MONITORING AND EVALUATION

• Is monitoring and evaluation of effectiveness and impact built into the relevant policy, law and institutional architecture of the country?

Does the relevant policy, law and institutional architecture of the country have provisions placing specific responsibility on agencies to compile data on complaints, cases of exploitation or abuse and relief measures?

RESOURCE ALLOCATION

• Does the relevant policy, law and institutional architecture of the country provide for sufficient financial and materialized human resources to be allocated by governments for effective implementation of policies and programmes that promote and protect the rights of domestic workers?

ENDNOTES

1 ILO. 2013. “Global and Regional Estimates of Domestic Workers.” Policy Brief No. 4. 6. Available at: www.ilo.org/dyn/natlex/docs/ELECTRONS/202355/202355en.htm

2 UNIFEM (now part of UN Women), 2015. “Claim & monitor: Does the relevant policy, law and institutional architecture protect the rights of domestic workers?”

3 UNIFEM (now part of UN Women). 2005. “Claim & monitor: Does the relevant policy, law and institutional architecture protect the rights of domestic workers?”

4 Hereafter referred to as the “ILO Convention on Domestic Workers.” The Committee, supplemented by ILO Recommendation No. 201 concerning decent work for domestic workers, which contains further guidance for the application of the Convention.

5 Hereafter referred to as the General Comment of the Migrant Committee on migrant workers.

6 Hereafter referred to as the CEDAW General Recommendation on migrant workers.

7 See endnote 1.

8 Art 4, paragraph 5 of the CEDAW, General Recommendation No. 19, 2011. Prepared by UN Women in support of this GFMD workshop, it also drew on written comments from the CEDAW Committee on women migrant workers. Although domestic work contributes significantly to the economic and social development of all countries, it is hardly regulated. This is because it is invisible, mostly undertaken by women and conducted within the private space of the home, which is not defined as a ‘workplace’. Based on traditional gender roles assigned to women, it also carries the low value accorded to unpaid care work, which is not defined as work because it is not perceived as producing value. Domestic work is in fact seen as a ‘labour of love’ because it involves the physical and emotional care giving that are perceived as women’s innate attributes and therefore needing no special skills. The bonds of attachment that may develop between employers, workers and family members being cared for further complicate an understanding of domestic work as work that needs no regulation. Against this backdrop, it is not uncommon to find domestic workers who are ‘adopted’ by employers, paid only in kind or not paid at all.

9 However, there are several promising examples of provincial or national legislation and programmes that offer elements of a comprehensive gender-sensitive approach to protect, support and promote the rights of domestic workers, especially migrants. These cut across several policy fields – including labour, migration and social welfare – and are largely the same as for any other workers in an overseas contractual situation but with additional measures tailored to the unique features of domestic work. There have also been several recent advances in the international normative framework addressing decent work for domestic workers. See, for example, the ILO Convention (CMW) in 2003, and the Committee on the Elimination of Discrimination against Women (CEDAW) General Recommendation No. 26 on women migrant workers, 2008 (which also addresses domestic workers).

10 Men are also sometimes hired as domestic workers – drivers, security guards, gardeners, cooks and housekeepers – but, given the different nature of their jobs and their location in society, their vulnerabilities and needs tend to differ from those of women domestic workers.

Domestic workers are an integral part of the global labour force. Whether hired locally or internationally, they are employed in or for a household to perform work such as cleaning, cooking, washing and care that is vital for the wider economy. There are currently estimated to be between 55 million and 100 million domestic workers worldwide, with women constituting 83 per cent of this workforce.1 Men are also sometimes hired as domestic workers – drivers, security guards, gardeners, cooks and housekeepers – but, given the different nature of their jobs and their location in society, their vulnerabilities and needs tend to differ from those of women domestic workers.

Although domestic work contributes significantly to the economic and social development of all countries, it is hardly regulated. This is because it is invisible, mostly undertaken by women and conducted within the private space of the home, which is not defined as a ‘workplace’. Based on traditional gender roles assigned to women, it also carries the low value accorded to unpaid care work, which is not defined as work because it is not perceived as producing value. Domestic work is in fact seen as a ‘labour of love’ because it involves the physical and emotional care giving that are perceived as women’s innate attributes and therefore needing no special skills. The bonds of attachment that may develop between employers, workers and family members being cared for further complicate an understanding of domestic work as work that needs no regulation. Against this backdrop, it is not uncommon to find domestic workers who are ‘adopted’ by employers, paid only in kind or not paid at all.

However, there are several promising examples of provincial or national legislation and programmes that offer elements of a comprehensive gender-sensitive approach to protect, support and promote the rights of domestic workers, especially migrants. These cut across several policy fields – including labour, migration and social welfare – and are largely the same as for any other workers in an overseas contractual situation but with additional measures tailored to the unique features of domestic work. There have also been several recent advances in the international normative framework addressing decent work for domestic workers. These have also been several recent advances in the international normative framework addressing decent work for domestic workers. See, for example, the ILO Convention (CMW) in 2003, and the Committee on the Elimination of Discrimination against Women (CEDAW) General Recommendation No. 26 on women migrant workers, 2008 (which also addresses domestic workers).* Domestic workers’ organizations and their support groups have contributed significantly to the achievement of the above outcomes.

Regulating this sector and promoting and protecting the rights of migrant domestic workers at all stages of the migration process is an issue that is key to all development endeavours. It gives recognition to the economic and social contributions of domestic work to human development. It reduces the social and economic costs borne by domestic workers, families, communities and States and thus promotes human development and good governance. Any analysis of labour and migration legislation (and its implementation), aimed at promoting and protecting the rights of migrant domestic workers, should therefore be made with reference to these international standards and the good practices of national actors aligned with or surpassing these standards.

The following checklist was agreed upon by governments, civil society and UN agencies at the Global Forum on Migration and Development (GFMD) 2011 Global Meetings on Domestic Care Workers at the Interface of Migration & Development: Action to Expand Good Practice. It is based on international standards and good national practices to help policymakers formulate and implement national policies, laws and programmes that promote and protect the rights of domestic workers, both female and male, while taking account of differences between women and men within the sector as well as reflecting ethnic, national and other differences.

Checklist1 to Protect and Support Domestic Workers

27 Art 23 (a), (b) of the CEDAW General Recommendation on women migrant workers; Para 31, para 28, 30, 31 of the CEDAW General Recommendation on migrant domestic workers.

28 Art 17 (b), (c) of the ILO Convention on Domestic Workers, Para 25, 26, 27, 28, 29 of the CEDAW General Recommendation on women migrant workers.

29 Art 36, 37 (1) of the CEDAW General Recommendation on women migrant workers, Para 14, 15, 16 of the ILO Convention on Domestic Workers.

30 Art 11 of the CEDAW General Recommendation on women migrant workers; Para 16, 17, 18, 19 of the CEDAW General Recommendation on women migrant workers.

31 Art 17 of the CEDAW General Recommendation on women migrant workers, Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

32 Art 3 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

33 Art 18 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

34 Art 19 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

35 Art 20 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

36 Art 21 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

37 Art 22 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

38 Art 23 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

39 Art 24 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

40 Art 25 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

41 Art 26 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

42 Art 27 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

43 Art 28 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

44 Art 29 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

45 Art 30 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

46 Art 31 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

47 Art 32 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

48 Art 33 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

49 Art 34 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

50 Art 35 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

51 Art 36 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

52 Art 37 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.

53 Art 38 of the ILO Convention on Domestic Workers; Para 10, 11, 12, 13, 14 of the CEDAW General Recommendation on women migrant workers.
Checklist to Protect and Support Domestic Workers

1. **RECOGNITION AS WORK**
   - Does the relevant policy, legal and institutional architecture of the country acknowledge:
     - the significance of the economic and social contribution of domestic workers?
     - its undervaluation and invisibility?
   - Its performance largely by women and girls, many of whom are international migrants and/or members of disadvantaged communities and hence particularly vulnerable to social, economic, civil and labour market discrimination and other abuses?
   - The special conditions under which domestic work is carried out, making it important to introduce appropriate measures to enable domestic workers to enjoy their rights fully?
   - That domestic workers, like any other worker, need protection under labour legislation?

2. **DEFINITION**
   - Is the relevant policy, law and institutional architecture of the country informed by and consistent with the definitions of ‘domestic work’ and ‘domestic worker’ as framed in ILO Convention No. 189 concerning decent work for domestic workers and of ‘migrant worker’ found in the General Comment of the Migrant Committee on migrant domestic workers?

3. **COVERAGE**
   - Does the relevant policy, law and institutional architecture of the country cover all domestic workers?
   - Where categories of domestic workers are excluded by the relevant policy or law, are they provided with at least equivalent protection?

4. **NATURE OF RIGHTS PROTECTED**
   - Does the relevant policy, law and institutional architecture of the country promote and protect the human rights and freedoms of domestic workers – including undocumented domestic workers – and include provisions against all forms of abuse, harassment and violence?
   - Does the relevant policy, law and institutional architecture of the country guarantee the fundamental principles and rights at work, including freedom of association and right to collective bargaining, elimination of all forms of forced or compulsory labour, effective abolition of child labour, elimination of discrimination in employment and occupation, and protection of the rights of domestic workers, including migrant workers and their employers, to establish and join organizations, federations and confederations of their choosing?
   - Does the relevant policy, law and institutional architecture of the country provide for fair employment terms, decent working and living conditions, a minimum wage if it exists for other workers, an employment contract reflecting this, and for migrant domestic workers to receive their employment agreements before departure to the country of employment – unless covered by bilateral and multilateral agreements allowing free movement of persons?
   - Does the relevant policy, law and institutional architecture of the country provide for social security protections, such as access to health services, health insurance, maternity protections, etc.?

5. **NATURE OF RIGHTS GOVERNING CONDITIONS OF EXIT, ENTRY AND RESIDENCE**
   - Is the relevant policy, law and institutional architecture of the country free from sex-specific bans and restrictions on women’s migration based on age, marital status, disability, pregnancy or maternity status, or restrictions requiring permission from spouses or male guardians to travel and obtain travel documents?
   - Is the relevant policy, law and institutional architecture of the country free from provisions restricting women’s employment in job categories dominated by men or excluding certain female-dominated occupations from visa schemes?
   - Is the relevant policy, law and institutional architecture of the country free from provisions making the immigration status of migrant workers conditional on the sponsorship or guardianship of a specific employer? (Such arrangements may restrict the liberty of movement of migrant domestic workers and increase their vulnerability to exploitation and abuse, including conditions of forced labour and servitude.)
   - Is the relevant policy, law and institutional architecture of the country free from bans on migrant domestic workers marrying nationals or permanent residents?
   - Is the relevant policy, law and institutional architecture of the country free from provisions (a) resulting in loss or denial of work visas based on HIV-positive or maternity status and (b) calling for mandatory medical testing of migrant domestic workers for HIV or pregnancy?
   - Does the law prohibit withholding of passports or identity documents by the employer or recruiting agency?

6. **SERVICES AT ALL STAGES OF MIGRATION, INCLUDING TO STRENGTHEN ACCESS TO JUSTICE**
   - Do policies, laws and institutional architectures in countries of origin, transit and destination, as applicable, provide for gender-sensitive human rights-based pre-departure, on-site and on-return information dissemination, awareness raising and training for domestic workers on (a) labour and immigration laws and employment contracts, (b) skills enhancement, (c) how to access socio-economic and legal services and (d) how to access complaints and redress mechanisms, at all stages of migration?
   - Does the relevant policy, law and institutional architectures in countries of origin and destination, as applicable, facilitate worker contact with families and family support services back home or provide for dependant services in countries of destination?

7. **UNDOCUMENTED MIGRATION, SMUGGLING AND TRAFFICKING**
   - Do policies, laws and institutional architectures of the country ensure that migrant domestic workers have effective access to regular channels of migration based on actual demand, to prevent undocumented migration, smuggling and human trafficking?
   - Does the relevant policy, law and institutional architecture of the country provide for co-operation among states, including bilateral and multilateral co-operation between countries that promotes, supports and protects the rights of migrant domestic workers?

8. **CO-OPERATION BETWEEN STATES, INCLUDING BILATERAL, REGIONAL AND MULTILATERAL FRAMEWORKS AND AGREEMENTS**
   - Does the policy, law and institutional architecture of the country provide for co-operation among States, including bilateral and multilateral co-operation between countries that promotes, supports and protects the rights of migrant domestic workers?

9. **REGULATIONS FOR RECRUITING AGENCIES, EMPLOYERS, NATURE OF REMEDIES, MONITORING, COMPLAINT, REDRESS AND ACCOUNTABILITY MECHANISMS**
   - Does the country have laws, regulations or practices governing the operation of (a) private employment agencies recruiting or placing domestic workers and (b) employers of domestic workers to protect domestic workers from abuse (e.g., obligations of private recruiting agencies and employers towards domestic workers, etc.)?
   - Does the policy, law and institutional architecture of the country ensure that adequate machinery and procedures – including labour inspections with due respect for the privacy of households – exist to monitor employers, employment agencies and agents and to investigate complaints, alleged abuses and fraudulent practices by private recruiting agencies and employers against domestic workers?

10. **CO-ORDINATED MULTI-SECTOR CONSULTATIONS AND PARTNERSHIPS, INCLUDING PARTICIPATION OF DOMESTIC WORKERS’ ORGANIZATIONS AT ALL STAGES OF THE POLICY PROCESS**
    - Does the policy, law and institutional architecture of the country provide for the co-ordinated multi-sector response of key government agencies, sustained participation of domestic workers’ organizations and their support groups, employment agencies, agents and others at all stages of the policy process – formulation, implementation, monitoring and evaluation of the law?

11. **TRAINING AND AWARENESS RAISING FOR PUBLIC OFFICIALS, RECRUITING AGENCIES AND EMPLOYERS**
    - Does the relevant policy, law and institutional architecture of the country mandate the government to provide (a) regular training and education for police officers, prosecutors, the judiciary, social workers and other public officials, (b) targeted awareness raising for recruiting agencies and employers and (c) public awareness raising to promote and protect the rights of domestic workers?

12. **RESEARCH, DATA COLLECTION AND ANALYSIS**
    - Does the relevant policy, law and institutional architecture of the country mandate governments to conduct and support research, data collection and analysis on the concerns of domestic workers, including migrant domestic workers, for (a) effective policy formulation and implementation and (b) policy impact assessments?