



International
Labour
Organization



Labour and human rights frameworks promoting childcare for all workers

ILO and WIEGO Policy Brief No. 2

1. INTRODUCTION

One hundred years ago the ILO Maternity Protection Convention, 1919 (No. 3) was the third international labour Convention adopted during the first session of the International Labour Conference in 1919. This international labour standard is ground breaking in many ways, setting the foundation for later human rights and labour rights instruments on maternity protection, social security and childcare services for all workers.¹

Though maternity protection standards have existed for the past 100 years, progress on extending maternity protection and childcare for women workers remains persistently slow. The ILO estimates that only 41 per cent of mothers with newborns receive a maternity benefit (ILO, 2017), with close to 1 billion women employed in the informal economy with little or no access to maternity protection (ILO, 2018a). Childcare services are also lacking in low- and middle-income countries with employed women most frequently providing unpaid care for children below the age of six (UN Women, 2015). Maternity protections, including access to health care, and childcare services are complementary components of a broader social protection

system that women workers require to mitigate the risks to their incomes and employment when they have a child in their care. Women workers in the informal economy are particularly at risk due to their already low and irregular earnings, limited access to social security coverage, and their inability to pay for quality childcare services.

This second policy brief in the series on childcare for workers in the informal economy highlights the relevant international legal instruments, including both human rights frameworks and labour rights standards, supporting the realization of social protection – specifically maternity protection and childcare services for all women workers. This includes those in non-standard forms of employment and in the informal economy with a view to foreground workers' mobilization and policy change at the national level. The policy brief also discusses how these legal instruments inform early childhood development and education (ECDE) policies that guide and inform childcare provision nationally. ECDE policy frameworks have important implications for women workers' access to childcare services and their working conditions within the childcare sector.

¹ The relevant Conventions and Recommendations are: Maternity Protection (Agriculture) Recommendation, 1921 (No. 12); Maternity Protection Convention (Revised), 1952 (No. 103) and its accompanying Maternity Protection Recommendation, 1952 (No. 95); and Maternity Protection Convention, 2000 (No. 183) and its accompanying Maternity Protection Recommendation, 2000 (No. 191).

2. HUMAN RIGHTS FRAMEWORKS ADDRESSING CHILDCARE

International human rights instruments provide a framework for promoting, protecting and realizing labour rights, women's rights and children's rights and can be used to guide discussions, reforms and the strengthening of national legal frameworks. Of relevance are the United Nation's Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), the Convention on the Elimination of All Forms of Discrimination against Women (1979), as well as the Convention on the Rights of the Child (1989). Together these instruments set out the rights of mothers, workers, families and children and the obligations of the States to guarantee the right to social protection generally, and the right to childcare and maternity protection specifically. Importantly, the human rights frameworks underpin the need to guarantee quality childcare provision, with the view to redistribute women's unequal responsibility for childcare with men, employers, the State, and private service providers (Razavi, 2007).

The **Universal Declaration of Human Rights (1948)** guarantees the right to social security in its article 22 and provides in its article 25 that,

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Although childcare services are not explicitly mentioned, the Declaration provides for an adequate standard of living for the health and well-being of all, with particular reference given to food, clothing, housing, medical care and "necessary social services". In addition, specific protection is underlined with regards to "childhood" and the need to guarantee "special care and assistance" and "social protection."

Notably, the **International Covenant on Economic, Social and Cultural Rights (1966)** establishes the right of everyone to social security (article 9) which is seen to encompass the right to access and maintain benefits, whether in cash or in-kind, inter alia, from insufficient family support, particularly for children and in relation to their maintenance.² Such benefits are considered by the UN Committee on Economic, Social and Cultural Rights as crucial for realizing the rights of children and calls for them to be provided to families, without discrimination on prohibited grounds, and should ordinarily cover food, clothing, housing, water and sanitation, or other rights as appropriate.³ The Covenant further includes the right of working mothers to social security benefits (article 10(2)), which is considered to include paid maternity leave for all women, including those involved in atypical work, during a reasonable period before and after childbirth.⁴ As regards medical maternity protection, this should include appropriate medical benefits for women and children, including perinatal, childbirth and postnatal care, and care in hospital where necessary. Finally, it may be noted that the Covenant calls for special measures of protection and assistance to be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions (article 10.3).

The **Convention on Elimination of All Forms of Discrimination against Women (1979)** recognizes in its preamble that

² UN. Committee on Economic, Social and Cultural Rights. 2008. *General Comment No. 19 on the right to social security* (art. 9) (E/C.12/GC/19). para. 2.

³ *Ibid.*, para. 18.

⁴ *Ibid.*, para. 19.



childcare and maternity protection are essential rights. These are prerequisites for the achievement of women's right to work and rights at work. Regarding discrimination and women's reproductive role (article 5), it provides that "a proper understanding of maternity as a social function" demands fully shared responsibility for child rearing by men and women. Furthermore, article 11 sees the provision of childcare services as key to allow individuals to combine family responsibilities with work and participation in public life:

2) In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures: (...)

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of childcare facilities (...)

Building on these core human rights standards, the **Convention on the Rights of the Child (1989)** establishes specific civil, political, economic, social, health and cultural rights of children. In particular, it recalls in its preamble that childhood is entitled to special care and assistance and provides in article 3.2 that States "undertake to ensure the child such protection and care as is necessary for his or her well-being." The Committee on the Rights of the Child has adopted a broad understanding of the term "protection and care", linking it to a comprehensive ideal of ensuring the child's well-being and development.⁵

The Convention sets a strong link with the need to enable working parents to ensure the care of their children. In its article 18.3, on parental responsibilities, the Convention is explicit: "States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible." According to the Com-

mittee, this obligation also includes the creation of employment conditions that assist working parents and caregivers to fulfil their responsibilities, including through family-friendly workplace policies, parental leave, support and facilitation for breastfeeding, access to quality childcare services, wages fit for an adequate standard of living, and security, safety and protection from discrimination and violence in the workplace.⁶ The Committee has also stated that special measures should be taken to promote workplace support for mothers regarding pregnancy and breastfeeding and feasible and affordable childcare services, as well as to promote compliance with ILO's Maternity Protection Convention, 2000 (No. 183).⁷

International treaties referring to migrant workers and refugees also refer to social protection and maternity protection. The UN's **Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)** provides that all migrant workers and members of their families shall enjoy in the State of employment the same social security protection granted to nationals. Both the **Convention Relating to the Status of Refugees (1951)** and the **Convention relating to the status of stateless persons (1954)** provide refugees and stateless persons the right to social security, including in respect of maternity.

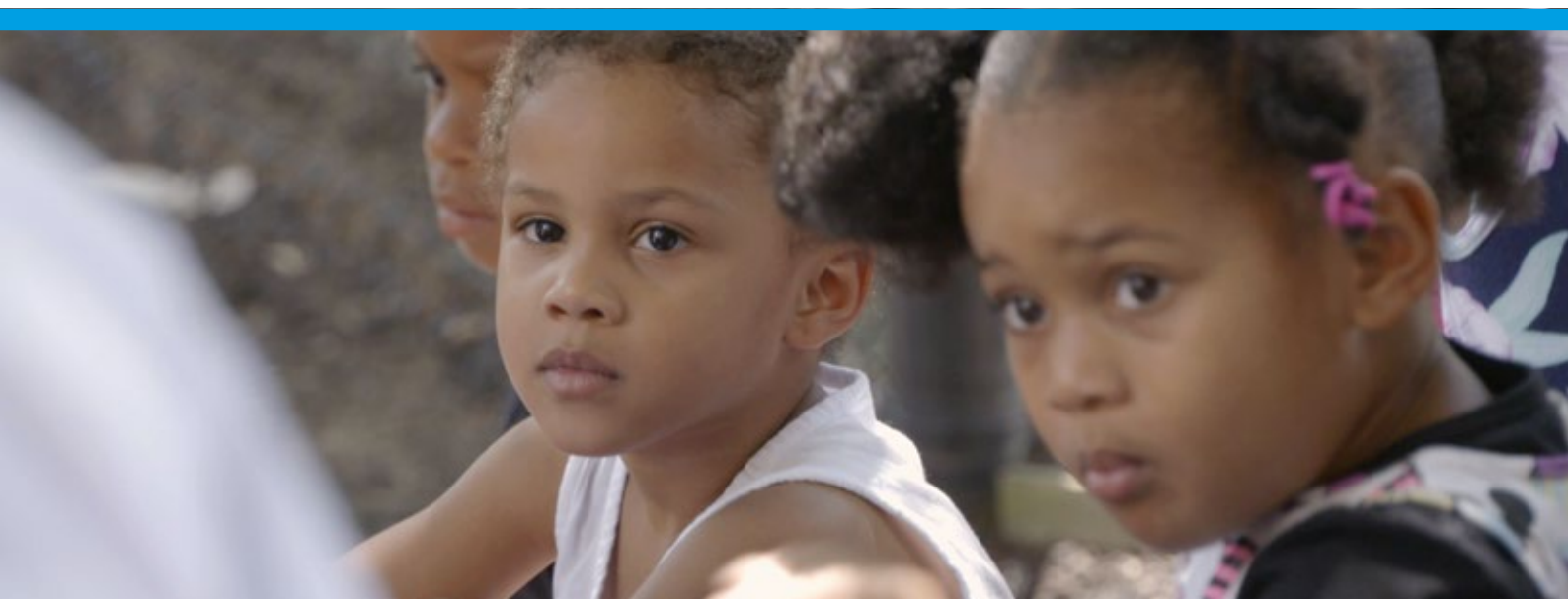
Overall, these human rights frameworks outline the duties States have to:

- fulfil the right to care and assistance in raising children;
- recognize women's greater and unequal responsibility for childcare and the resulting discrimination and inequality they face in the labour market, public life and within households; and
- provide maternity benefits for the suspension of earnings during pregnancy, childbirth, and as caregivers for young children, as well as related medical care.

5 UN. Committee on the Rights of the Child. 2013. General Comment No. 14 on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1) (CRC/C/GC/14).

6 UN. Committee on the Rights of the Child. 2013. General Comment No. 16 on State obligations regarding the impact of the business sector on children's rights (CRC/C/GC/16), para. 54.

7 UN. Committee on the Rights of the Child. 2013. General Comment No. 15 on the right to the enjoyment of the highest attainable standard of health (art. 24) (CRC/C/GC/15).



3. CHILDCARE AND MATERNITY GUARANTEES IN INTERNATIONAL LABOUR STANDARDS

Labour rights are premised on the economic relationship between the State, employers and workers, both as wage and salaried workers and the self-employed. They protect workers in the context of an unequal power relationship with employers and capital (Alfers, Lund and Moussié, 2017; Kolben, 2009), including when this relationship is hidden (e.g. disguised employment or dependent self-employment) or absent, in the case of self-employed workers (ILO, 2016a).

One of the main international sources of labour rights are ILO's International Labour Standards comprised of Conventions, Recommendations and Protocols. ILO Conventions are legally binding international treaties that are open to ratifica-

tion and implementation by member States. They set internationally agreed minimum standards of rights, protections and guarantees. ILO Recommendations provide non-binding guidance and can, often, supplement a Convention. While States may decide not to ratify ILO Conventions, they can still draw from them to inform reforms, national legislation and its application, just as they would use ILO's Recommendations.

Since the adoption of the ILO's Maternity Protection Convention, 1919 (No. 3), the ILO has extended the protection for workers related to maternity and their childcare responsibilities through subsequent international labour instruments (see table 1).

Table 1. ILO Conventions and Recommendations related to maternity protections and childcare

Document	Title	Year	No. of Ratifications
Convention 102	C102 – Social Security (Minimum Standards)	1952	58
Convention 156	C156 – Workers with Family Responsibilities Convention	1981	45
Convention 183	C183 – Maternity Protection Convention	2000	38
Recommendation 202	R202 – Social Protection Floors Recommendation	2012	-
Recommendation 204	R204 – Transition from the Informal to the Formal Economy Recommendation	2015	-

Source: ILO Normlex, as of September 2019.



4. LABOUR STANDARDS TO PROTECT WOMEN'S EARNINGS DURING MATERNITY AND CHILDCARE

Across women's life cycles, maternity and childcare can substantially influence their earnings. A UN Women review of household surveys in 89 countries found that women in prime reproductive years (aged 25–34) are 22 per cent more likely to live in extreme poverty than men (UN Women, 2018). One of the key findings from focus group discussions with women in the informal economy in cities across Brazil, Ghana, India, South Africa and Thailand, is that childcare responsibilities lead to economic losses (Alfers, 2016). For instance, street traders and waste pickers mention that childcare prevents them from working during peak trading hours in the early mornings or evenings. Grandmothers in Thailand working as home-based workers stated that caring for their grandchildren interfered with their work and slowed down production. This led to lower earnings as they are paid on a piece-rate basis (a fixed price per item produced).

The role of social security policies first referred to in the Universal Declaration of Human Rights in 1948 is to protect people against this loss of income brought on by multiple risks – including maternity and childcare. The ILO landmark **Social Security (Minimum Standards) Convention, 1952 (No. 102)** identifies – amongst the contingencies which form part of the internationally accepted definition of social security – both the provision of family benefits (Part VII), as a means to address the responsibility for the maintenance of children, and maternity benefits (Part VIII) in case of pregnancy, and its consequences for active women but also for dependents. It can be noted that maternity benefits encompass both cash benefits but also maternity medical care, which is also integral to protection in case of a medical condition as provided under medical care (Part II). It further sets out the minimum quantitative

and qualitative parameters that States have for the overall responsibility to ensure the type and level of benefits, conditions to access these benefits and their duration. Regarding family benefits specifically, the Convention calls for benefits in cash or benefits in-kind, or a combination of both, such as periodic payments and the provision of food, clothing, housing, and holidays as well as “domestic help”, which includes childcare (Article 42). These need to be provided until the child reaches the age of 15 years or until the end of compulsory schooling (if set at a later date).⁸

The ILO's **Social Protection Floors Recommendation, 2012 (No. 202)** complements ILO Convention No. 102 and provides guidance on closing social security gaps and achieving universal coverage through the establishment and maintenance of comprehensive social security systems covering the entire population and not only selected specific categories of active persons. Overall, the focus is on preventing and alleviating poverty, vulnerability and social exclusions, and in this regard, it calls upon States to prioritize the implementation of national social protection floors as a means to achieve universal coverage of at least minimum levels of protection as part of a system also providing higher levels of protection. Such social protection floors should comprise basic social security guarantees that ensure, as a minimum, effective access to essential health care, including maternity care, and basic income security throughout the life cycle (i.e. for children, persons of working age who are unable to earn sufficient income, including in cases of maternity, and for older persons) (Paras 4 and 5) (see box 1). As regards basic income security for children, the Recommendation refers to the need for this protection to be sufficient to provide access to nutrition, education, care and

⁸ Convention No. 102 allows a certain degree of flexibility as regards the branches that are accepted by member States. In this regard it can be noted that of the 58 member States that have ratified it to date, 33 have accepted Part VII (family benefits) and 40 have accepted Part VIII (maternity benefits), making it the third most accepted branch with medical care and employment injury. For more information on the status of ratification of Convention No 102 see: https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312247 and <https://www.social-protection.org/gimi/ILO100Ratification.action?lang=ES>.



any other necessary goods and services (Para. 5). In relation to health care, Recommendation No. 202 also sets out the need to protect against the financial consequences of accessing essential health care, underlying the necessity to consider free prenatal and postnatal medical care for the most vulnerable (Para. 8).

The Recommendation calls on member States to consider the most effective and efficient combination of benefits and schemes in the national context to provide the basic income guarantees, including by combining both in-cash and in-kind benefits as well as schemes financed through contributions and taxes (Para. 9). Such guarantees should further be established by law and regularly reviewed, to ensure adequate, sustainable and universal protection (Para. 7).

Recommendation No. 202 also sets out principles which should guide the application of the Recommendation and includes non-discrimination, gender equality and responsiveness to special needs, as well as universality of protection, based on social solidarity and social inclusion, including persons in the informal economy. From a governance perspective, it also sets

out the need for coherence with social, economic and employment policies and high-quality public services, such as in relation to childcare, that enhance the delivery of social security systems (Para. 3 (a)(d)(e)(l)(n)).

Access to social security has also been extended to specific categories of workers by different ILO instruments, including workers in agriculture, the maritime sector, fishing, home-work, and migrant, part-time and domestic workers.⁹ The ILO Committee of Experts on the Application of Conventions and Recommendations has also considered that, according to the principle of equality and non-discrimination, others such as part-time workers, domestic and informal workers, should be covered by social protection (ILO, 2019, Para. 307).

For women workers in the informal economy, who often find themselves in low-paid work, loss or reduction of earnings due to maternity and childcare may exacerbate their poverty and social exclusion and perpetuate gender inequality. Likewise, the lack of access to maternity and childcare benefits, together with the need for income, may leave women in the informal economy with the sole option of bringing their children

Box 1. The ILO Social Protection Floors Recommendation, 2012 (No. 202)

Paragraph 5: The social protection floors referred to in Paragraph 4 should comprise at least the following basic social security guarantees:

- (a) *access to a nationally defined set of goods and services, constituting essential health care, including maternity care, that meets the criteria of availability, accessibility, acceptability and quality;*
- (b) *basic income security for children, at least at a nationally defined minimum level, providing access to nutrition, education, care and any other necessary goods and services;*
- (c) *basic income security, at least at a nationally defined minimum level, for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability; and*
- (d) *basic income security, at least at a nationally defined minimum level, for older persons.*

⁹ These ILO instruments are: Workmen's Compensation (Agriculture) Convention, 1921 (No. 12), Seafarers' Pensions Convention, 1946 (No. 71), Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Nursing Personnel Convention, 1977 (No. 149), Maintenance of Social Security Rights Convention, 1982 (No. 157), Part-Time Work Convention, 1994 (No. 175), Home Work Convention, 1996 (No. 177), Work in Fishing Convention, 2007 (No. 188), Maritime Labour Convention, 2006 (MLC, 2006), and Domestic Workers Convention, 2011 (No. 189).



to their place of work, which may not be in the best interests of the child. The provision of social protection may therefore be key not only to protect women workers in the informal economy, but also to facilitate their transition to the formal economy. As such, the **ILO Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)** addresses the exclusion of workers in the informal economy from maternity protection by clearly recommending member States to extend, in law and in practice, social security and maternity protection to all workers in the informal economy (Para. 18) and to encourage the provision of and access to childcare and other care services to enable women workers to seek out more secure employment in the formal economy (Para. 21).

As stated above, Convention No. 3 was the first ILO standard to address maternity protection. It was adopted as the result of the advocacy of the first Women's Labour Congress in 1919 that influenced the direction and vision of the newly funded ILO by introducing a focus on gender justice and substantive equality, beyond the protectionist approach to women's rights (ILO, 2019). The instrument sets an important precedent in labour rights and human rights by asserting that maternity, maternal health, childbirth and childcare are not the sole responsibility of women and their households, but rather are a collective responsibility within all societies. The **ILO Maternity Protection Convention, 2000 (No. 183)** is the most up-to-date international labour standard on maternity protection. It is a revision of Convention No. 3 (1919) and the Maternity

Protection Convention (Revised), 1952 (No. 103), which are still in force in certain countries.¹⁰

The scope of Convention No. 183 is very large and is notably applicable to all women and children without discrimination, and in particular to all employed women, including those in atypical forms of dependent work (Articles 1 and 2(1)). Maternity protection also reflects the broad and all-encompassing concept which includes paid maternity leave, maternal and child health care, employment protection and non-discrimination, health protection at the workplace for pregnant and nursing women and breastfeeding arrangements at work. Similar to Convention No. 102 and Recommendation No. 202, Convention No. 183 also calls for the provision of medical benefits for the woman and her child which shall include prenatal, childbirth and postnatal care, as well as hospitalization care when necessary.

As concerns social protection more specifically, the Convention provides that women workers shall be entitled to cash benefits during maternity leave of not less than 14 weeks (Articles 4 and 6) in order to "ensure that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living" (Article 6). Convention No. 183 calls for eligibility requirements to be such that most women qualify. For women who do not qualify, however, adequate maternity benefits should be made available out of social assistance funds. The Convention authorizes these benefits to be made subject to a means test (Article 6).

¹⁰ Convention No. 103 expanded the provisions of Convention No. 3, setting the level of cash and medical maternity benefits and extending the scope of coverage. It reaffirmed the exclusion of employer liability schemes as a means to provide social security, which has an important impact of the employment of women. Though it is closed to ratification, due to the entry into force of Convention No. 183, it still remains in force for 24 member States.

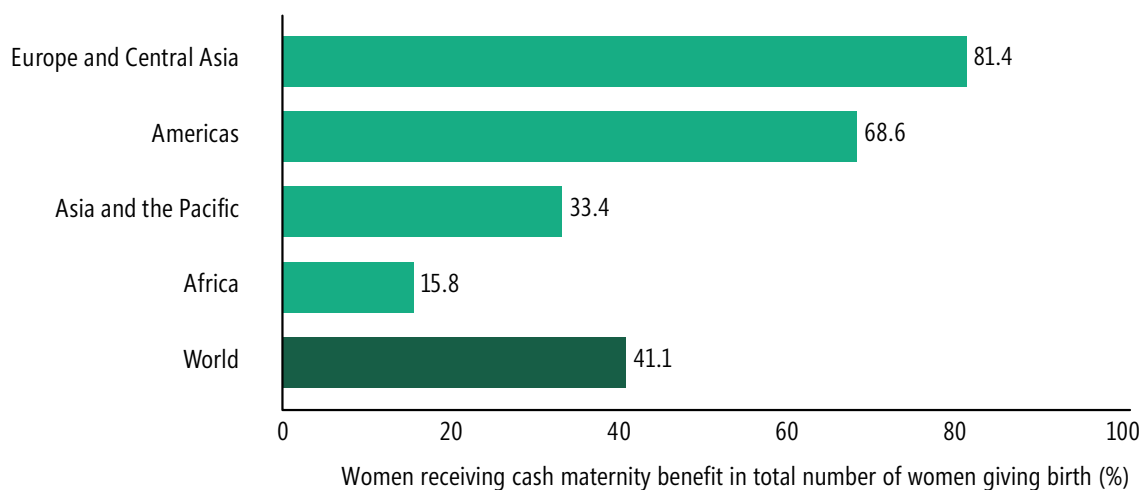


5. THE MISSING MIDDLE IN SOCIAL PROTECTION POLICY

Though most countries in the world provide some maternity protection to employed women, universality is far from being achieved. In 2015, close to 60 per cent of women with newborns worldwide did not receive a contributory or non-contributory benefit variations (ILO, 2017). Important gaps remain in the implementation of maternity protec-

tions, with large regional variations (see figure 1). The two regions with the lowest coverage, Asia and the Pacific (33.4 per cent) and Africa (15.8 per cent), are also the regions with the highest proportion of informal employment, and where women are more likely than men to find work in the informal economy (ibid.).

Figure 1. Effective coverage for mothers with newborns: Percentage of women giving birth receiving maternity cash benefits in total number of women giving birth (%), by region, 2015 or latest available year



Sources: ILO World Social Protection Database, based on SSI; ILOSTAT, UN World Population Prospects; other national sources.¹¹

Low and irregular earnings among most women workers in the informal economy mean they cannot contribute towards their maternity leave benefits through social insurance schemes. If they are waged workers, such as domestic workers, their employers are unlikely to contribute to their social insurance

if no formal contract exists. Self-employed women workers such as street traders, waste pickers and home-based workers may be excluded from social insurance schemes and cannot contribute towards paid maternity leave.

¹¹ ILO World Social Protection Database is available at <http://www.social-protection.org/gimi/gess/RessourceDownload.action?ressource.ressourceId=54629>.



In South Africa, for instance, domestic workers have access to maternity protection through the Unemployment Insurance Fund. The maternity benefit is only available to women in waged employment whose employers contribute to the fund alongside their own contribution (ILO, 2016b). This excludes self-employed women both in the formal and informal economy and leads to labour and human rights violations. The South African Law Reform Commission is exploring ways to extend maternity protection to women workers who are currently not covered (South African Law Reform Commission, 2017). In some cases, the self-employed worker can join social insurance schemes on a voluntary basis, such as in Namibia or Lao People's Democratic Republic. However, voluntary coverage tends to reach only a minority of these workers without the presence of supporting policies to adapt the contributions, benefits and administrative procedures to the needs and circumstances of workers in the informal economy, (ILO, 2016b). Other countries, such as Mongolia, use a combination of mandatory social insurance and tax-financing to ensure at least a basic level of protection for all women workers (ibid.).

Even where there is some access to maternity protection, the inadequacy of protection to allow the mother to maintain herself and the child may impact the effective duration of maternity leave. In fact, the main reason women return to work early is to earn an income. Research with women street traders and domestic workers in South Africa and India demonstrates that most women return to work within two months of giving birth, far less than the mandated 14 weeks of leave stated in Convention No. 183 (Horwood et al., 2019). Women agricultural workers who participated in the Maternity Benefit Programme pilot said they worked up until their delivery and returned to the fields within a month due to the low value of the maternity benefit (ILO, 2016b; UN Women and CDRA, 2018). Moreover, women workers in the informal economy may not continue exclusive breastfeeding for the first six months, as recommended by the World Health Organization, even if they know it is better for their infants' health (Horwood et al., 2019; Horwood et al., Forthcoming).

Furthermore, due to the specificities of the informal economy, maternity benefits to cover the income loss during this period are not enough to protect women. Informal workers also require a guarantee that they will be able to return to economic activity after maternity leave. Women street traders in Durban, South Africa mentioned that they risk losing their trading space from the municipality during their maternity leave and must return as soon as possible (Horwood et al., 2019). Protection in this regard can take the form of trading permits for street and market traders, employment contracts for domestic workers, and supplier contracts for home-based workers.

Child benefits also do not reach many informal workers despite the principle of universalism stated in Recommendation No. 202. A review of coverage rates for child benefits shows that, globally, 1.3 billion children are not covered; most of them are in Africa and Asia, where rates of informal employment are highest (ILO, 2017). Where they exist, the low value of non-contributory child benefits is unlikely to offset the costs of childcare to informal workers (Patel, 2012).

It is therefore evident that both child and maternity benefits are essential, but alone cannot enable the redistribution of women's childcare responsibilities. Quality, accessible, and appropriate public health care services, as called for in Recommendation No. 202, are necessary to ensure that women workers in the informal economy do not delay or postpone their visits to health centres due to user fees or the high cost of health insurance premiums. This has implications on mothers' ante and postnatal health, as well that of their children. Once they have given birth, women workers in the informal economy need access to free, public, quality childcare services. Workers in the informal economy can draw on Recommendation No. 204, which specifically mentions childcare services as a necessary investment to support the transition from the informal to the formal economy (Para. 21). Access to quality childcare services can help to alter the cycle of informality, poverty and inequality exacerbated by the costs associated with private childcare centres or the neighbours or relatives who look after children for cash or in-kind payments (Alfers, 2016).



6. PREVENTING DISCRIMINATION AGAINST WOMEN AND PENALTIES IN THE LABOUR FORCE

In parallel to the human rights framework, the ILO, as a labour standards setting body, has progressively associated its concern to protect women and families (notably during maternity and as regards childcare) with the concern to promote equality between men and women (for example, through the principles of equal treatment and equal remuneration). The ILO Workers with Family Responsibilities Convention, 1981 (No. 156) is premised on ensuring equality of opportunity and treatment for women and men by addressing the discrimination that workers, and in particular women, face in the labour market due to their disproportionate share of unpaid care work, including the care of household members. The Convention applies to all branches of economic activity and all categories of workers (Article 2) and establishes that workers' family responsibilities should not be a barrier to their preparing for, entering, participating or advancing in economic activity (Article 1).

The Convention frames the needs of workers with family responsibilities within the context of conditions of employment and social security to achieve equality of opportunity and treatment (Article 4). This is linked to broader conditions including community planning and the development or promotion of community services such as childcare and family services and facilities (Article 5).

Discrimination in the labour market due to family responsibilities explains in part why women across Africa, Asia and Latin America are more likely than men to find employment in non-standard forms of employment and in the informal economy. Within the informal economy, women are more likely to be concentrated in own-account work and contributing family work, which can offer more flexibility on how they manage their time and where they work. However, these forms of employment generally lead to lower earnings, a higher risk of poverty, and a lack of social protection (Chen, 2012; ILO, 2018a). Women's unequal share of unpaid care work reduces their earnings both in the short term and

across their lives, as they take on lower-paid but more flexible work and shift from the formal to the informal economy, or to more insecure forms of work within the informal economy. A door-to-door trader in Ghana explains (Alfers, 2016, p. 5),

About six months ago, I had a job as a cleaner, but had to report at 6:00 a.m. and finish at 6:00 p.m. The woman I was going to work for called me to inquire if I was coming because it was 7:00 a.m. I told her that I want to take my children to school before reporting, but her response was that any time I report late, I will be paid short of my due so I decided to stop and get another job.

For women workers in informal waged work, such as live-in or migrant domestic workers, their working conditions prevent them from caring for their own children. In a survey of domestic workers in India, many cited that their employers did not want them to bring their infants to work. They had to find alternative childcare near their homes and could not continue exclusive breastfeeding during the first six months (Horwood et al., Forthcoming). Furthermore, as children grow older, it becomes more difficult to care for them at work. Home-based workers complained that caring for young children while they work slows them down, leading to lower productivity, and can also be dangerous for children due to hazardous work materials (Alfers, 2016).

Though women may seek more flexible work in the informal economy, this is not a choice, but rather a response to multiple constraints and demands on their labour, including their need to earn an income, their unequal responsibility for unpaid care work, the lack of decent work opportunities and a dearth of quality public childcare services. Though childcare services are referred to in both labour rights and human rights frameworks, the provision of childcare services remains dismally low for children from low-income households in the Global South (ILO, 2018b).



7. TRANSLATING LEGAL ENTITLEMENTS INTO CHILDCARE POLICIES AND SYSTEMS

The human rights and labour rights provisions for childcare set the foundation for global development initiatives such as the Campaign for Education for All goals and the Sustainable Development Goals.¹² These in turn have led to the proliferation of early childhood development and education policy frameworks across the Global South (Pearson, 2015). ECDE policy frameworks can encompass a range of child development programmes from the pre-natal period up to 7–8 years regarding health, nutrition, education, care and child protection. This includes policies promoting parent and family-centred care, nutrition and health-care programmes, establishing childcare centres, and investments in pre-primary education. These global initiatives have directed donor aid as well as greater national investments in the area of ECDE. In Africa, only Mauritius and Namibia had ECDE policies in 2001; by 2012, 23 out of 47 countries had developed ECDE policies with another 13 countries in the process of drafting new policies (Neuman and Deverececeli, 2012). However, much of the focus has been on investments in pre-primary education, with far less attention given to childcare programmes targeted at infants and toddlers that could also redistribute women's care responsibilities and support their income-generating activities (ILO, 2018b).

Despite the emergence of new ECDE policy frameworks across Africa, implementation has been slow and incomplete (Neuman and Deverececeli, 2012). One reason is that investing in childcare may not be enough of a political priority for governments, despite the legal obligations and proven positive outcomes for child development and women's employment and livelihoods (Richter et al., 2017). A review of ECDE policies in Asia and the Pacific notes that national governments have different motivations for

investing in ECDE (Pearson, 2015). In some countries such as the Kyrgyz Republic, Uzbekistan and Mongolia the main objective is to prepare children for formal education with a focus on children aged 4–5 years. In India and Sri Lanka, government investments were driven by the need to reduce malnutrition, improve health outcomes and early learning and stimulation for children aged 0–3 years. The primarily child-centred focus of ECDE policy frameworks means there is little discussion of the childcare needs of women working in the informal economy, even though the children in their care may be considered among the most vulnerable.

The rationale for investing in childcare services is also sensitive to demographic shifts, economic growth and the resulting pressure on women's labour – both in terms of their paid work and their unpaid care work (ILO, 2018b). The case of Japan is worth highlighting given its long history of public childcare provision dating back to 1947. In the 1970s, following the economic downturn, public spending on welfare and childcare programmes, was cut (Peng, 2002). In turn, the government promoted traditional family values to encourage women to leave paid work opportunities and care for children at home. However, in the 1990s as declining fertility rates and an aging population put more pressure on women to take up paid work and reduce the time spent on unpaid care work, the government increased public investments in childcare services once again.

More recently in Thailand, the National Legislative Assembly approved the new Early Childhood Development Act to direct more resources into childcare services. Though pre-primary school coverage rates have steadily increased

12 More information on these initiatives is available at Campaign for Education for All <https://www.campaignforeducation.org/en/what-we-do/policy-and-advocacy/archive/about-education-for-all/>; and The Sustainable Development Goals at <https://sustainabledevelopment.un.org>.



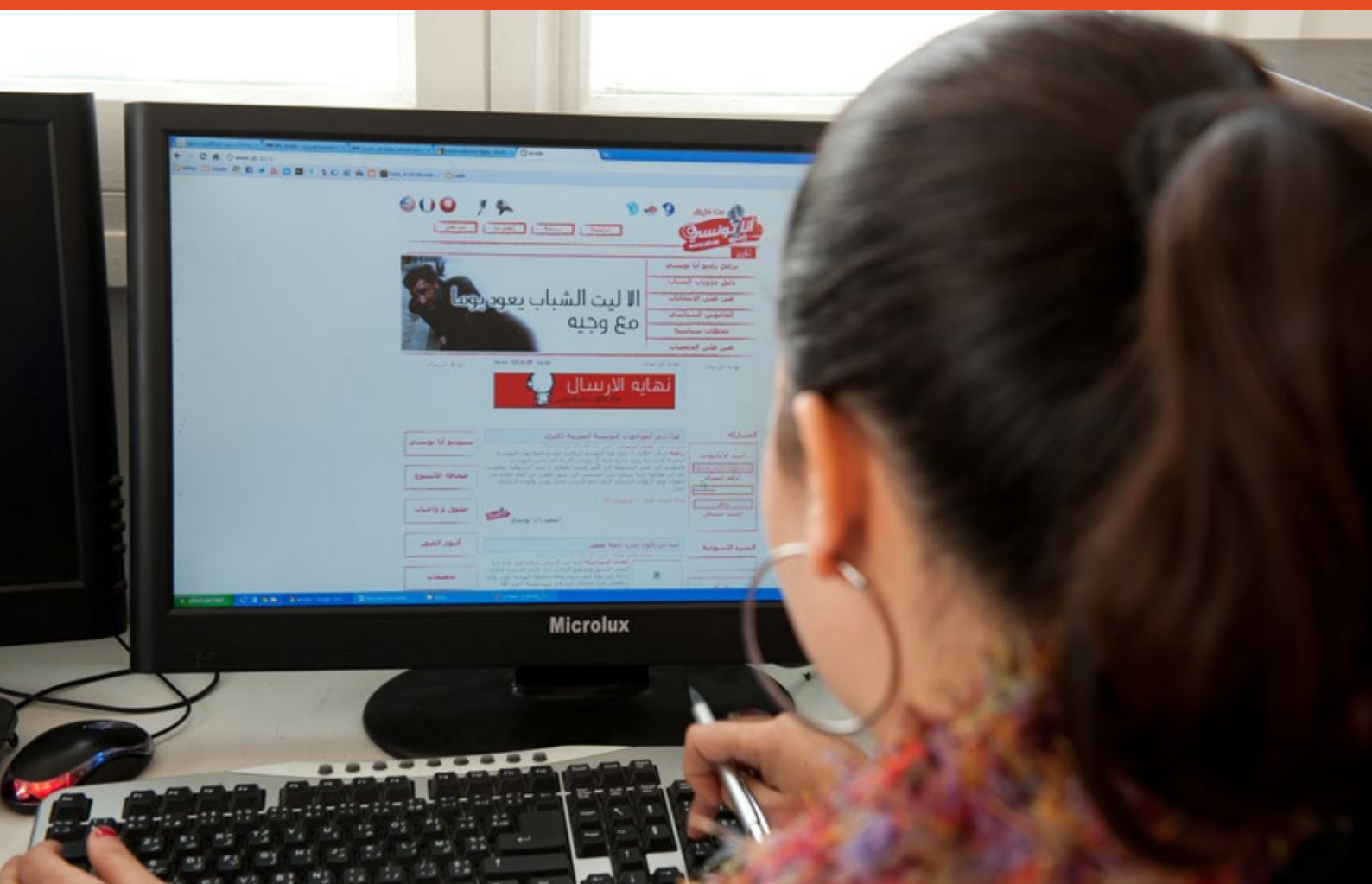
for children aged 3–5 years over the past twenty years, there is a gap in childcare services for children from 0–3 years (UNICEF, 2019). As the Thai population ages, the government wants to invest in ECDE for a more productive labour force in the future that will be able to maintain high economic growth rates to cover rising health care and pension costs (ibid.). These can be compelling reasons for governments to invest in childcare services, and are centred around the tension between women’s economic activities and their childcare responsibilities. However, as this rationale is neither grounded nor framed in terms of child rights, women’s rights or labour rights, during economic slumps and demographic shifts governments can renege on the right to quality childcare services and non-discrimination in the labour market.

These examples demonstrate that the primary rationale for governments to invest in childcare shapes the policies and informs which stakeholders are involved in implementation (Staab and Gerhard, 2010; Neuman and Deverececeli, 2012; Richter et al., 2017). The multisectoral nature of childcare provision calls on various ministries to play a role including the ministries of health, education, and those ministries responsible for women’s and child affairs. Since maternity protection, parental leave policies and cash transfers are linked to and often included in the ECDE policy frameworks, the ministries of labour and social security should also be involved in discussions and

implementation. This complex and integrated coordination across multiple ministries and at different levels of public administration pose one of the biggest challenges to the successful implementation of childcare policies and programmes. In response, some countries identify a lead ministry that collaborates with other sectors through a multisectoral committee. Another approach is to set up a high-level central council to coordinate across different ministries (Richter et al., 2017).

At the level of civil society, child rights organizations often lead policy advocacy and monitor implementation of ECDE policy frameworks. This provides a focus on the fulfilment of child rights, but may not place enough attention on labour rights guaranteeing maternity protections and childcare services for all workers, including workers in the informal economy. There is scope for member-based worker’s organizations to influence childcare policies through existing national and regional ECDE networks that are demanding greater investments in childcare and quality care jobs, as well as collaboration with governments on the design of childcare programmes and training of childcare providers.¹³ Workers’ organizations should have a strong voice in these policy spaces as the childcare sector can generate employment opportunities, though this work remains undervalued and continues to be done by women (ILO, 2018b; Staab and Gerhard, 2010).

13 For more information, see the Africa Early Childhood Network available at <https://africaecnetwork.org>; and the Asia-Pacific Regional Network for Early Childhood available at <https://arnec.net>.



8. DECENT WORK FOR CHILDCARE WORKERS AND DOMESTIC WORKERS

Previous sections show the nature of childcare services as essential to improve the employment of women workers in the informal economy, as well as to facilitate their transition to the formal economy. However, childcare provision itself, as a sector of employment, presents certain difficulties. Women are over-represented in the sector, which still presents low pay and inadequate working conditions, and in many cases a lack of social security. Childcare work is often seen as a natural extension of women's roles as carers, and so considered to be low-skilled. Across the world, childcare workers and pre-primary teachers have a lower status and earn less than primary teachers, reflecting the low value attributed to their work (ibid.). Unionization rates also remain low among this group of workers and they are less likely to have their voices heard in teachers' unions representing higher sectors of education (ILO, 2018b). The decent work deficits for childcare workers and pre-primary teachers are also reflective of the lack of investment by governments in this sector, despite the legal entitlements to childcare.

Childcare is also relevant to the domestic work sector as these workers may also provide childcare as part of their responsibilities. Women are, again, over-represented in the domestic work sector, which often remains in the informal economy and leaves domestic workers particularly

vulnerable to harassment and abuse, low wages, lack of social protection and poor working conditions. The ILO's **Domestic Workers Convention, 2011 (No. 189)** outlines specific labour rights guarantees for domestic workers and supports them to transition from the informal to the formal economy. These guarantees include legal recognition as workers, establishment of employment contracts and access to social security, including maternity protection. Unionization rates among domestic workers are increasing; in 2019, the International Domestic Workers Federation represents 500,000 domestic workers through 68 affiliates across 55 countries.

There is a great opportunity through investments in childcare services to provide more decent work opportunities in a sector that is today undervalued and characterized by inadequate working conditions. However, national childcare policy frameworks that depend on women to volunteer their time or accept low wages for community childcare or midday meal programmes continue to devalue the skills, training and appropriate remuneration these workers deserve. State's obligations under labour and human rights to provide quality childcare services cannot be met through women's cheap or unpaid labour, which reinforces women's risk of poverty and discrimination.



9. CONCLUSION

The human rights frameworks and the international labour standards set by the ILO establish the right to childcare for all – including workers and children. Despite the lack of adequate childcare provision in low-income countries and the gaps in social security coverage, legal frameworks exist to support workers' demands for childcare. They can also be drawn on to develop childcare and early childhood development policies that are sensitive both to children's rights and that of their caretakers. For quality childcare provision to reach disadvantaged and marginalized chil-

dren, it must consider the working conditions and incomes of informal workers. In turn, extending the coverage of social protection to cover workers in the informal economy during maternity and when they are caring for children and other dependants will be most effective if there are quality accessible childcare services available. This points to an avenue for collaboration and collective bargaining for all workers – both women and men across the formal and informal economies.



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This policy brief series is a collaboration between the International Labour Organization (ILO) and Women in Informal Employment: Globalizing and Organizing (WIEGO). Laura Addati, Gender, Equality and Diversity & ILOAIDS Branch (GED), and Florence Bonnet, Inclusive Labour Markets, Labour Relations and Working Conditions Branch (INWORK) at the ILO coordinated this work. The author, Rachel Moussié, (WIEGO) and the numerous ILO colleagues in Geneva and field offices, who provided insightful comments and inputs, are gratefully acknowledged.

ABOUT WIEGO

Women in Informal Employment: Globalizing and Organizing is a global network focused on securing livelihoods for the working poor, especially women, in the informal economy. We believe all workers should have equal economic opportunities and rights. WIEGO creates change by building capacity among informal worker organizations, expanding the knowledge base about the informal economy and influencing local, national and international policies. Visit www.wiego.org.

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