



Gender-responsive Guidance on Employment Contracts for Migrant Domestic Workers

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EMPOWERING WOMEN MIGRANT WORKERS FROM SOUTH ASIA:

TOOLKIT FOR GENDER-RESPONSIVE EMPLOYMENT AND RECRUITMENT

1. Empowering Women Migrant Workers from South Asia: Policy Brief Series

- Making Labour Migration Governance Gender-Responsive
- Promoting the Rights of Women Migrant Workers through Employment Contracts
- Implementing Gender-responsive Employment Contracts

2. Gender-responsive Guidance on Employment Contracts

3. Gender-responsive Self-Assessment Tool for Recruitment Agencies

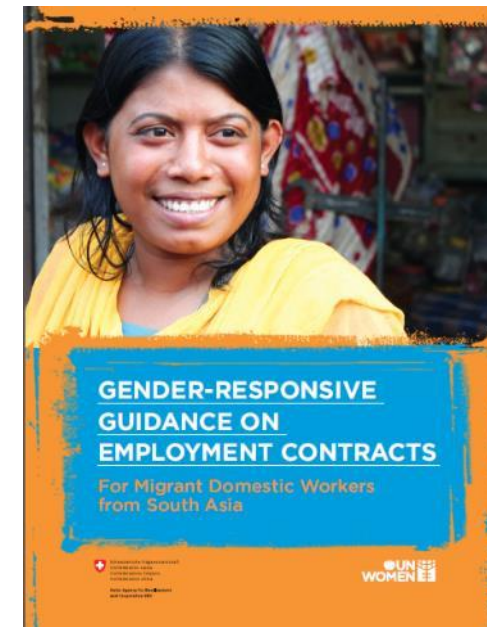
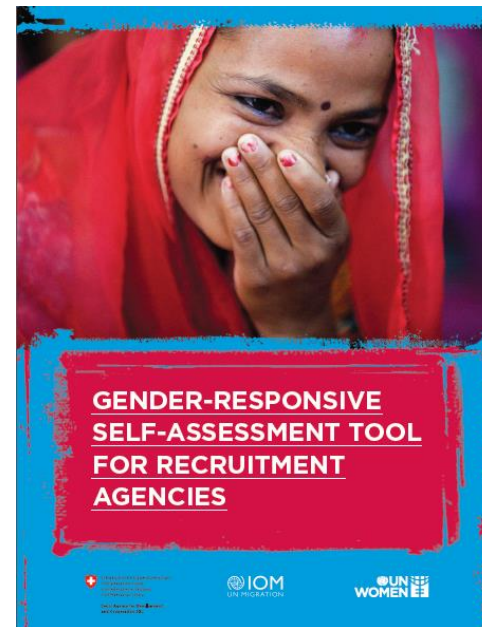
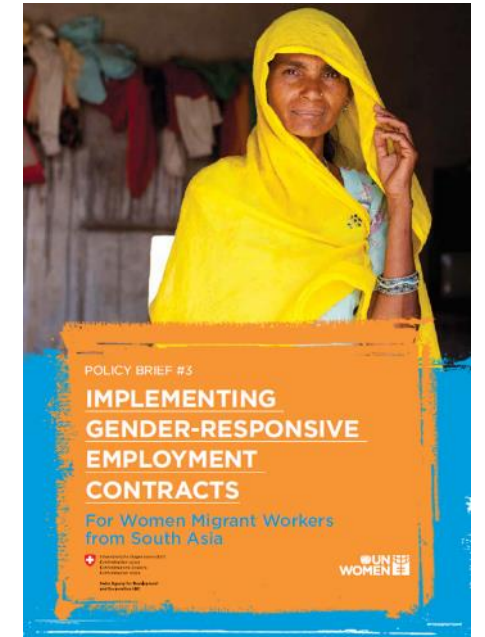
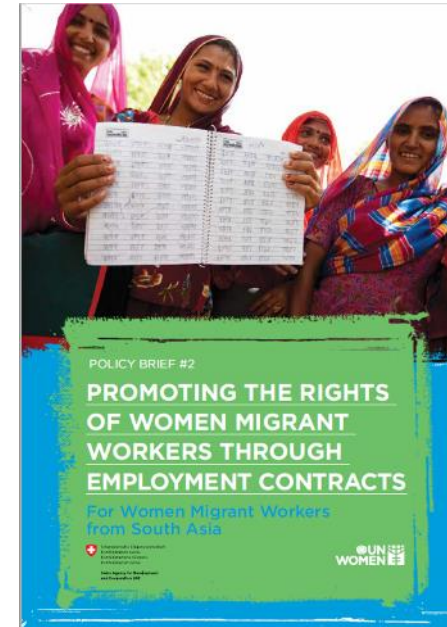
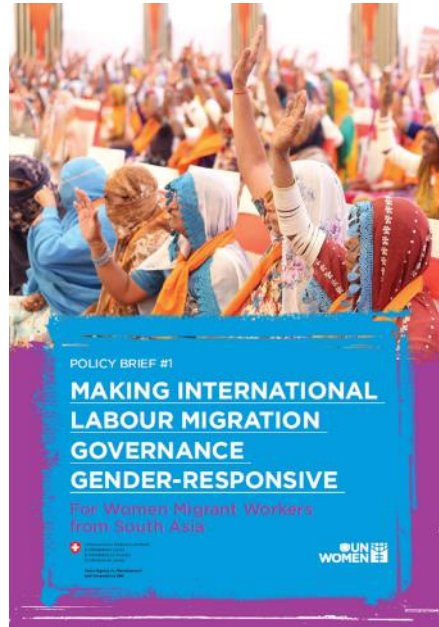


Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Agency for Development
and Cooperation SDC



United Nations Entity for Gender Equality
and the Empowerment of Women





GENDER-RESPONSIVE GUIDANCE ON EMPLOYMENT CONTRACTS

**For Migrant Domestic Workers
from South Asia**

3. Gender-responsive employment contracts

...aims to **equip relevant stakeholders in countries of origin and destination with information on established international standards and best practices for employment contracts for women migrant domestic workers.**

International human rights and labour standards, and recommendations/good practices

Seven of the nine **UN core human rights standards**:

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)

International Convention on the Elimination of All Forms of Racial Discrimination (1965)

International Covenant on Civil and Political rights (1966)

International Covenant on Economic, Social and Cultural Rights (1966)

Convention on the Rights of the Child (1989)

Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

More than **15 general recommendations/general comments** from relevant treaty bodies

More than **20 ILO conventions and seven recommendations**

More than **13 employment contracts** developed by governments and trade unions

ILO Domestic Workers Convention No. 189

Article 7:

- Ensure that domestic workers are informed of their terms and conditions of employment
- in an appropriate, verifiable and easily understandable manner
- preferably, where possible, through written contracts
- in accordance with national laws, regulations or collective agreements

Article 8:

- National laws/regulations shall require migrant domestic workers receive a written job offer or contract of employment
- That is enforceable in the country where they will work
- Addressing the terms and conditions of employment in Article 7
- Prior to crossing national borders

Why is international cooperation important for employment contracts?

The current process of determining employment contracts means **women work under inconsistent protections**, based on their country of origin, means of recruitment and other variables.



Parties to the contract	7. Public holidays and leave	14. Obligations of the worker
1. Duration/location of employment	8. Social protection and insurance	15. Dispute settlement
2. Job description	9. Occupational health and safety	16. Termination, expiry and renewal of the contract
3. Wages	10. Standard of living	17. Contract validity
4. Reimbursements, allowances, in-kind payments and allowable deductions	11. Communication, information and freedom of association	18. Contacts
5. Working hours and daily rest	12. Identity documents and registration	Annex III. Work tasks (detailed job description)
6. Rest day per week	13. Skills training and professional development	Annex IV. Timesheet

3.1

Starting from _____ (date), the employer shall pay the worker (tick one only):

- Daily
- Weekly
- Fortnightly
- Monthly

the amount of _____ (amount) in _____ (currency) for normal working hours agreed to in clause 5.1.

All contracts should provide clear information on remuneration, which should start at least from the date of arrival.

How to calculate remuneration for domestic workers?

The amount of remuneration should not be lower than the minimum wage in the country of destination, where one is established. If a minimum wage has not been set, benchmarking wages in relation to cost of living and wages in other sectors can be considered. It is recommended that wages are standardized across the sector, regardless of country of origin.

If the minimum wage increases, or a new BLA/ MOU is negotiated that exceeds the current wage, the salary of the worker should be adjusted accordingly.

ILO C189, art. 7 (e)

CEDAW, art. 11; ILO C189, art. 11; ILO C181, art. 11 (c), 12 (b); ILO C97, art. 6 (1) a (i)

2.2

The worker is employed to perform the following tasks (tick as applicable):

- Cleaning
- Gardening
- Laundry
- Cooking
- Caring for children
- Caring for elderly people
- Caring for people who are sick
- Caring for persons with disabilities
- Caring for pets
- Driving a vehicle
- Guarding the house
- Supervising the work of other domestic workers employed in the household

A more detailed job description may be annexed to the contract. An example is provided in Annex III.

The contracts in **Indonesia, Thailand** (ILO and My Fair Home) and **Sri Lanka** include a job description.

Note: a more detailed job description is provided in Annex III

ILO C189, art. 7 (d) and ILO R201, para. 6

2.4 Household characteristics:

Household size: _____ m²

Number of household members:

Number of household members
requiring care: _____

Number of floors: _____

Number of bedrooms: _____

Number of bathrooms: _____

Number of other rooms: _____

Information related to the house helps the worker, competent authorities and recruitment agencies to better understand the expected workload and responsibilities, and to set decent working time and wages accordingly.

A full job description and list of tasks is provided in Annex III. The annex can alternatively be included as part of the contract itself.

The contract in **Kuwait** provides the number of household members.

5.1

The worker shall work _____ days per week or as fixed by law, whichever is lower.

- Working hours are from _____ am/pm to _____ am/pm, for a total of _____ hours per day
- Working hours vary by day, as follows:

Monday: _____

Tuesday: _____

Wednesday: _____

Thursday: _____

Friday: _____

Saturday: _____

Sunday: _____

Normal hours of work must be specified in contracts for domestic workers.

Domestic workers should enjoy rights equal to those enjoyed by workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave. Daily and weekly working hours should be in line with national labour laws, and international human rights and labour standards.

Rights-based contracts should follow the principle of a 40-hour working week (eight hours of work per day).

ILO C189, art. 7 (f)

ILO C47, art. 1 (a), (b); CESCR, art. 7 (d); ILO C181, art. 11 (d), 12 (c); CMW, art. 25 (1), (2), (3); ILO C97, art. 6 (1) a (i); ILO C189, art. 10 (1)

ILO R116, para. 5

13.2

The employer shall not prevent the worker from accessing further education and training outside working hours.

In cases where the worker is less than 18 years of age, the employer will ensure that work does not deprive him/her of compulsory education.

The employer should support workers under 18 to continue their education, such as by re-evaluating work schedules to allow sufficient time to attend classes and study. Workers under 18 must not be required to work overtime or during the night, to allow for sufficient rest and time for education (also see Clause 5.7).

ILO C189, art. 4 (2);
ILO C143, art.12 (c)

Example applications of the Gender-responsive guidance on employment contracts

Who	When
Governments in countries of origin and destination	<p>Reviewing or negotiating BLAs or MOUs</p> <p>Developing or reviewing national STOE s and model contracts</p> <p>Developing, reviewing and monitoring national laws and policies</p>
Regional consultative processes	<p>Developing consensus on mutually agreed standards for sector-specific employment contracts</p>
Recruitment agencies	<p>As a reference tool when assessing individual employment contracts during the recruitment and placement process</p>
Employers of domestic workers	<p>Reviewing or negotiating employment contracts, to ensure they comply with international standards and best practices</p>
Trade unions, CSOs and international organizations	<p>As a quick reference on established norms and standards in relation to contracts for migrant domestic workers</p> <p>For training labour migration actors, including migrant domestic workers</p> <p>For advocacy to promote stronger protections for migrant domestic workers</p>
Domestic workers	<p>Prior to deciding to migrate, to better understand the terms and conditions of employment for migrant domestic workers</p> <p>Considering an offer of employment, prior to signing a contract</p> <p>When raising a complaint with their employer or recruitment agency, for general guidance on established international standards</p>

Access the Toolkit on UN Women's website:

<http://asiapacific.unwomen.org/en/digital-library/publications/2019/03/empowering-women-migrant-workers-from-south-asia>

Thank you

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