimes required in lieu of fees, with similar effects in term of migrants’ falling into debts.

With the aim of addressing these challenges, governments can and are engaging in recruitment and placement services’ regulatory and enforcement efforts. For example, the Royal Government of Cambodia has adopted eight ministerial regulations addressing a broad range of migrant protection issues, including a mechanism to assess recruitment agencies according to their recruitment practices, pre-departure orientation of workers, employment contracts, job placements, destination country assistance, and repatriation processes, regulating the cost and use of guarantee deposits and holding private recruitment agencies accountable for the treatment of migrant workers through routine inspections.²⁵ In other countries, law-abiding private recruitment agencies that face unfair competition from non-compliant businesses are developing self-regulation initiatives and codes of conduct.

Minimising the costs of migration means not only strictly regulating and simplifying recruitment practices, but also maximising migrant earnings by ensuring that they enjoy equal working conditions as nationals, including in terms of wages, working time and social protection. For example, some countries, such as Chile, apply national minimum wage legislation to domestic workers, irrespective of their nationality and migration status, and have strict regulations banning or limiting the in kind payments, such as in Switzerland²⁶ and France,²⁷ and wage deductions, such as in the case of Hong Kong.²⁸

iv. Organizing pre-departure information and training to inform decision making and facilitate adjustment to the country of destination

Pre-departure training and information dissemination are measures commonly adopted by countries of origin to support informed decision-making, and provide reliable information on the rights and obligations applicable at all stages of migration, on available support services as well as on the prevalent socio-cultural norms of countries of destination. Governments can make participation in free of charge pre-departure training a condition for release of relevant emigration documents and develop advocacy and information dissemination campaigns to reach out to potential migrant women at the decision-making stage. Compulsory pre-departure training should not on the other hand represent an additional cost for migrant workers. The Philippines, for example, has developed a comprehensive protective mechanism covering all phases of migration, which includes a mandatory orientation programme for workers who are about to leave for employment abroad. This programme seeks to facilitate workers’ smooth arrival in and adjustment to the country of destination, teaches them coping mechanisms if faced with difficulties, and to obtain other essential information to prevent welfare problems. It also includes skills-specific training for vulnerable sectors, such as domestic workers.

v. Adopting standard employment contracts

With a view to enhancing the protection of workers, some countries of destination, including Malaysia,²⁹ Hong Kong,³⁰ Lebanon and Jordan,³¹ have adopted standard employment contracts³² and entered into bilateral agreements with countries of origin (this is the case of the agreements between Saudi Arabia and the Philippines and India respectively³³). The development of “model

²⁵ See a compilation of the eight ministerial regulations here: <http://apmigration.ilo.org/resources/cambodian-prakas-ministerial-orders-2>
The regulations covered the following areas:

- Prakas 45/13 on the Use of terms in Sub-decree 190 on the management of sending Cambodian Workers abroad through private recruitment agencies
- Prakas 46/13 on Recruitment process and pre-departure orientation training
- Prakas 47/13 on Private recruitment agencies
- Prakas 249 on Complaint receiving mechanism for migrant workers
- Prakas 250 on Inspection of private recruitment agencies
- Prakas 251 on Penalty and reward to the private recruitment agency
- Prakas 252 on On site service of the private recruitment agency and repatriation
- Prakas 253 on Promulgation of minimum standards of Job Placement Services Abroad Contract (plus Annex containing Final Placement Services Contract)

²⁶ Ordonnance sur le contrat-type de travail pour les travailleurs de l'économie domestique du 20 Octobre 2010 <http://www.admin.ch/ch/ff/as/2010/5053.pdf>

²⁷ Convention collective nationale des salariés du particulier employeur: http://www.fepem.fr/fr2/version_1.1/documents/CCNSPE.pdf

²⁸ See the Government leaflet on Foreign Domestic Helpers Rights and Protection under the Employment Ordinance: http://www.labour.gov.hk/eng/public/wcp/FDHLeaflet_Eng.pdf

²⁹ See Malaysia standard employment contract: <http://www.mm2h.gov.my/pdf/Contract%20of%20Employment.pdf>

³⁰ See Hong Kong Standard employment contract: <http://www.immd.gov.hk/eng/forms/hk-visas/foreign-domestic-helpers.html>

³¹ See: Elizabeth Frantz Breaking the Isolation: Access to Information and Media Among Migrant Domestic Workers in Jordan and Lebanon, Open Society Foundation, 2014. <https://www.opensocietyfoundations.org/sites/default/files/migrant-workers-information-report-20140223.pdf>

³² See. MFA policy brief No. 1: Responding to emerging and critical issues, Standardised contract for migrant domestic workers: <http://www.ilo.org/dyn/migpractice/docs/131/PB1.pdf>

³³ See: The adoption of a standard employment contract is specifically envisaged by Bilateral agreement between the Kingdom of Saudi Arabia and the Republic of the Philippines, art 3: <http://www.poea.gov.ph/docs/PH%20KSA%20MOA.pdf> Similar provisions are included in the MOUs between the Kingdom of Saudi Arabia and the Republic of India, art. 3, http://moia.gov.in/writereaddata/pdf/labour_Co-operation_Kingdom_Saudi_Arabia.pdf

contracts of employment” is specifically recommended by Recommendation 201 and their adoption has been welcomed as an improvement toward the formalization of the employment relationship and the promotion of equal treatment between migrants and nationals, based on minimum standards. Standard employment contracts however are often not in line with the minimum standards provided by C189 and usually provide weaker protections than most labour laws as they would not be enforceable in the same way. While such interventions can be seen as positive protection measures, it is important to note that they should complement labour legislation, and do not constitute adequate legal protection on their own.

vi. Provide specialised legal assistance and consular services for enhanced access to justice

Migrant women face multiple challenges in effectively accessing justice. With a view to addressing these challenges, governments can strengthen their monitoring and enforcement mechanisms – including labour inspection- and provide support services – such as multilingual hotlines and safe shelters for victims of abuse, including human trafficking – and legal counselling and representation. For example, in New York, the “New Day New Standard”³⁴ interactive hotline is accessible to domestic workers and their employers on their rights and obligations under the Domestic Worker’s Bill of Rights of November 2010.³⁵ A growing number of countries of origin assist their nationals through embassy and consular services. Appointment of labour attachés or “welfare officers” in countries with a significant presence of migrant workers can be considered a good practice for the protection of workers. Nonetheless, embassy and consular staff need specific training on gender-related issues and on the identification of victims of human trafficking. Effective referral mechanisms (sometime using mobile technology) are key to ensure cases can be brought to justice event after the migrant has returned home.

In countries of destination, governments, such as Saudi Arabia,³⁶ and Lebanon,³⁷ trade unions, such as the National Workers’ Congress in Sri Lanka, the Barbados Worker’s Union and the Filipino Workers’ Association, and civil society organisations also offer free hotline services in different languages for information, counselling, as well as for receiving complaints.³⁸

Providing legal assistance through migrant resource centers in the Greater Mekong region

In the Greater Mekong Sub-region, with the support of the ILO, government, trade union and civil society partners are running migrant worker resource centres (MRCs) across six countries open to migrant workers seeking to migrate and migrant workers already in destination workplaces to receive information, counselling and legal assistance. Complaints are received and handled by the MRCs and other supported service providers or, where necessary, officially communicated to government channels. As a result, during the last four years, US\$2 million has been ordered as compensation for underpayment or accidents suffered in the workplace for around 1,000 cases involving more than 6000 migrant workers, about half of whom women migrants. Operation manuals for MRCs have been developed and can be adapted and used in other contexts.

Trade unions and civil society organisations have also taken active steps to provide legal assistance and representation in courts and through informal dispute-resolution mechanisms to obtain justice in cases of violations. In Lebanon, where civil society has been actively engaged in the provision of legal aid to migrant workers and capacity-building and awareness-rising activities have targeted judges, lawyers and those responsible for implementing the law, the number of legal decisions in favour of migrant domestic workers has started to increase over the last few years.

vii. Enhancing organization

Recognizing that one of the main barriers to effective protection and abuse prevention is the lack of knowledge about rights and the voice to uphold them, there is a need to empower domestic workers and to strengthen the structures and organizations that represent women migrants. Domestic workers’ organizations in several countries are struggling to identify and adopt the most effective strategies to reach out to migrant workers in order to protect their rights and represent their voice. For example, in Hong Kong the Federation of Asian Domestic

³⁴ See a description of the hotline on the webpage of the MIT Center for Civic Media: <https://civic.mit.edu/blog/beckyh/case-study-ndns-voip-drupal>

³⁵ See: About the Domestic Workers Bill of Rights Law, NYS Department of Labour, 2010: <https://labor.ny.gov/legal/laws/pdf/domestic-workers/about-domestic-workers-law.pdf>

³⁶ The creation of a hotline, under the country’s labour ministry, for domestic workers to seek support and lodge complaints was announced, in 2014, though its effectiveness is still to be assessed. See: <http://gulfnews.com/news/gulf/saudi-arabia/saudi-arabia-mulls-helpline-for-domestic-workers-1.1321935>

³⁷ See: “ILO-funded hotline for women migrant domestic workers launched by Lebanon’s Ministry of Labour”: http://www.ilo.org/beirut/media-centre/news/WCMS_377568/lang--en/index.htm

³⁸ For more details on several examples of Trade Unions’ services for domestic workers, including free hotlines, see: Achieving decent work for domestic workers. An organizer’s manual to promote ILO convention no. 189 and build domestic workers’ power, ILO, 2012. http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_181344.pdf

Workers Unions (FADWU)³⁹ is implementing targeted action to reach out, and support migrant domestic workers of different nationalities to associate both among themselves and across nationalities. Similar action has been taken by HomeNet in Thailand⁴⁰ and the South African Domestic Services and Allied Workers Union (SADSAWU).⁴¹

In addition, avenues for dialogue and cooperation between different types of workers' and civil society organisations should be supported to strengthen migrant domestic workers voice and representation. In some cases, trade unions of countries of origin have entered into bilateral agreements with other trade unions in countries of destination with a view to better cooperate and enhance workers' protection. For example, a bi-national workers agreement was reached in 2014 between domestic worker organizations and trade union confederations in Paraguay and Argentina to promote decent work for Paraguayan migrant domestic workers in Argentina.⁴² A declaration and joint action plan to promote decent work for migrant domestic workers were also agreed between Lesotho, Zimbabwe and South Africa trade unions and domestic workers' unions in 2014.⁴³

viii. Promoting return and socio-economic reintegration

Returning migrant domestic workers are also potential drivers of development for their countries of origin, if successfully reintegrated into the local labour market. Policies directed to sustainably reintegrate returned migrant domestic workers into their countries of origin labour markets should include targeted active labour market policies that take the needs of women workers into account in order to facilitate the productive use of their savings, acquired skills and networks. For example, Sri Lanka and the Philippines have adopted specific policies on return and reintegration of migrant workers which aim at making sure returned migrants are socially and economically reintegrated in an effective manner through government supported initiatives.

Promoting professionalization through skills and competencies training and recognition

Migrant domestic workers often lack accurate information about the jobs available at destination and the requirements they entail, and they are often insufficiently trained prior to departure and at destination. Similarly, employers are often not fully aware of the very many different sets of skills and competencies required for the job, and therefore often do not recognize or value these skills. This mismatch yields tensions in households. With the view to address these challenges, certain countries are investing in professionalization policies and programme for domestic workers with a view to providing them with the different skill sets and competencies required for the job, and therefore contributing to enhancing the value attributed to this work. These programmes, proposed by both countries of origin and destination, often include language training and sometimes benefit from the participation of returning migrants as resource persons. For example, in Sri Lanka, the ILO has supported the development of pre-departure training curricula specifically targeting domestic workers, including housekeeping, caregiving and pet caring skills, together with basic language skills as well as competencies related to financial education and budgeting. Training is provided throughout the Government's 27 pre-departure training centres.⁴⁴

Vocational training and skills development for migrant domestic workers

Argentina, with ILO support, has updated its Vocational Training Modules for DWs, incorporating provisions of C189, new regulations, the situation of MDWs and strengthening the training of rights and organization. This module includes reference to the situation and rights of migrants. The new Modules will be the basis for the national vocational training program for DWs run by the Ministry of Labour. At the same time, Paraguayan authorities have established a collaboration agreement to create a vocational training program with similar contents, aiming at reaching recognition of domestic workers' skills and certificates in both countries. Bringing the two countries training curricula in line with each other will facilitate skills recognition at destination and upon return.

³⁹ See FADWU web site: <http://www.fadwu.org/>

⁴⁰ For a description of characteristics and activities of the network, see: M Mc Bride, Thailand: Network of Domestic Workers in Thailand, published on the webpage of the International Domestic Workers Federation (IDWFED): <http://www.idwfed.org/en/affiliates/asia-pacific/network-of-domestic-workers-in-thailand>

⁴¹ See this good practice documented in the ILO good practices database on labour migration: http://www.ilo.org/dyn/migpractice/migmmain.showPractice?p_lang=en&p_practice_id=163

⁴² See ILO brief: Bi-national Agreement Promoting a Decent Work for Migrant Domestic Workers in migration corridor Paraguay – Argentina, ILO 2015: http://www.ilo.ch/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/newsitem/wcms_383894.pdf

⁴³ See this good practice documented in the ILO labour migration database: http://www.ilo.org/dyn/migpractice/migmmain.showPractice?p_lang=en&p_practice_id=163

⁴⁴ Twenty-nine multilingual "Pre-departure trainer and trainee guides" have been developed through a partnership with the Sri Lanka Foreign Employment Bureau and the ILO. See this good practice documented on the ILO labour migration good practices database: http://www.ilo.org/dyn/migpractice/migmmain.showPractice?p_lang=en&p_practice_id=152

At the same time, countries of origin and destination have adopted mandatory skills assessment and competency standards for domestic work and are promoting their recognition across borders. For example, the Philippines requires that before a worker is deployed overseas, she or he must possess a certificate attesting the possession of “core skills competencies” namely, house cleaning, laundry and ironing, preparation of hot and cold meals, and provision of hot and cold food and beverage services.⁴⁵

At a regional level a Regional Model Competency Standards for Domestic Work have been developed by the ILO for the Asia-Pacific region. They constitute a set of benchmarks that define the skills, knowledge and attributes required for domestic work. The standards are designed to be used as a basis for developing national standards and as a regional reference point.⁴⁶

Promoting access to social security and social security portability

Often due to, or exacerbated by, their migration status, migrant women in domestic and care work face specific challenges in accessing social protection and enjoying social security benefits while at destination and upon return home. Migrant domestic workers often migrate under temporary worker schemes or find themselves in irregular situations, in effect preventing them from accessing social security, and in many cases even basic health services.

- The conclusion of bilateral social security agreements between countries of origin and destination, the possibility for irregular migrant workers to use “service vouchers”,⁴⁷ and the guaranteeing of universal access to health services, independent of migration status, are examples of measures that governments have adopted to tackle some of the challenges in this area. For example, the Philippines have signed a number of social security agreements⁴⁸ and labour migration

agreements with social security provisions with countries of destination. In addition, the Philippines and Sri Lanka have established welfare funds with defined social security benefits and services, ranging from insurance and health care benefits, to workers assistance and training. Since their inception, both funds have participated in preventing and reducing poverty, especially with regard to the most vulnerable categories of migrant workers.⁴⁹ These welfare funds try to palliate the lack of social security agreements with some major destination countries or the lack of social security provisions within labour agreements (e.g. GCC). However, the benefits remain limited in scope and level.

Enhancing migrant domestic workers financial and social remittances

Migrant domestic workers can contribute to development, and transform societies of countries of origin in several ways, including through financial and social remittances (ideas, know-how, norms, values, knowledge, behaviour, practices and skills that migrants bring home with them or that they send home from abroad). Social remittances and increased earning capacity can have a key impact not only on the household capacity to “buy more” but also to “do more”.⁵⁰ When well governed, migration can result in enhanced economic capability and social knowledge and hence strengthen women positions and decision making power within the family and community upon their return.

However, the extent of the potential empowering effect of migration very much depends on working conditions at destination as well as on the cost of migration and of remittances transfer. The reduction of remittances transfer costs and the establishment of targeted financial literacy programmes are some important tools to promote migrant domestic workers empowerment and development potential. The ILO has developed manuals on financial literacy for migrant workers, with a specific focus on migrant women.⁵¹

⁴⁵ See: “Question & Answer: Hsw Protection And Welfare Enhancement Reform Package“ on POEA web site: http://www.poea.gov.ph/hsw/q&a_hsw.html

⁴⁶ Regional Model Competency Standards: Domestic work, ILO, 2014 http://www.ilo.org/asia/whatwedo/publications/WCMS_329862/lang--en/index.htm

⁴⁷ These are systems by which the employer buys vouchers -which include relevant social charges- from an agency (public or private) and pays the employee with these vouchers. For example, in the canton of Geneva, Switzerland, has a service vouchers system (Chèque Service) managed by a private social enterprise, PRO, that enables an employer to pay social insurance charges for people providing proximity services within the employer’s home (housekeeping, gardening, guarding etc.), even if these workers are in Switzerland illegally. See, for a description of the system in France, Belgium and the canton of Geneva: http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_220717.pdf

⁴⁸ See ILO Social Security Inquiry (SSI) database: http://www.ilo.org/dyn/ilossi/ssimain.viewScheme?p_lang=en&p_scheme_id=3034&p_geoaid=608

⁴⁹ See this good practice documented in the ILO good practices database on labour migration: http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=151

⁵⁰ See UNWomen-ILO policy brief on: “Valuing the contributions of women migrant workers in ASEAN”, 2015, <http://asiapacific.unwomen.org/en/digital-library/publications/2015/10/valuing-the-contributions-of-women-migrant-workers-in-asean>

⁵¹ See: ILO, Budget smart – Financial education for migrant workers and their families: Training manual”, 2011, http://www.ilo.org/wcmsp5/groups/public/---asia/--ro-bangkok/--sro-bangkok/documents/publication/wcms_171658.pdf

Promoting bilateral and multilateral cooperation and partnership

Bilateral Labour Agreements (BLAs) and MoUs on labour migration have greatly increased in recent years. The value of such agreements in facilitating and regulating cross-border movement of temporary, mainly low-skilled workers and protecting the rights of these migrant workers is well recognized. Recently, a number of BLAs/MoUs have been specifically designed to cover migrant domestic workers and, in some cases, these agreements are accompanied by a standard employment contract. Convention No. 189 specifically foresees that migrant domestic workers receive a written contract or job offer prior to crossing national borders (article 8). Recommendation No. 201 calls on ratifying countries of origin to “assist in the effective protection of the rights of these workers, by, among others, informing them of their rights before departure” (article 21(2)).

While these emerging promising practices respond to the need to better protect migrant domestic workers and should be welcomed as a positive step forward, as highlighted above, if the labour law at destination does not cover this category of workers, the extent to which these instruments can be enforced, in practical terms, is limited.

Conclusions

This policy brief has provided an overview of the link between migration and domestic work from a gender perspective, identified the main challenges and vulnerabilities migrant domestic workers face throughout their migration process, and presented some of the policy responses countries are taking to promote decent work for this category of workers. Migrant domestic are exposed to specific challenges which cannot be addressed exclusively through the labour law and require targeted policy interventions in the domain of labour migration governance, welfare and gender equality and non-discrimination, just to mention a few. Given the complexity of this phenomenon, which touches on a variety of policy domains and involves a multiplicity of actors in different countries, policy responses must be multidimensional and contextualised. Targeted data collection and research efforts on migrant women in the care economy should be further enhanced to support evidence based policies in this domain. Multi-stakeholder dialogue, including the participation of migrant domestic workers themselves, should be at the centre of this approach, with the view of adopting an effective regulatory framework and targeted services to protect migrant domestic workers and enhance their potential contribution to development.

Ultimately equality of treatment, from a labour perspective, and access to full citizenship or equivalent status, from a migration perspective, need to be tackled concurrently if we are to see more success stories in the sector and not the intergenerational perpetuation of exploitation.

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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.

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