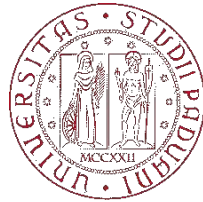


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**Master's degree in
Human Rights and Multi-level Governance**



THE EXPLOITATION OF MIGRANT WOMEN
EMPLOYED IN DOMESTIC AND CARE WORK:
THE ITALIAN CASE

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Abstract:

In the contemporary world, characterized by global migrations and the New International Division of Labour, the phenomenon of migrant domestic and care work plays an important role in defining migration pathways and responding to the lack of care services in the Global North. However, despite the scale of the phenomenon, the regulations in place and the essential work they perform, female migrant domestic and care workers remain particularly vulnerable to exploitation. Italy, as a nation grappling with the complexities of immigration and care provision, stands at the crossroads of this evolving phenomenon. Focusing on the Italian context, this research attempts to comprehensively analyse the phenomenon of exploitation of female migrant workers employed in the domestic and care sector through the adoption of an intersectional gender lens. Notably, within this analysis, it is argued that the exploitation of female migrant domestic and care workers is not only a structural component of global economies and patriarchal societies, but is also fostered by the adoption of migration and labour policies and laws that are inadequate to prevent and respond to the phenomenon. First of all, an analysis of the New International Division of Labour and care work at a global level highlights the systemic and structural nature of this type of exploitation, necessary for the functioning of the capitalist economy. Secondly, an analysis of the phenomenon in the Italian context sheds light on the current regulation of domestic work and its limitations, the vulnerabilities that characterise the different profiles of migrant women working in the sector in Italy and the exploitative conditions to which they are subjected. Lastly, after an in-depth look at the notion of exploitation, an analysis of current Italian laws and policies related to labour, domestic work and migration points to factors that promote the exploitation of migrant domestic workers in Italy.

Keywords: *Labour exploitation, Care work, Domestic work, Migrant workers, Care workers' rights.*

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Introduction

Research question

Despite the scarce recognition accorded to it, care work is a pillar of our society, both in economic terms and in terms of basic human needs. Unpaid, relegated to the domestic sphere and carried out by women in general until the last century, today – and after the emergence of the New International Division of Labor – care work in the Global North is mainly performed by (under)paid migrant women. After the claims of the feminist movement of the '70s, indeed, governments, in order to make it possible for the capitalist economic system to reproduce itself, had to find a solution to the 'care crisis' occurring in Western countries; and they so did by promoting the exploitation of migrant women in care and domestic work, through the adoption of a series of regulatory measures of the migration phenomenon that show a precise public policy schema choice: introducing restrictions to keep immigrants in a state of illegality, in order to take advantage of the opportunity to exploit cheap labour and contain the demands of the local working class. Migrant women working in domestic and care work, indeed, represent a cheap resource that meets a widespread fundamental family need. Moreover, the fact that reproductive work is mainly carried out by migrant women makes hierarchic relations, exploitation and discrimination more socially accepted and tolerated, hiding them behind the illusion of contributing – by employing migrant workers – to the resolution of global poverty.

Notably, Italy, as a nation grappling with the complexities of immigration and care provision, stands at the crossroads of this evolving phenomenon. In Italy, indeed, due to the lack of public care services and being the care system based on a familistic model, migrant women represents a cheap and more convenient alternative for the fulfillment of care needs. However, this does not only contributes to reinforce the sexual division of labor, the division between productive and reproductive work and the inequality between women and men, but it does also contribute to reinforce inequalities among women themselves through the establishment of hierarchic relations « maids and madam » between women from the Global South and those from the Global North, and to foster exploitation and irregular forms of labour.

In order to shed lights on the exploitation of migrant women employed in domestic and care work, this research, thus, analyze the phenomenon, both providing a global

overview and focusing on the Italian context. Notably, this research provides an in-depth analysis of the factors – especially in terms of policies and laws – that favour the exploitation of migrant domestic and care workers in Italy.

Scope, justification and aims of the study

In particular, this study focuses on the Italian context analyzing the most recent data, policies and laws with regard to the domestic and care sector, in order to shed light on the current situation as for the exploitation of migrant domestic and care workers, thus placing the specific Italian context within the global framework and tracing the evolution of the phenomenon over the last 80 years.

Given its scale and consequences, indeed, it is urgent to direct the attention of public opinion, policymakers and scholars to the phenomenon of exploitation of migrant domestic workers in the domestic and care sector in order to ensure that their human rights are fully respected. As a matter of facts, nowadays, the exploitation of migrant domestic and care workers is not an isolated case but a real structural and integral component of global economies and, therefore, it would primarily necessitate responses rooted in principles of social justice, entailing first and foremost the revision of migration and labour policies, rather than relying on criminal repression. However, in Italy (and beyond) – especially in cases that do not fall into the category of severe exploitation – this phenomenon continues not only to face inadequate opposition, but even to be accepted as serving the care needs of families.

This analysis, therefore, aims at contributing to the ongoing debate on the protection of migrant domestic and care workers from the perspective of gender and migrations studies, also attempting to propose alternative social policies to be adopted to promote the abolition of new forms of exploitation linked to the domestic and care sector. Moreover, it aims to enrich the feminist theory of global capitalism, exploring the gendered features of state policies and challenging the limits of ‘productivism’, fostering an alternative social model based on a new ethics of care.

Methodology and theoretical framework

In order to investigate the phenomenon of exploitation of migrant domestic and care workers in Italy and to establish and investigate the causal relation between this

phenomenon and the legal framework regulating immigration and domestic and care work within the Italian legislation, a qualitative type of research has been adopted.

Notably, it has been used the secondary research method, drawing data from published academic papers, institutional documents, specialist journals, scientific articles, monographies, essays, books, reports, websites of international organisations, trade unions and non-governmental organisations, and statistical databases. Therefore, both primary and secondary sources have been used.

In particular, the main primary sources used are Italian and European laws and policies, Italian and European Case Law, International, European and Italian institutional documents, and International and European treaties related to migration and the domestic and care sector, as they represent the main regulatory sources of these sectors. However, the analysis is also based on statistical data provided by the International Labour Organisation, the National Social Security Institute (INPS), the National Institute of Statistics (ISTAT) and the Domina observatory on domestic work.

As for the secondary sources, instead, academic papers, specialist journals, scientific articles, monographies, essays, books, and reports have been consulted. In particular, the study entails a review of the most relevant legal, sociological and politological literature and of the most recent annual reports (i.e., reports from 2016 to 2023) on domestic and care work in Italy published by the INPS and the Domina Observatory. Notably, documents were filtered on the basis of their use of key words such as “migrant domestic workers”, “labour exploitation”, “domestic workers exploitation”, etc. Secondary research was helpful to take into account also factors fostering exploitation of migrant workers in the domestic and care that did not emerge from the main regulatory sources of the sectors. Beyond the legislation and case law, indeed, the purpose of the inclusion of secondary sources was exactly to develop the legal analysis by taking into account factors which may not be directly addressed within the institutional primary sources.

To sum up, the phenomenon has been studied through the analysis of the main regulatory sources and anti-exploitation policies in the domestic and care sector in Italy, as well as through a review of the most relevant legal, sociological and politological literature, complemented by an examination of data provided by the main institutes and organization related to the domestic and care sectors. The result is, therefore, a multidisciplinary analysis, carried out through the adoption of an intersectional and decolonial feminist approach and a women's human rights perspective.

The theoretical framework adopted for this study is, indeed, that of the feminist theory. The Feminist Theory, falling within the realm of the Critical Theory, has a central aim of destabilizing power structures and systems of oppression. Employing a feminist perspective, therefore, allows for the examination of how individuals interact within these systems and potentially offers solutions to confront and eliminate oppressive structures.

Marxism and socialism play a significant role in the historical development of the Feminist Theory. As stated by Burton¹, indeed, the Feminist Theory is rooted in Marxism, with Engels' (1884) work serving as one potential starting point. Its roots can, in fact, be traced back to the 18th century, with notable growth during the equality movements of the 1970s and 1980s. Nonetheless, nowadays, it is still important to keep adopting this theoretical framework because gender equality remains a pertinent issue, and ongoing research continues to advance the Feminist Theory.

As for this study, it has its roots mainly in the theories of the Marxist feminist Federici S., but also in the theories of other great feminist scholars, i.e., Mies M., Tronto J., De Beauvoir S., Ehrenreich B., and Hoschschild A. R.

The feminist theory model begins with the foundational belief that systems and structures of oppression are in place. This model illustrates that oppression is rooted in intersecting identities that can lead to discrimination and exclusion. The model suggests that through knowledge and action, these oppressive systems can be disrupted to promote change and understanding. This study is grounded in this model and it is structured accordingly.

Key theoretical principles in feminist theory encompass sex, gender, race, discrimination, oppression, equality, difference, choice, hegemony, patriarchy, and the influence of social, institutional, and political factors on women's position in society. The underlying premise is that existing systems and structures work against individuals based on these characteristics, hindering equality and equity, and this is the premise of this study as well. Notably, critical paradigms, including feminist theory, rely on the belief that through the exploration of the current social order, truths can be uncovered. More significantly, this exploration can raise awareness about oppressive systems and create opportunities for diverse voices to express themselves.²

¹ Burton C., *Subordination: Feminism and social theory*, Routledge, 2014.

² Egbert J., Sanden S., *Foundations of education research: Understanding theoretical components*, Taylor & Francis, 2019.

Feminism places emphasis on intersectionality, aspects of social life, social inequality, and social transformation; and in this study as well, an intersectional approach has been adopted.

Since the latter part of the 1990s, indeed, the concept of intersectionality has been widely embraced as a crucial tool for examining a broad range of discriminations, political endeavors, and social movements. Recently, numerous studies, employing this approach, have shed light on the exploitation experienced by women, particularly migrant women, in various labor sectors. These studies underscore the complex interplay of factors that render these women vulnerable to exploitative dynamics.

Originating from Black, postcolonial, lesbian feminisms, and critical race theory, indeed, intersectional analyses reveal the intricate interrelationships among various aspects of social differentiation, such as race, gender, class, age, sexuality, ability, religion, origin, nationality, and more. These factors collectively shape individuals' lives, identities, societal inequalities, and power dynamics.

A gender-centered examination of vulnerability, especially concerning women, necessitates recognizing their subordinate status within patriarchal structures, which is entangled with a range of factors, including capitalism, notably neoliberal policies, and other forms of discrimination. Nevertheless, adopting an intersectional approach also requires avoiding the oversimplification of perspectives regarding individuals' experiences and striving for a deeper understanding of the genuine factors that either connect or differentiate them. Essentially, an intersectional perspective entails acknowledging that even among individuals who appear to have similar experiences or social circumstances, there can still exist significant distinctions.

Through feminist research, valuable contributions have been made in understanding the complexities and shifts in the division of labor based on gender. The core objective is to attain political, economic, and social equality between men and women, without subscribing to the notion of inherent differences or similarities between the sexes, nor advocating for the exclusion of men or solely advancing women's causes. The Feminist Theory, which emphasizes oppression, indeed, takes into account the lived experiences of all individuals, not limited to just women. Ultimately, indeed, the Feminist Theory actively works toward promoting change and understanding by acknowledging and challenging power dynamics and systems of oppression.

Thesis structure

The study is divided into three chapters, the first one of which is dedicated to the global context, whereas the last two chapters are focused on the Italian one.

Notably, the first chapter of the three is devoted to highlighting the systemic and structural nature of the exploitation of migrant women employed in domestic and care work at the global level, through an analysis of both the New International Division of Labour and the characteristics of care work. In fact, the exploitation of migrant domestic workers in the domestic and care sectors is mainly the result of capitalism and global economies – that have led to the creation of Global Care Chains – and the feminisation and social devaluation of reproductive labour.

The second chapter, on the other hand, focuses on the Italian context and provides an overview of the main sources of regulation of the sector in Italy, the history of domestic and care work in the country, the profiles and nationalities of migrant domestic workers employed in Italy, and above all the exploitative conditions to which these workers are subjected. Furthermore, this chapter proposes a reflection on the intersectional (situational) vulnerabilities that characterise female migrant domestic and care workers in Italy, but also on their migration projects, their agency, consent, and the "ideal victim" bias.

Lastly, the third chapter is dedicated to an in-depth examination of the notion of exploitation – both through the distinction between exploitation and severe exploitation and an analysis of the (missing) definition of exploitation at the national and international level – but, most of all, to the analysis of those factors that contribute to its spread and perpetuation in the domestic and care sector in Italy – i.e., immigration policies, domestic work policies, irregular work, and the difficulty of unionization of domestic workers, especially migrant ones.

Chapter One

THE SYSTEMIC AND STRUCTURAL CHARACTER OF EXPLOITATION OF MIGRANT WOMEN EMPLOYED IN DOMESTIC AND CARE WORK

1.1 On the thesis background: the New International Division of Labour (NIDL)

Ever since its beginning, the development of the capitalist world has been based on both a particular international division of labour – that entailed the subjugation and exploitation of colonies – and on a particular manipulation of the sexual division of labour – that entailed the subjugation and exploitation of women.³ Yet capitalism is still the economic system on which society is based, to the detriment of the majority of the population. The following paragraph is dedicated to exploring the new international division of labor and its implications in order to better understand the structural nature of the exploitation experienced by migrant women engaged in domestic work. By examining the evolving patterns of global labor allocation, this section aims to shed light on how these women are systematically exploited within the framework of their employment, highlighting the broader socio-economic forces at play. By delving into this topic, indeed, it is possible to gain a deeper understanding of the complex dynamics surrounding the exploitation of migrant women in domestic labor and the structural factors that perpetuate their vulnerability within the global labor market.

1.1.1 The classic theory of the NIDL

From the sixteenth century onwards, different yet intrinsically connected forms of labour and production relations were introduced in different areas and regions of the world. However, the accumulation of capital took place only in the core-states of Europe and, later, in the USA. Initially, indeed, the global market was characterized by the polarization of the world economy into an industrialised ‘core’, i.e. the countries of the Global North, and a dependent ‘periphery’, namely the countries of the Global South, whereby the latter were integrated into the capitalist world economy as mere suppliers of raw materials. This kind of division has been named the old or ‘classical’ (colonial) international division of labour (CIDL) to describe the vertical relationships

³ Mies M., *Patriarcat et accumulation à l'échelle mondiale*, Zed Books, 1986, p. 112.

existing between the colonial powers and their colonies in Asia, Africa and South America and lasted from the colonial period to almost the seventies of the twentieth century.⁴ Under the old IDL, raw materials were produced in the colonies or former colonies, transported to industrialised countries in Europe and the United States, and later also to Japan, where they were processed into industrial products which were then marketed in the industrialised countries themselves, or exported. Consequently, not only the old IDL implied the exploitation of the resources of colonies, but also the ruin of their own industries, due to the cheaper prices of those machine-made goods, when exported and sold on the markets of the colonies.⁵ Moreover, the old IDL also implied that labour in the colonies did not have the same value of labour in the core countries, with the import of cheap materials produced by cheap labour in the colonies and the production of machine-made goods produced by expensive labour in core countries. Consequently, workers in the Global North could benefit from a higher purchasing power to buy those commodities that workers in the Global South could not afford. As a result, this international division of labour led to ever-increasing wealth and growth in the Global North.⁶

However, from the 1970s onwards, the managers of the big national and multinational corporations in the Global North realized that the boom period that followed the end of World War II was over and, in order to guarantee a continuous growth to the core countries of the capitalist system, the old schema was replaced by a new division, the so-called ‘New International Division of Labour (NIDL)’, with countries of the Global South being industrialised but still dependent on western economies, and countries of the Global North being oriented to a service-based economy.⁷ In the 1960s and early 1970s, scholars were still not able to provide a satisfactory way of understanding what was then a rapidly changing world.⁸ Nevertheless, in the mid-1970s, in a context – concerning most of the western States – of deep global recession and social and political tensions, Marxist academics in the UK and beyond began to engage in debates about the labour process, State theory and alternative political strategies, developing new theories

⁴ *Ibidem.*

⁵ *Ibidem.*

⁶ *Ivi*, pp. 112-113.

⁷ Charnock G., Starosta G., *The New International Division of Labour and the Critique of Political Economy Today*, 2016, p. 3.

⁸ Radice H., *Global Capitalism*, Routledge, 2014, p. 9.

to explain the changes that were taking place.⁹ Among these, the NIDL thesis developed by Folker Fröbel, Jürgen Heinrichs and Otto Kreye¹⁰ stands out as one of the most influential and debated contributions to discussions of late industrialisation and global production in the 1980s and 1990s. As a matter of facts, on the basis of their empirical studies, in the 1970s the work of Fröbel, Heinrichs and Kreye seemed to capture extremely well the global market transformations taking place at the beginning of that decade, and the expression 'New International Division of Labour' quickly became part of the working vocabulary of most researchers concerned with global processes of industrial reorganisation.

This theory emphasizes changes in the world market – especially focusing on the world market for labour and for production sites – as the determining factor that led to the NIDL.¹¹ Firstly, the NIDL is equated with the formation of Free Trade Zones (FTZs), i.e. unregulated industrial zones where production is geared towards exports. Moreover, this theory generally identifies the NIDL with the reorganisation of the production of goods that took place in the mid-1970s, when – in response to the intensification of workers' struggles and claims – multinational companies began to relocate part of their production to countries in the Global South, especially in labour-intensive sectors, restructuring their productive activities on the basis of a "global assembly line" and thus exploiting cheap labour. According to this thesis, therefore, factories have been moved to countries of the Global South to produce cheap labor-intensive manufacturing goods for export to countries of the Global North in exchange for more advanced capital-intensive imports.¹² Given that lower labour costs is considered as the determining factor for the process of relocation in Global South countries, it is not surprising the reference of the authors of this thesis to long working hours, short holidays, low wages, high level of intensity of labour, and poor working conditions as characteristics of the 'world market factories' in the Global South.¹³ In order to guarantee these conditions – necessary for profitable accumulation in the host countries – measures to control or suppress workers' rights and trade union activity were often enacted, to the extent of a

⁹ Charnock G., Starosta G., *op. cit.*, p. 2.

¹⁰ Fröbel F., Heinrichs J., Kreye O., *The New International Division of Labour: Structural Unemployment in Industrialised Countries and Industrialisation in Developing Countries*, Cambridge university press, 1980.

¹¹ Petras J., *A New International Division of Labor?*, in MERIP Reports, "Origins of the Working Class. Class in the Middle East, Middle East Research and Information Project", no. 94, 1981, p. 29.

¹² Petras J., *op. cit.*, p. 28.

¹³ Fröbel F., Heinrichs J., Kreye O., *op. cit.*, pp. 350-360.

state of generalized repression involving the establishment of military regimes.¹⁴ Furthermore, Fröbel, Heinrichs and Kreye, with their theory, have projected the continuation of worldwide reorganization of production, envisaging the passage from a world characterized by industrialized centers and non-industrialized peripheries to a world divided into the central producers of sophisticated technology and the peripheral producers using standard technologies.¹⁵

However, the NIDL has also become a widely accepted and loosely used slogan – sometimes used just by default – to describe the new configuration of the capitalist world market, without always making a conscious effort to enrich this conceptual approach by taking into account subsequent developments in the phenomenon of industrial reorganisation. It was only between the 1980s and the 1990s, indeed, that researchers began to express strong reservations against the NIDL approach, mainly motivated by certain empirical developments which seemed to contradict the main assertions of the NIDL thesis.¹⁶

1.1.2 Critics to the classic theory of the NIDL

One of the main assertions of the NIDL thesis is the prediction of the industrialization of the countries of the Global South. On the basis of the conventional theory of the NDIT, medias and economic planners revived the myth of capitalism as the "great equaliser" and "promoter of interconnection", believing that – thanks to capitalism and the NIDL – the industrialization of Global South countries would have led to the elimination of the hierarchies that had characterised the old international division of labour and to the acquisition of a new independence by women employed in free trade zones.¹⁷ However, this assumption has been strongly criticised and disproved, since the late 1980s, by various scholars, critics of the traditional NIDL theory. Despite the tendency of the theorist of the NIDL to exaggerate the extent of the phenomenon of industrialization of the Global South, indeed, the relocation of production to the countries of the Global South was restricted to certain industries and countries, with the export of capital still being predominant between countries of the Global North, rather

¹⁴ Petras J., *op. cit.*, p. 31.

¹⁵ Fröbel F., Heinrichs J., Kreye O., *op. cit.*

¹⁶ Charnock G., Starosta G., *op. cit.*, p. 3.

¹⁷ Federici S., *Reproduction et lutte féministe dans la nouvelle division internationale du travail*, in Verschuur C., Reysoo F., « Genre, mondialisation et pauvreté », Cahiers Genre et Développement, n°3, L'Harmattan, Genève, Paris, 2002, p. 3.

than towards countries of the South Global.¹⁸ As a matter of facts, the movement of capital from the North to the South was not quantitatively sufficient so as to talk about a real industrialisation of the Global South, with only 14% of industrial activities relocated at the end of the 1980s, and also taking into account that the industrial 'boom' was concentrated in just a few areas, notably South Korea, Hong Kong, Taiwan and Mexico.¹⁹ Furthermore, the partial industrialisation of the countries of the Global South was not followed by the establishment of a system of control by those countries over those industries established in free trade or production zones. The re-located industries in countries such as Thailand, Singapore, Mexico, Sri Lanka, the Philippines, South Korea and Malaysia, continued to belong to multinational enterprises of Japan, Germany and the USA.²⁰ Therefore, the relocation of industries from the Global North to the Global South meant the closing down of such factories in countries such as the USA, Holland or Germany, rather than the genuine industrialization of the Global South.

On top of that, not only the exaggeration of the phenomenon, but the very notion of “industrialization” used by NIDL theorist itself has been criticized. This term, indeed, assumes very different forms in different settings.²¹ As a matter of facts, if in metropolitan countries “industrialization” means “routinization of innovation, large-scale research and development, elaboration of machinery, processing, assembly, sales and shipping”²², in peripheral countries all of the technology and much of the machinery and sales is imported. And, most of all, in many countries, the location of industries is related to social factors – as low wages, no strikes and no taxes – therefore, not only these conditions limit the industrial development of the country, but, if these conditions change, the industries may also be relocated somewhere else.²³

¹⁸ Jenkins R., *Divisions over the international division of labour*, in *Capital & Class*, Volume 8, Issue 1, 1984, p. 35.

¹⁹ Cohen R., *The new helots: migrants in the international division of labour*, Brookfield, USA, 1987, pp. 242-243.

²⁰ Mies M. *op. cit.*, p. 113.

²¹ McMichael P., Petras J., Rhodes R., *Industrialization in the Third World*, in James Petras, ed., “Critical Perspectives on Imperialism and Social Class in the Third World”, Monthly Review Press, New York, 1979, pp. 103-136.

²² Petras J., *op. cit.*, p. 30.

²³ Petras P., Carrion J. M., *Contradictions of Colonial Industrialization and the Crises in Commonwealth Status: The Case of Puerto Rico*, in Petras J., “Critical Perspectives on Imperialism and Social Class in the Third World”, 1978, pp. 253-270.

As underlined by the sociologist J. Petras, what is striking is the fact that twenty years after having achieved formal independence – and despite the growth of their industrial production – many countries of the Global South were still mainly suppliers of primary commodities within the capitalist world economy, demonstrating how changes in the political leadership has not been as influential as socio-economic links with the markets and classes in the core capitalist countries.²⁴

Moreover, the NIDL theory has been criticized for denying any independent dynamic within the Global South as it attributes the emergence of the NIDL solely to the accumulation trends originating from the Global North.²⁵ As a matter of facts, the rhetoric used by NIDL theorists tends to neglect the agency of Global South countries, promoting the idea, for instance, that the policies to promote exports or attract foreign capital are the result of the needs of capital at the centre, rather than an outcome of local class struggle.²⁶

Furthermore, critics have pointed out that the NIDL theory does not analyze the behavior of multinational corporations and the class forces that shape state policy in metropolitan countries. Critics of this theory argue that, applying an abstract deductive model of capitalism, and focusing on the illustrative cases of Hong Kong, South Korea, and Taiwan, to support their arguments, the NIDL theorists have failed to critically observe how most multinational industrial production in the major South American countries is geared to capturing the domestic market²⁷ and to highlight, on the one hand, the inability of countries of the Global South to penetrate new markets and, on the other, the intransigence of metropolitan countries in resisting the creation of a new international division of labour.²⁸

Lastly, this theory has been criticized by feminist scholars as Federici due to the fact that it recognises only the production of goods as an area of work and economic activity, paying no attention to the work of reproduction. Indeed, the only aspect of reproduction that NDIT theorists mentioned was the impact of work in free trade zones on women's family situation and the management of domestic work. However, they did not take into account the changes brought about by the expansion of capitalist relations

²⁴ Petras J., *op. cit.*, p. 30.

²⁵ Frank A. G., *Crisis in the World Economy*, Heinemann Educational Books, London, 1980, p. 97.

²⁶ Jenkins R., *op. cit.*, p. 34.

²⁷ Petras J., *Comment l'Amérique latine alimente la prospérité des États-Unis*, in « Le Monde Diplomatique », 1979.

²⁸ Petras J., *A New International Division of Labor*, *op. cit.*, p. 30.

on a global scale on the division of reproductive labour and the conditions of social reproduction in the countries of the Global South.²⁹

In this respect, before Federici, in 1986, it was the professor and feminist sociologist Maria Mies who, in her book "Patriarchy and accumulation on a global scale", criticised the traditional theory of the NDTI and laid the foundations for a major paradigm shift in the feminist theory. In this book, indeed, she reconstructs the social origins of the sexual division of labour – by which she means an asymmetrical, hierarchical and exploitative relationship – and provides a history of the related processes of colonisation, extending this analysis also to the new contemporary international division of labour and the role of women within it. In particular, Mies sets out to demonstrate that the subordination and exploitation of women, nature and the colonies is the precondition for the continuation of a global division of labour under the dictates of capital accumulation. Mies insists that the feminist movement cannot ignore class issues, or the exploitative international division of labour and imperialism, and attempts to develop a feminist perspective of a future society based on the abolition of the present sexual division of labour, as well as the international division of labour. She also advocates an alternative economy based on the development of self-sufficiency in consumption and production, rather than on the exploitation of nature.³⁰

1.1.3 The NIDL in practice

In addition to the ongoing theoretical debate surrounding the theory of the new international division of labor, it is crucial to analyze the practical implications that this division has had in the countries of the Global South to gain a deeper understanding of the structural nature of the exploitation experienced by migrant women engaged in domestic work. While theoretical discussions provide valuable insights, it is the practical developments of the NIDL that offer real-world context and shed light on the tangible effects of this division. By examining these practical implications, we can develop a more comprehensive understanding of the complex dynamics and systemic exploitation faced by migrant workers within the countries of the Global North.

First of all, indeed, in order to attract the movement of capital from the Global North, many governments of the Global South adopted a series of policies and labour laws

²⁹ Federici S., *op. cit.*, p. 5.

³⁰ Mies M., *op. cit.*, pp. 1-235.

restricting the bargaining power and organization of labour unions and providing poor health and safety standards, freedom from environmental controls and permission to repatriate profits without restrictions.³¹ Moreover, as explained by the sociologist, philosopher and activist Silvia Federici in her article “Reproduction et lutte féministe dans la nouvelle division internationale du travail”, the expansion on a global scale of capitalist relations – based on the separation of producers from their means of production – has led, also in the countries of the Global South, to the formation of a proletariat which, being deprived of all means of (re)production, is forced to depend on monetary relations for its survival. These policies – adopted in order to create a world where nothing escapes the logic of profit – together with the process of increasing privatization – implemented through the privatisation of land ownership relations and the ongoing expropriation of land – have led not only to a crisis of social reproduction in a large part of the countries of the Global South, but also to a state of generalised poverty that has no precedent in the post-colonial period. The most obvious consequence of this process has been the growing institutionalisation of a state of endemic war, with continuous massacres, wars, and exoduses of entire populations transformed into refugees or displaced persons and exposed to famine and serious human rights violations.³²

On top of that, as for the women employed in free trade zones, their work was – and still is – rather a hidden form of slavery, both in terms of wages and the technological know-how it provided, than a means of empowerment and self-determination.³³ This does not mean that women employed in free trade zones are passive “victims” of capitalist relations penetrated in their communities.³⁴ As a matter of facts, for the majority of them, working for a company is a reasoned and autonomous decision, since the alternative is working in the fields under the control of their families. Moreover, in many countries – such as Mexico, the Philippines, and the Caribbean – women workers in free trade zones have built up support networks and organised protests to claim their rights vis-à-vis the companies they work for and the governments that have allowed

³¹ Cohen R., *op. cit.*, pp. 223-224.

³² Federici S., *op. cit.*, pp. 45-69.

³³ McAfee K., *Storm Signals: Structural Adjustment and Development Alternatives in the Caribbean*, South End Press, 1991, pp. 87-89.

³⁴ Wolf D. L., *Linking Women's Labor With the Global Economy : Factory Workers and their Families in Rural Java*, in K. Ward (ed.), “Women Workers and Global Restructuring”, 1990, pp. 27.

those companies to create free trade zones.³⁵ However, these mobilisations were precisely in response to the abject conditions in which women were forced to work.

Furthermore, Federici highlights how, as a result of the international reorganisation of labour and economic liberalisation, not only has the working class of the Global South been forced to depend on monetary relations, but the entire economic system of the Global South has been made to depend on economic relations with the West. In effect, these policies opened up domestic markets to foreign imports, putting an end to the "development" plans to replace imports that had been planned in the 1960s in order to guarantee a degree of industrial autonomy for the nations of the Global South. In this way, transnational corporations were able to flood these markets with their products, against which local industries could not compete, demonstrating that the industrialisation of the countries of the South through the expansion of capitalist relations was just a myth; a myth also demonstrated by the fact that, in the 1980s and 1990s, the transfer of capital and labour from the Global South to the West exceeded the transfer of capital and industries from the West to the Global South.³⁶

Even the introduction of free trade zones, in fact, rather than promoting industrial autonomy, has only worsened the exploitative condition of workers and land in the Global South, allowing foreign companies to impose wages below the subsistence minimum, and thus only encouraging emigration.³⁷

1.1.4 Consequences of the NIDL: Global Care Chains

As a result of the impoverishment caused by economic liberalisation in the Global South a vast number of people migrated from the South to the North. In most cases, indeed, the alternative to migration was massive unemployment and a lack of food, healthcare, drinking water, electricity, schools and passable roads. This migration of people itself has been exploited by the capitalist system to strengthen itself. As a matter of facts, the system reproduces itself by capitalizing on the availability of cheap labor and by suppressing the demands of the local working class. This is achieved through a series of mechanisms. Firstly, it transforms countries in the Global South into a vast labor pool, creating a global apartheid scenario. Secondly, it ensures that immigrants in

³⁵ Enloe C., *Bananas Beaches and Bases. Making International Sense of Feminist Politics*, University of California Press, Berkeley and Los Angeles, 1990, p. 168-174.

³⁶ Federici S., *op. cit.*, p. 51.

³⁷ Ivi, pp. 45-69.

host countries are subjected to double discrimination, both as immigrants and as undocumented workers. Lastly, it imposes restrictions that keep immigrants in a state of illegality, further exacerbating their vulnerability. These practices ensure the continuation of a system that thrives on exploiting cheap labor while maintaining social and economic control. The most important commodity exported by the Global South to the North is, in fact, labour, and capitalist accumulation is, above all, the accumulation of workers.³⁸

Among these workers, a large percentage are women, who are employed in both the countries of the Global South and the Global North. Off-shore production and the consequence migration, indeed, have led to the massive inclusion of women from the Global South into wage-labour.³⁹ However, despite the existence of a rich literature on both the employment of women in off-shore production in the Global South and the employment of immigrant women in the Global North, the two phenomena have rarely been analysed as correlated. Yet there are many systemic links between the two trends. As a matter of facts, not only immigrations and off-shore serve to secure a low-wage labour force, compensate for the demographic decline taking place in the Global North and repress the claims of the organized domestic labour force in the Global North, but the combination of the two also provide for a double solution: on one side, there is the relocation of productive facilities that can directly take advantage of low-wage labor in the Global South, and, on the other, productive facilities and services – i.e. domestic work, catering services, cleaning services, hotel services, etc. – that have to be performed where the demand is – namely the Global North – can take advantage of low-paid immigrant labour.⁴⁰ This also means that a significant proportion of the reproductive work – i.e. the work needed to reproduce the workforce – in Western countries is carried out by women from the Global South.⁴¹

Academics have focused their works on globalization and exportation of labour in traded goods and manufacturing, paying little attention to care work, therefore, the literature on the subject is scarce.⁴² However, one of the most important aspects of the

³⁸ Ivi, p. 53.

³⁹ Sassen-Koob S., *Notes on the Incorporation of Third World Women into Wage-Labor Through Immigration and Off-Shore Production*, in “The International Migration Review”, Vol. 18, no. 4, Special Issue: Women in Migration, 1984, p. 1144.

⁴⁰ Sassen-Koob S., *op. cit.*, pp. 1144-1145.

⁴¹ Federici S., *op. cit.*, p. 54.

⁴² Kaufka K., *The Commodification of Domestic Care: Illegitimacy of Care Work and the Exploitation of Migrant Workers*, Georgetown Immigration Law Journal, Vol. 18, no. 1, 2003, p. 159.

NDIT is the international redistribution of reproductive labour. Reproductive work is almost always undervalued, but is in fact essential to the accumulation of wealth in capitalist countries. This is why, in the 80s and 90s, the European states, Canada and the United States resolved the crisis of household labour – at the origin of the feminist movement of those years – by trying to redistribute reproductive labour onto the shoulders of women in the Global South.⁴³

With the increase in the number of women who worked outside the home and, therefore, had less time to take care of household chores, a gap in domestic work started growing and, consequently, a new service industry has emerged to fill this gap. Between 1965 and 1995, the average number of hours spent on household chores has dropped approximately 58% and, between 1995 and 1999, a 53% increase in households employing a paid cleaning worker once a month or more among middle-class professionals has been registered.⁴⁴ As described by many feminist economics scholars, this process has led to the creation of “Global Care Chains” – i.e. ‘personal links between people across the globe based on the paid or unpaid work of caring’.⁴⁵

Within feminist economics, the concept of the global care chains is important not only to the analysis of the valuation of care and household work, but also to the analysis of the gendered patterns of migrant labour markets. Most of the domestic care workers that migrate to the Global North to fill the increasing demand for domestic care work, indeed, are women,⁴⁶ and this redistribution, as well as helping to create deep divisions between women from the Global South and North, has also reinforced the hierarchies inherent in the sexual division of labour. In the United States, for instance, between 1991 and 2001, male immigration dropped 60%, while female’s one remained stable and, by the end of this period, women comprised 55% of migrants.⁴⁷ In the Philippines and Sri Lanka in particular, the number of male emigrants overcome that of female ones, and many of them are young mothers, who, once in the Global North, tend to stay longer than men.⁴⁸ However, the fact that women have once again been employed in

⁴³ Federici S., *op. cit.*, p. 46.

⁴⁴ Ehrenreich B., *Maid to Order*, in Ehrenreich B., Hoschschild A. R. (eds.), “Global Woman: Nannies, Maids, and Sex Workers in the New Economy”, Metropolitan Books, 2002, pp. 89-90.

⁴⁵ Hochschild A. R., *Global Care Chains and Emotional Surplus Value*, in Hutton W., Giddens A. (eds.), “On The Edge: Living with Global Capitalism”, Jonathan Cape, London, 2000, p. 131.

⁴⁶ Kaufka K., *op. cit.*, p. 160.

⁴⁷ Ivi, p. 166.

⁴⁸ Isaksen L., Devi U., Hochschild A., *Global Care Crisis: Mother and Child’s-eye View*, in “Sociologia, Problemas e Praticas”, no. 56, 2008, p. 61.

domestic work has not only made women, rather than the state, responsible for reproduction, but it has also undermined the solidarity between women through the establishment of "servant and madam" relationships, justified by the illusion of contributing, with the employment of a domestic worker, to the resolution of world poverty.⁴⁹ As a matter of facts, the NDIT not only helps to separate women from men, by reinforcing the sexual division of labour and the separation between production and reproduction, but also women from women, by establishing hierarchical relationships between them.

Moreover, another aspect of this process is the fact that, already since the last decades of the 20th century, the economies of countries of the Global South often relied on exportation of labor and remittances sent home, therefore, the increasing demand for domestic work in countries of the Global North met the need of migrant workers seeking such employment to provide better lives for their families in their home countries.⁵⁰ Remittances from domestic care workers, hence, started being one of the most important sources of funds to the national economy.⁵¹ In 1998, for instance, they topped \$70 billion globally.⁵² Therefore, the result of the redistribution of reproductive work has also been the emergence of a new phenomenon of transnational mothering, with migrant women sending money home for their children and elderly parents.⁵³ If in the past women who used to migrate as caretakers seeking employment opportunities were young and single, indeed, this new trend is characterized by women migrating to support their own children. On the one hand, then, this redistribution enabled thousands of middle-class women from the North Global to have a paid productive job in the market, having less time for their families, relatives, children, friends, community relations and political activity, but being able to stop performing household chores they no longer wanted to do or could no longer do, without reducing their own standard of living. On the other hand, however, it has forced thousands of women from the Global South to perform poorly paid work, caring for other people's families at the cost of having to leave their own and face various risks associated with a very vulnerable social and legal position. Consequently, from the standpoint of the countries of origin of

⁴⁹ Federici S., *op. cit.*, p. 54.

⁵⁰ Kaufka K., *op. cit.*, p. 160.

⁵¹ Ivi, p. 167.

⁵² Beattie A., Mallet V., *Seeking Consensus on the Benefits of Immigration* (July 22, 2002), at <http://knoweurope.net/cgi/quick/full-rec?action=byid&id=070/0003603&FILE>.

⁵³ Romero M., *Unraveling Privilege: Workers' Children and the Hidden Cost of Paid Childcare*, in *Chicago-Kent Law Review*, Vol. 76, 2001, pp. 1651-1666.

migrant care workers, in the same way that Global South countries face a brain drain, they also suffer from a care drain.⁵⁴

Furthermore, migrant women are often employed to perform unskilled or low-skilled tasks, despite their knowledge and competences, thus leading to the phenomenon of 'deskilling', i.e. "the decrease in the quality and usage of the knowledge and skills of individuals due to lack of usage or lack of opportunities".⁵⁵

On top of that, being the market of care poorly regulated – with little protection in terms of wages, work conditions and benefits – and having domestic care a private nature, migrant care workers are especially vulnerable to poverty, harsh working conditions, economic abuse, racism, sexism, sexual harassment and exploitation.⁵⁶

To resume, due to the new international division of labour, the dynamics of exploitation and dependency characterizing domestic work have undergone a transition from a national to an international scale, expanding the scope of the domestic worker issue from being solely a matter of class to encompass ethnicity and international dimensions.⁵⁷ In the Global North, there has been a noticeable shift in reproductive labor from local women to migrant women. As a result, the disparities between these women intensify, reinforcing global stratification systems and widening the gap between the privileged and the marginalized within countries of the Global South, as well as between countries of the Global North and Global South.⁵⁸ This phenomenon, known as 'global care chains', involves the transfer of socio-emotional resources, benefiting the receiving society as a whole by extracting socio-emotional capital from the Global South. Consequently, care chains reflect a colonial relationship, which Arlie Hochschild refers to as "the new emotional imperialism", where the focus has shifted to appropriating the social value of emotional labor.⁵⁹ While the previous form of colonialism was overtly brutal and male-centric, the modern-day version, although less atrocious, still involves elements of coercion and is centered around women.

⁵⁴ Hochschild A. R., *The Nanny Chain*, in "The American Prospect", 2000, p. 32-36.

⁵⁵ Dobranja D., *Global care chains, refugee crisis, and deskilling of workers* (July 27, 2017), at <https://www.exploring-economics.org/en/discover/global-care-chains-deskilling/>.

⁵⁶ Kaufka K., *op. cit.*, p. 160.

⁵⁷ Harstall A., *Das Dienstmädchen kehrt zurück*, in "Globalisierung, Migration und Zukunft", 2005.

⁵⁸ Bose C. E., *The Interconnections of Paid and Unpaid Domestic Work*, in "The Scholar & Feminist", Vol. 8, no. 1, 2009.

⁵⁹ Hochschild A. R., *Love and Gold*, in Ehrenreich B., Hochschild A. R. (eds.), "Global Woman: Nannies, Maids, and Sex Workers in the New Economy", Metropolitan Books, 2002, p. 27.

1.2 The statement of the problem: the invisible care work

Migrant women employed in domestic care work encounter various forms of discrimination due to their gender, foreign status, migration background, irregular employment status, and occupation as domestic workers. As such, it becomes imperative to approach the analysis of their exploitative conditions through an intersectional lens that encompasses all these intersecting forms of discrimination. While the preceding paragraph highlighted the structural aspect of discrimination and exploitation within the realm of migrant labor, this paragraph will delve into the structural nature of discrimination and exploitation specific to women's labor and domestic work in a broader context.

1.2.1 Care work and the distinction between productive and reproductive labour

One of the most debated themes of the second wave of feminist movements, between the sixties and the eighties, was the distinction between the private and public sphere, along with the distinction between productive and reproductive work and the sexual division of labour. The emphasis on these themes showed how the focus traditionally placed by classic theories upon goods production was insufficient to understand women's labour and its roots in patriarchal – hierarchical – relations.⁶⁰ In order to fully understand the nature of gender discrimination at work, hence, it is necessary to take into account and examine both productive and reproductive work and the linkages between them.

The notion of 'productive work' traditionally refers to those activities aimed at the production of material goods, whereas that of 'reproductive labour' traditionally refers to "the material and relational work necessary for the creation and recreation of the workforce through time".⁶¹ Hence, such work consists in those activities aimed at the well-being and survival of societies, namely "tasks relating to nurturing, tending to and assisting children and the sick, as well as to carrying out chores such as cleaning, cooking and washing, which benefit all members of the household".⁶²

⁶⁰ Menon R. R., *Unit 2 - Productive and reproductive work*, in "Conceptualizing Women's Work", IGNOU, 2017, p. 35.

⁶¹ Marchetti S., Cherubini D., Garofalo Geymonat G., *Global domestic workers: Intersectional inequalities and struggles for rights*, Bristol UP, 2021, p. 11.

⁶² *Ibidem*.

Within this framework, domestic work – defined by the International Labour Organization as the ‘work performed in and for the household’⁶³ – is understood as reproductive labour: “the fleshy, messy, and indeterminate stuff of everyday life”⁶⁴ necessary for the intergenerational and daily maintenance and reproduction of the ‘productive’ workers.⁶⁵ However, already since the seventeenth century, only the economically productive waged-labour taking place outside the home began to be understood as ‘work’, whereas domestic work, as well as caring for family members, was devaluated and became non-marketized ‘labours of love’ associated within the private sphere of the home and assumed to be primarily the responsibility of women.⁶⁶ The devaluation of reproductive work is strictly related to the relegation of it to the private sphere. Despite the inextricably connection between the public and private sphere, indeed, it is still strong the assumption of a sharp divide between private and public and their respective regulation. The main problem of this assumption is that this polarization also implies other dualisms. As a matter of facts, on one hand, the private sphere is described as traditional, paternalistic, authoritarian, affective, primitive, irrational, feminine, and characterized by customary relations, and, on the other hand, the public sphere is described as modern, bureaucratic, materialistic, instrumental, civilized, rational, masculine, and characterized by civic relations.⁶⁷ These dualisms reproduce and foster patriarchal power, as well as other kinds of powers related, for instance, to class and nationality, ensuring that paid and unpaid domestic work remains invisible, devalued – both socially and economically – and poorly regulated, thus exposing domestic workers to exploitation.

For this reason, feminist movements and domestic labour theorists have long promoted the overcoming of this binary vision, in favour of a rethinking of the concept of work, value and the economy, that would detach itself from the market and production and move towards a more complete and dynamic conception of the economy that recognises the essential value of domestic work.⁶⁸ In particular, making visible the essential role of

⁶³ ILO, Domestic Workers Convention no. 189, 2011.

⁶⁴ Katz C., *Vagabond capitalism and the necessity of social reproduction*, in “Antipode”, Vol. 33, no. 4, 2001, p. 710.

⁶⁵ England K., *Home, Work and the Shifting Geographies of Care*, in “Ethics, Place and Environment”, Vol. 13, no. 2, 2010, p. 133.

⁶⁶ *Ibidem*.

⁶⁷ Anderson B., *Doing the Dirty Work? The Global Politics of Domestic Labour*, Zed Books, London, 2000, p. 4

⁶⁸ England K., *op. cit.*, p. 133.

women's unpaid domestic work was the focal point of the domestic labour debate and of the feminist critique of Marxism since the beginning of the 1970s.⁶⁹

Over the years, a strand within the feminist movements – referring to all the practices that provide for the needs or well-being of others⁷⁰ – has also suggested the use of the term 'care work' – rather than 'reproductive labour' – arguing that the notion of care better represents the links between work done inside and outside the home, as well as the needs of people benefiting from this work and the aspects of the work which are perceived to be 'emotional'.⁷¹

On top of that, as early as the 1980s, several feminist philosophers have not only begun to restore value to care work, but have developed a true ethic of care that recognises care as a universal and foundational value of society and challenge the existence of the autonomous, self-sufficient, rational individual promoted by neo-liberal discourses. As a matter of facts, each and every human being, throughout his lifetime, is dependent from someone else, needing for different kinds of care. These ethic of care philosophers, thus, focused on human interdependence, arguing that the individual is far from being autonomous and only exist through and with others within networks of care.⁷² Among them, the professor and political scientist Joan Tronto, in particular, is known for having explored the intersections between the ethic of care, feminist theory and political science, demonstrating how the adoption of the ethic of care in democratic systems would represent a valid anti-capitalist alternative to the current order, with the aim of establishing a more sustainable and less unjust system, since in care democracies the maximum social goal would be the satisfaction of care needs, rather than the pursuit of profit.⁷³ As argued by many feminist theorist, indeed, caring is a species-defining activity for humanity and care is an essential aspect of human life,⁷⁴ without which collective human life would not be possible.⁷⁵ As a matter of facts, also in economic terms, despite scarcely recognized, care work is essential: indeed, "the invisible hand of

⁶⁹ *Ibidem*.

⁷⁰ Glenn E. N., *Creating a caring society*, in "Contemporary Sociology", Vol. 29, no. 1, 2000, p. 86.

⁷¹ Marchetti S., Cherubini D., Garofalo Geymonat G., *op. cit.*, pp. 11-12.

⁷² England K., *op. cit.*, p. 137.

⁷³ Tronto J., *An Ethic of Care*, in "Generations: Journal of the American Society on Aging", Vol. 22, no. 3, Ethics and Aging: Bringing the Issues Home, 1998.

⁷⁴ Tronto J., *Care as the Work of Citizens*, in Friedmann M. (Ed.), "Women and Citizenship", Oxford University Press, 2005, p. 130.

⁷⁵ Ibos C., *La mondialisation du care. Délégation des tâches domestiques et rapports de domination*, in « Métropolitiques », (juin 6, 2012), at <https://metropolitiques.eu/La-mondialisation-du-care.html>.

markets depends upon the invisible heart of care”.⁷⁶ Therefore, care work shall be understood as labour as much as the making of objects in a factory.⁷⁷

Another consistent basis for distinguishing productive activities from other non-economic activities of subsistence that challenged the idea that household labour is not productive was provided by the “third person” criteria articulated by Margret Reid.⁷⁸ This test consists in verifying whether a given activity can be performed by a person other than the person that benefit from that activity. On the basis of this criteria, for instance, cooking is a productive activity, whereas eating is not. Therefore, all the services, tasks and activities that can be performed by another person are, at least potentially, marketable, meaning that it is theoretically possible to pay for them. This argument was taken up by the second wave feminist movements and, from the 1970s, a series of studies considering housework as work, as productive and as done mainly by women were published.⁷⁹

Moreover, the increase in women employed in domestic care work opened up opportunities for provocative analyses of the porous boundaries between public and private spheres and sectors, productive and reproductive labour, as well as paid and unpaid work.⁸⁰ Domestic workers may work full-time, part-time, or on an hourly basis and may (or may not) live in the home where they are employed. They provide personal and household care, performing tasks – such as, but not limited to, cooking, cleaning, doing the laundry, ironing, taking care of children, adults, the elderly and the disabled, tending to the garden or pets, driving the car – that may vary across countries and household, and working within the frame of a formal or informal employment relationship, meaning that they work for one or more households for a wage.⁸¹ Initially conceptualized as something unpaid, unproductive, and occurring in the family home, in fact, domestic care work has increasingly become a job performed by third parties, paid to do so. Thus, paid domestic work stands in the middle of this dichotomy, challenging it.

⁷⁶ Folbre N., *The Invisible Heart: Economics and Family Values*, The New York Press, New York, 2001, p. vii.

⁷⁷ Young I., *Beyond the unhappy marriage: A critique of the dual systems theory*, in Sargent L. (Ed.), “Women and Revolution: A Discussion of the Unhappy Marriage of Marxism and Feminism”, South End Press, Boston, 1981, p. 52.

⁷⁸ Reid M., *The Economics of Household Production*, John Wiley & Sons Inc., New York, 1934.

⁷⁹ Menon R. R., *op. cit.*, p. 38.

⁸⁰ England K., *op. cit.*, p. 134.

⁸¹ Marchetti S., *Migration and Domestic Work*, Springer Nature Switzerland AG, Switzerland, 2022, p. 2.

However, domestic work is still defined according to the workplace in which it is performed, namely the private household, and the private character of the space of the home and of the employers, combined with other aspects, as the difficulty of measuring the outcomes of some of the tasks involved, are elements that favor the discrimination and exploitation in these jobs.⁸² Due to the social and spatial separation between waged work and social reproduction, the gendered constructions of home as a domestic, private, feminized space, and having housewives traditionally provided domestic work for free, indeed, the home is viewed primarily as a place of ‘non-work’, therefore, any waged work occurring there is likely to be seen as secondary or supplemental- and women’s paid work in homes – even when its someone else’s home – is devalued, not only discursively, but even monetarily.⁸³

1.2.2 The feminization of care work

The distinction between productive and reproductive labour and the devaluation of domestic work goes hand in hand with its feminization. As a matter of facts, this gendering of works has its ideological and historical roots in the construction of the social and spatial boundary separating ‘waged work’, ‘production’, and ‘public’, from ‘care’, ‘reproduction’, and ‘private’.⁸⁴

The notion of productive work – i.e. work outside the home – as the more legitimate form of labour began during the period of industrialization in USA history,⁸⁵ when a new gender division of labour was created by the early industrial capitalism of the nineteenth century.⁸⁶ Work and production in the manufacturing industry was carried out by men, while women were delegated to domestic work, taking care of children, old parents, husbands, and supervising the increased consumption of market-produces goods and services.⁸⁷ This new “industrial family ethic”, creating a division between productive and reproductive work, relegated women to the private sphere of the home, excluding them, not only from economic productivity, but also from voting, formal

⁸² *Ibidem.*

⁸³ England K., *op. cit.*, p. 134.

⁸⁴ England K., *op. cit.*, p. 133.

⁸⁵ Kaufka K., *op. cit.*, p. 161.

⁸⁶ Abramovitz M., *Regulating the Lives of Women*, in Nice J. A., Trubek L. G. (eds.), “Cases and materials on poverty law: Theory and Practice”, West Publishing Co., 1997, p. 59

⁸⁷ *Ivi*, p. 56

education and most professional jobs.⁸⁸ This dichotomy was also reinforced by religious and moral views considering women as having a supposedly natural aptitude and skill in the domestic realm, which was traditionally considered inferior to men's realm of activity.⁸⁹ Domestic work began to be scarcely recognised economically and politically and women's contribution within the private sphere became invisible outside, in the public sphere. It was only with the advent of the new international division of labour, the second wave of the feminist movements and the rise of consciousness regarding gender roles and rights that the domestic role of women started changing, with women – mostly white and belonging to the middle-class – participating in the workforce and using employment in the market to improve their economic and political status.⁹⁰ As a matter of facts, the combination of economic liberalization and feminist ideology increased employment opportunities for women:⁹¹ on one side, with women, in the Global North, taking jobs previously reserved to men, and, on the other, in the Global South, with the majority of workers that assembled products for the world market in the relocated manufacturing companies being women.⁹² In the United States, for instance, between 1950 and 2000, the proportion of mothers of children aged 0-6 with a paid job rose from 15% to over 65%.⁹³ Already since the beginning of the twenty-first century, especially in the Global North, there has been the growing expectation that both men and women should be able to support themselves, as well as contribute financially to the household.⁹⁴ However, despite the fact that feminist movements have encouraged women to enter the workforce, occupying roles traditionally reserved for men, there has not been a reverse movement to encourage greater participation of men in domestic work.⁹⁵ As previously underlined, indeed, the solution to the care crisis that followed women's participation in the workforce in the countries of the Global North was not the sharing of domestic work with men, but the employment of women from countries of the Global South as domestic workers. Therefore, on the one hand, caretaking,

⁸⁸ Fernandez M. P., *Underclass and Immigrant Women as Economic Actors: Rethinking Citizenship in a Changing Global Economy*, in *American University International Law Review*, Vol. 9, no. 1, 1993, pp. 164-168.

⁸⁹ Marchetti S., *op. cit.*, p. 3.

⁹⁰ Fernandez M. P., *op. cit.*, p. 168.

⁹¹ Kaufka K., *op. cit.*, p. 162.

⁹² Fernandez M. P., *op. cit.*, p. 166.

⁹³ Ehrenreich B., Hoschschild A. R. (eds.), *Global Woman: Nannies, Maids, and Sex Workers in the New Economy*, Metropolitan Books, 2002, p. 8.

⁹⁴ Kaufka K., *op. cit.*, p. 163.

⁹⁵ Fernandez M. P., *op. cit.*, p. 167.

childbearing and household chores are generally still considered women's work⁹⁶ – with women being the majority of care receivers, of paid caregivers, and of employers who organize care provision.⁹⁷ And, on the other, the so called “feminization of domestic and care work” has been influenced by gender and class. These occupations, indeed, have historically been characterized by a strong presence of racialized and migrant people⁹⁸ and, once again, after the international redistribution of reproductive work, most domestic workers still belong to the most impoverished, discriminated and stigmatized groups, i.e. – depending on the context – poor, low-caste people, migrants, rural, black and indigenous women, and so on and so forth.⁹⁹

Moreover, their condition is influenced by the multidimensional transformations occurring in different countries induced by the intensification of international migration, which are, in turn, influenced by gender.¹⁰⁰ Therefore, nowadays, on one side, gender determines the way women and men are differently employed at the site of industrial production delocalized to Global South countries, where men are mainly employed in construction, mining, agriculture or the metal industry; and women are mainly employed in textiles, agriculture, electronics and the food industry for dangerous, demanding and demeaning works,¹⁰¹ due to the fact that they “represent a ready-made labour supply which is, at once, the most vulnerable, the most flexible and [...] the least demanding workforce [in terms of rights]”.¹⁰² And, on the other, gender is also relevant to migrations from the Global South to the Global North, where migrant workers are employed in sectors, such as domestic service, catering and sex work, that demand cheap and flexible labour and cannot be delocalized, and in which migrant women are disproportionately employed.¹⁰³ Hence, the result is care work being unequally distributed among middle-class women in receiving nations, migrant domestic workers,

⁹⁶ Kaufka K., *op. cit.*, p. 163.

⁹⁷ Marchetti S., *op. cit.*, p. 5.

⁹⁸ *Ibidem.*

⁹⁹ Marchetti S., Cherubini D., Garofalo Geymonat G., *op.cit.*

¹⁰⁰ Kofman E., Raghuram P., *Gendered migrations and global social reproduction*, Palgrave Macmillan, 2015, p. 11.

¹⁰¹ Marchetti S., *op. cit.*, p. 6.

¹⁰² Morokvašić M., *Birds of passage are also women*, in “International Migration Review”, Vol. 18, 1984, p. 886.

¹⁰³ Oso L., Ribas-Mateos N., *The international handbook on gender, migration and transnationalism*, Edward Elgar Publishing, 2013, p. 10.

and women of the Global South who are too poor to migrate.¹⁰⁴ Parreñas R. S., in her study on the Filipino diaspora, for instance, found that those Filipino women employed in the Global North as care workers were, in turn, delegating their own household chores to other women, who were either female family members or other women – from poorer backgrounds – paid about USD 40 per month out of the USD 1000 earned abroad by those Filipino migrant workers for doing the same job.¹⁰⁵ In this view, the new international division of (re)productive labour has done nothing but shift the care work from one woman to another, less privileged, woman.¹⁰⁶ Therefore, even if the employment of migrant domestic workers is one of the means through which some women were and are able to enter the work market,¹⁰⁷ the actual organisation of work itself shows how, although paid, as long as domestic work is relegated to women, gender roles will continue to be reproduced and reproductive work will be devalued to the detriment of women and, in particular, of less privileged and more marginalized women in the Global South. On the contrary, to revalue reproductive work and ensure that it is not relegated to women, a more profound change in values is needed. Equal shares in household tasks, as well as equal shares in household finances, the strengthening of the welfare state at the public level, and an ethic of care that defies traditional moral theories, restoring value and promoting care – not as a capacity of women, but as a general human capacity – could, indeed, be more effective solutions than the employment of migrant women for reproductive work in achieving women's liberation and gender parity.

1.2.3 Care work in neoliberal world

Other than by the devaluation of care work as unproductive and women's work, a pivotal role in fostering the exploitation of migrant domestic workers is also played by both States as care providers and the negative consequences of neoliberal capitalist economies. As underlined in the previous paragraphs, indeed, care relations globally are “constructed by relations of power determined primarily by gender, class, and race. These are, in turn, structured by the discourses and materiality of neoliberal

¹⁰⁴ Parreñas R. S., *Servants of globalization: Women, migration and domestic work*, Stanford University Press, 2001, p. 560.

¹⁰⁵ Parreñas R. S., *Children of global migration: Transnational families and gendered woes*, Stanford University Press, 2005.

¹⁰⁶ Marchetti S., *op. cit.*, p. 7.

¹⁰⁷ Anderson B., *op. cit.*, p. 5.

globalization and historical and contemporary relations of colonialism and neocolonialism”.¹⁰⁸ Care is therefore a global political topic and care relations are highly influenced by economic and political decision regarding the provision and distribution of them.

Under capitalism, the only valuable work is considered to be the productive one, whereas the reproductive labour is mainly performed within the sphere of the family. Therefore, the adoption of public policies by States to regulate the care economy and its distribution determines the load of care assigned to family, volunteer work, and the market.¹⁰⁹ However, in a capitalist society in which individualism and competitiveness are regarded as values to be pursued, in which human beings are regarded as independent monads and in which the ideal of the self-made man is perpetuated, the dependence upon care has been pathological, and care has more and more been commodified and privatized.

Throughout Europe, for instance, there are distinct regional trends with regard to the organization of the provision and distribution of care.¹¹⁰ Northern and post-soviet European countries, indeed, tend to prioritize institutionalized care rather than home-based care. Therefore, within this context, the hiring of care and domestic workers privately is viewed as a challenge to the principles of equality, leading to the exacerbation of class disparities among women.¹¹¹ Conversely, in southern European countries, care is typically provided within the household by family members, particularly women. In these regions, the decision to entrust care work to another person is often seen as a practical necessity but can bring about moral and emotional distress due to the fear of not meeting expectations as mothers, wives, or daughters.¹¹² However, in the past three decades, a common pattern has occurred. While in previous years numerous European countries provided welfare assistance, in the past three decades, the majority of them have scaled back their welfare systems. The ideas of social welfare and community, indeed, had been pushed aside by a ‘self-care’ industry which relegates

¹⁰⁸ Robinson F., *The Ethics of Care: A Feminist approach to Human Security*, Temple University Press, Philadelphia, 2011, p. 3.

¹⁰⁹ Menon R. R., *op. cit.*, p. 36.

¹¹⁰ Triandafyllidou A., Marchetti, S. (eds.). *Employers, agencies and immigration: Care work in Europe*, Ashgate, 2015.

¹¹¹ Kristensen G. K., *My home is my castle. The Norwegian home in times of paid migrant domestic labour*, in “Culture and Organization”, Vol. 23, no. 4, 2017, pp. 277–290.

¹¹² Marchetti S., *‘Mum seems happy’: Relatives of dependent elders and the difficult task to employ a migrant care-giver*, in Triandafyllidou A., Marchetti S. (eds.), “Employers, agencies and immigration: Paying for care” Ashgate, Aldershot, 2015, pp. 93-109.

care to something people are supposed to buy for themselves on a personal basis, making even the cure a source of profit. As governments accepted the adoption of profit-making as the organizing principle of life, the interests and flows of financial capital has been prioritized while welfare states have been progressively dismantled. This has been accomplished through several means, such as limiting access to and reducing the amount of social benefits, increasing expenses for previously free services, and transferring the state's social-security obligations to the private sector.¹¹³ Consequently, as the government reduces subsidies for care and healthcare facilities, families are compelled to shoulder the growing financial burden associated with care-giving responsibilities and the privatization of previously government-provided assistance results in the deterioration of care support, giving way to reliance on the market.¹¹⁴ Hence, from the standpoint of the market, the big transnational companies capitalize on the care crisis they have helped to create. At the State level, care services are increasingly privatized. As for communities, the privatization of care services results in the neglect of individuals receiving care within their own communities, while the reduction of public shared spaces contributes to the erosion of community bonds, making the family the preferred social structure for providing care within society.¹¹⁵ As a result, the public aspect of dependence is concealed, confined within family walls, making decisions regarding public accountability seemingly superfluous, except for those families facing stigma due to their perceived failure in fulfilling their obligations.¹¹⁶

Between the end of the twentieth century and the beginning of the twenty-first century, therefore, on the one hand, social, economic, and demographic shifts have led to an increase in the number of women engaged in paid work, which have consequently reduced their availability to provide care within their households and communities; on the other hand, care services have been progressively privatised. Consequently, the lack of caregiving in the "private" realm has been compounded by a similar dearth of care in the public domain due to the reduction of publicly-funded financial assistance for

¹¹³ Palier B., *Is There a Social Route to Welfare Reforms in Europe?*, paper presented at the annual meeting of the American Political Science Association, Philadelphia, 2006, pp. 4-7.

¹¹⁴ Lutz H., *Intime Fremde: Migrantinnen als Haushaltsarbeiterinnen in Westeuropa*, in "Eurozine", 2007.

¹¹⁵ Chatzidakis A., Hakim J., Littler J., Rottenberg C., Segal L., *The Care Manifesto: The Politics of Interdependence*, Verso Books, 2020.

¹¹⁶ Albertson Fineman M., *Contract and Care*, in "Chicago-Kent Law Review", Vol. 76, no. 3, 2001, pp. 1405-1406.

families and the diminishing availability of publicly-funded care services.¹¹⁷ As the sociologist Hochschild A. R. points out, these developments have increased the demand for care while simultaneously decreasing its supply, resulting in a "care deficit" affecting both public and private spheres.¹¹⁸ Although cutting public funds that support care work may assist in balancing the state's finances and garnering support, Hochschild argues that in doing so, legislators, while reducing the financial deficit, exacerbate the "care deficit".¹¹⁹

Thus, the home, in essence, has become a contradictory space where various discourses and practices coexist. On the surface, it appears as a private, intimate setting. However, it is emerging as a critical location where tasks previously handled by the government, such as healthcare and childcare, are increasingly taking place and it is progressively becoming subject to state control, evident through the heightened examination of welfare recipients and ongoing discussions concerning the state's involvement in supposedly "private" issues like reproductive rights and domestic violence.¹²⁰

While states have largely withdrawn from direct care provision, in fact, they continue to exert significant influence on the sector through other means. Firstly, they hold a crucial regulatory function in these markets, establishing the normative framework and regulations that enable private companies or individuals to offer household services.¹²¹ Secondly, states play a vital role in determining rules and conditions related to the recruitment of migrant workers, which holds immense importance today due to the substantial percentage of international migrants engaged in various forms of care provision across the globe.¹²² As a matter of facts, for instance, the composition of each labor force varies, influenced by bilateral agreements with workers' countries of origin, including initiatives like pre-departure training programs and policies based on quotas.¹²³ Moreover, migrant women face disadvantages due to policies that prioritize skilled migration and to legislations that denies work permits to those who migrate to

¹¹⁷ England K., *op. cit.*, pp. 131-132.

¹¹⁸ Hochschild A. R., *The Commercialization of Intimate Life: Notes from Home and Work*, University of California Press, Berkeley, Los Angeles and London, 2003, pp. 213-214.

¹¹⁹ *Ibidem*.

¹²⁰ England K., *op. cit.*, p. 135.

¹²¹ Boris E., Klein J., *Caring for America: Home Health Care Workers in the Shadow of the Welfare State*, Oxford University Press, New York, 2012.

¹²² Marchetti S., Cherubini D., Garofalo Geymonat G., *op. cit.* p. 12.

¹²³ Kofman E., Raghuram P., *op. cit.*

reunite with their families.¹²⁴ This, indeed, leads to the social stratification observed among workers in the sector, which creates hierarchies among migrants based on nationality, class, and gender, thus contributing to differential inclusion in the labor market. This stratification also perpetuates the undervaluation of these jobs, as they are often considered 'naturally' assigned to the most vulnerable and stigmatized individuals in each context.¹²⁵

On top of that, the process of privatization in the market has not been solely facilitated through legalized labor. As a matter of facts, European economies have historically benefited from and, in practice, turned a blind eye to the presence of undocumented migrant workers in sectors such as the restaurant industry, domestic cleaning, and private nursing care.¹²⁶ There is, indeed, the recognition that, although the system is technically illegal, it continues to function effectively. Without the contribution of migrant women – many of whom work without legal authorization – the domestic care sector would face a complete breakdown. As a matter of facts, despite domestic work and domestic workers often being overlooked in analyses of the global economy, they play a substantial role within it, and, as a result, the influence and impact of migrant domestic workers exceed what many of them are aware of. Hence, this situation is tolerated, albeit with varying degrees of tacit acceptance.¹²⁷

1.2.4 The colonial solution to the care work crisis: western feminism's little dirty secret

As previously underlined, the phenomenon of Western women employing migrant domestic workers has become increasingly prevalent in recent years, raising important questions about the dynamics of power, exploitation, and responsibility within the global labor market. This particular aspect of the domestic workforce has sparked debates regarding the role and agency of Western women in perpetuating the exploitation of migrant workers. Western women's reliance on migrant domestic workers, indeed, may inadvertently contribute to the fostering of their exploitation. By

¹²⁴ Marchetti S., Cherubini D., Garofalo Geymonat G., *op. cit.* p. 12.

¹²⁵ Gutiérrez-Rodríguez E., *Migration, Domestic Work and Affect: A Decolonial Approach on Value and the Feminization of Labor*, Routledge, New York, 2010.

¹²⁶ Zeiler S., *EU Makes Africa its Deputy Sheriff: EU Migration Policy*, in “Qantara.de - Dialogue With the Islamic World”, 2007.

¹²⁷ Lutz H., Palenga-Möllenbeck E., *Care Work Migration in Germany, Semi-Compliance and Complicity*, in “Social Policy and Society”, Vol. 9 , no. 3, 2010, p. 427.

critically analyzing this relationship, it is possible to gain a deeper understanding of the structural inequalities that underlie the global domestic labor market and explore potential avenues for transformative change.

Under the framework of capitalism, women across the globe have encountered comparable patterns of exploitation. As stated by Mies M., “the subordination and exploitation of women, nature and colonies are the precondition for the continuation”¹²⁸ of a global division of labour under the dictates of capital accumulation. Despite the prevailing belief, indeed, it is women, not men, the most effective labor force for both capitalist and socialist accumulation on a global scale.¹²⁹ Throughout history, this has always been the case, but with the new international division of labour, this fact has been openly acknowledged and integrated into the economic strategies of national and international planners. As early as the 1980s, Mies put forth a potential explanation for why women are regarded as the most suitable labor force, contending that it stems from their widespread categorization as 'housewives' rather than as workers.¹³⁰ This categorization obscures their work, whether in terms of use value or commodity production, making it appear distinct from 'free wage labor'. Instead, their work is defined as an 'income-generating activity', which enables it to be procured at a significantly lower cost compared to male labor. Furthermore, through the universal categorization of women as housewives, not only can their labor be undervalued, but it also allows for political and ideological control over them. Housewives are fragmented and socially isolated, as their work arrangements make it challenging for them to develop a collective awareness of common interests and the overall production process.¹³¹ Their perspectives and opportunities, hence, remain confined within the realm of the family. Trade unions have historically shown little interest in addressing the concerns of women in their roles as housewives. Consequently, marginalized individuals, predominantly women, are disproportionately relegated to the role of housewives and subjected to exploitative working conditions.¹³²

Nonetheless, due to a growing convergence between the sexual division of labour and a new international division of labour, the specific lived experiences of women residing in the Global South diverge significantly from those in the Global North. Within the

¹²⁸ Mies M., *op. cit.*, p. 2.

¹²⁹ *Ivi*, p. 116.

¹³⁰ *Ibidem*.

¹³¹ *Ibidem*.

¹³² *Ibidem*.

sexual division of labour, for instance, there is a further distinction where women are primarily viewed as producers in the Global South and as consumers predominantly in the Western world.¹³³ Moreover, the commodification of care itself establishes a gender-based connection among women while simultaneously creating divisions based on race, class, and ethnicity.¹³⁴ For middle-class women in countries of the global North, the desire for "liberation" from unpaid domestic labor is both appealing and comprehensible. Although advancements in technology have made many household tasks less arduous, the overall amount of housework undertaken by women has not decreased, nor has it been fairly distributed with men.¹³⁵ Consequently, women continue to be burdened by domestic responsibilities, which makes the idea of employing domestic help enticing, particularly for those who hold demanding, time-consuming administrative positions.¹³⁶ The introduction of low-wage foreign domestic workers significantly alters this dynamic.

Affluent professional women belonging to the upper-middle class in the Global North nations exercise their socioeconomic privilege by hiring foreign housekeepers, effectively purchasing their way out of gender-based subordination.¹³⁷ In doing so, they free themselves from the burdens of housework and caregiving. However, this growing disparity between the Global North and South, coupled with increasing poverty in regions of the South, leaves few options for female migrants who assume these caregiving roles in order to support their families and secure economic well-being.¹³⁸ As a result, emancipated women seemingly acquiesce to this gendered and unequal division of labor, reinforcing the hierarchical job division between the public sphere and the private sphere, while perpetuating a globally discriminatory division of labor among women.¹³⁹ Federici called it "the colonial solution to the household problem".¹⁴⁰ The sociologist and professor Parreñas R. referred to this phenomenon as the "international division of reproductive labor," which arises as a result of the interplay between global capitalism, gender inequality in the country of origin, and gender inequality in the

¹³³ Ivi, p. 117.

¹³⁴ Gündüz Z. Y., *The Feminization of Migration: Care and the New Emotional Imperialism*, in "Monthly review" (Dec 01, 2013), at <https://monthlyreview.org/2013/12/01/the-feminization-of-migration/>.

¹³⁵ *Ibidem*.

¹³⁶ Bose C. E., *op. cit.*

¹³⁷ Parreñas R. S., *Migrant Filipina Domestic Workers and the International Division of Reproductive Labor*, in "Gender & Society", Vol. 14, no. 4, 2000, p. 562.

¹³⁸ Gündüz Z. Y., *op. cit.*

¹³⁹ Harstall A., *op. cit.*

¹⁴⁰ Federici S., *op. cit.*, p. 58.

country of destination.¹⁴¹ The journalist and author Toynbee P., reviewing the book *Global Woman: Nannies, Maids and Sex Workers in the New Economy*, edited by Barbara Ehrenreich and Arlie Russell Hochschild, instead, more harshly defined it “the western feminism's dirty little secret”, stating that “behind the glorious image of the have-it-all woman [...] too often lies a tale of the oppression of another woman”¹⁴² since the “liberation for high-fliers breaking through glass ceilings is only possible because of a flotilla of unseen, unheard women who care for their children, clean their homes and cook their meals while they live liberated like men”.¹⁴³

Given that women typically fulfill both the roles of employer and employee within this industry, it frequently results in a scenario where two women develop a close, personal bond centered around the completion of tasks that are heavily influenced by gender norms, and yet they are hierarchically positioned. In certain nations, the distinctions between women as employers and employees are heavily influenced by the historical impacts of slavery and colonial domination.¹⁴⁴ Even after achieving independence and the abolition of slavery, the resulting racialization of social disparities persists in modern societies, and it is evident in contrasting conditions between rural and urban areas in the Global South and social hierarchies within urban environments. Such differences hold significant relevance in the dynamics between employers and employees, such as when the former belongs to the racially privileged urban middle class while the latter is a racialized woman from a rural background residing on the outskirts of a major city. Similarly, indigenous women may work in households belonging to the racially privileged group, further reflecting the enduring impact of colonial legacies.¹⁴⁵ In the Global North, colonial histories also shape the relationship between migrant domestic workers and their employers, albeit in a distinct manner. Employers often resort to racialization and stereotypes rooted in cultural imagery derived from the colonial past, which is sometimes obscured in collective memory. These dynamics are reinforced by disparities in immigration and citizenship status

¹⁴¹ Parreñas R. S., *Migrant Filipina Domestic Workers*, *op. cit.*, p. 569.

¹⁴² Toynbee P., *Mothers for Sale*, *Guardian*, (July 19, 2003), at <http://guardian.co.uk>.

¹⁴³ *Ibidem*.

¹⁴⁴ Marchetti S., *Black Girls: Migrant Domestic Workers and Colonial Legacies*, Brill, Leiden-Boston, 2014.

¹⁴⁵ Marchetti S., Cherubini D., Garofalo Geymonat G., *op. cit.*, p. 13.

between employers and employees, connected to the restrictive migration policies prevalent in the Global North.¹⁴⁶

The existing inequality within the employer-employee relationship challenges the notion of "sisterhood" among women. While assumptions of shared understanding based on common gender roles may be present, they are counteracted by class-based hierarchies that intertwine with differences in age, religion, race, or ethnicity.¹⁴⁷ Women occupying different positions within this relationship experience varying social statuses, leading to a broad range of phenomena, ranging from abuse to maternalistic support, i.e., employers unintentionally exerting their power over individuals who rely on them for their legal status and livelihood.¹⁴⁸

However, as stated by Federici, in order to eliminate the divisions that exist among women on an international scale, not only it is not sufficient to condemn specific practices or behaviors, but it is also counterproductive.¹⁴⁹ Merely criticizing women who hire domestic workers, indeed, falls short as it implies that these women are specifically unsympathetic towards the needs of their "sisters." The reality is that as long as reproduction remains an individual or familial responsibility, many women will likely have no alternative but to employ domestic help. This is due to the fact that over 50% of women in Europe and the United States are engaged in jobs outside their homes, which come with limited work flexibility.¹⁵⁰ Although there are women within the capitalist class who have no need to work and yet – due to their vast wealth that enables such arrangements – are even more inclined to employ domestic workers compared to their upper-middle-class counterparts, indeed, it is vital to acknowledge both that those women do not represent the majority and that women – especially those employed in highly demanding administrative and executive positions – in the Global North are often compelled to conform to capitalist norms that entail enduring long working hours, excessive tasks, challenging conditions, and intense competition.¹⁵¹ Additionally, they are expected to prioritize work above all else, including their family responsibilities and personal time, as their job always takes precedence. Therefore, this aggressive form of

¹⁴⁶ *Ibidem*.

¹⁴⁷ Momsen J.H., *Gender, Migration and Domestic Service*, Routledge, London, 1999.

¹⁴⁸ Marchetti S., *Citizenship and Maternalism in Migrant Domestic Labour: Filipina Workers and Their Employers in Amsterdam and Rome*, in Gullikstad B., Kristensen G.K., Ringrose P. (eds), "Paid Migrant Domestic Labour in a Changing Europe", Palgrave Macmillan, London, 2016, pp. 147-168.

¹⁴⁹ Federici S., *op. cit.*, p. 58.

¹⁵⁰ *Ibidem*.

¹⁵¹ Gündüz Z. Y., *op. cit.*

capitalism necessitates the growing reliance on the "care industry" to provide support.¹⁵² It is not unusual for women in the upper-middle or professional-technical class in the affluent regions of the Global North to work extended hours in stressful occupations, while their domestic care workers bear a similar burden of excessive work, often under more oppressive conditions. As Hochschild asserts: "two women working for pay is not a bad idea. But two working mothers giving their all to work is a good idea gone haywire. In the end, both women [from the Global South and from the Global North] are small players in a larger economic game whose rules they have not written".¹⁵³

On top of that, there is a risk that condemning the employment of domestic workers without advocating for and actively pursuing a viable alternative will further perpetuate the misconception that domestic work can be conveniently diminished or seamlessly integrated with other forms of work, or that it is somehow not necessary.¹⁵⁴

Hence, what remains to be done is to critically assess the global capitalist system, which compels mothers to depart from their own families and tend to other families in order to support them within a commodity-based economy, rather than remaining at home and contributing to their local communities.¹⁵⁵ As previously observed through the analysis of the new international division of labor, indeed, the global economic system perpetuates and benefits from the exploitation of migrant labor. Additionally, the devaluation of care work as unproductive and predominantly women's work has further contributed to the vulnerable status of domestic workers. By examining these interconnected factors, then, it becomes evident that the exploitation of domestic workers is deeply rooted in structural inequalities and systemic discrimination. Therefore, it is crucial to recognize the urgent need for comprehensive and intersectional approaches to address and challenge these exploitative practices. Only through a collective effort that encompasses labor rights, gender equality, migration policies, and the recognition of care work as valuable and essential, can we strive towards a more just and equitable society for all.

¹⁵² Hochschild A. R., *Love and Gold*, *op. cit.*, p. 20.

¹⁵³ *Ibidem.*

¹⁵⁴ *Ibidem.*

¹⁵⁵ Gündüz Z. Y., *op. cit.*

Chapter Two

MIGRANT DOMESTIC AND CARE WORK IN ITALY: ANALYZING DOMESTIC AND CARE WORK AND THEIR REGULATION FROM A GENDER INTERSECTIONAL PERSPECTIVE

In the contemporary world of global migration, the phenomenon of migrant domestic and care work plays a major role in shaping migration paths. Italy, as a nation grappling with the complexities of immigration and care provision, stands at the crossroads of this evolving phenomenon. Within this context, this chapter aims at comprehensively exploring the landscape of migrant domestic and care work in Italy, while adopting a critical lens that emphasizes the interplay of gender and intersecting identities in the realm of this labour sector and its regulatory framework.

2.1 A brief history of migrant domestic and care work in Italy

The history of migrant domestic and care work in Italy is shaped by the intersection of migration, labor, and societal changes. Over the years, Italy has witnessed a significant transformation in its demographics and workforce dynamics, that has changed the landscape of care provision within the nation's households. This introductory section provides an overview of the key historical developments that have led to the emergence and evolution of migrant domestic and care work in Italy.

Throughout the history of Italy, after its unification, significant transformations have occurred in the employment landscape of the sector under consideration. The data from various censuses indicate a fluctuating pattern of domestic employment since the latter half of the 19th century. Notably, there was a sharp decline in the number of employees between 1861 and 1871, followed by a subsequent increase in 1881.¹⁵⁶ However, in the subsequent decades, the figure once again declined until the fascist era, during which the number of domestic workers surged to approximately five hundred and sixty thousand by 1936.¹⁵⁷ This period was marked by economic and political factors that

¹⁵⁶ Catanzaro R., Colombo A., *Nazionalità, genere e classe nel nuovo lavoro domestico.*, in “Badanti & Co. Il lavoro domestico straniero in Italia”, Il Mulino, Bologna, 2009, p. 12.

¹⁵⁷ *Ibidem.*

fueled the growth of employment in this sector, with the Great Depression and fascist policies playing a particularly influential role.

In terms of migrant labour, during this period, our country experienced a migration balance heavily skewed towards departures rather than arrivals. The most consistent migratory flows were directed abroad, particularly towards South America and the United States, as well as internal migrations. The latter had a significant impact on the domestic sector, as there was widespread employment of women from southern Italy as domestic servants in households in the northern regions.¹⁵⁸

Afterwards, the growth in domestic employment came to an abrupt halt during the Second World War, followed by an inexorable decline in the post-war period. Between 1951 and 1981, the number of domestic employees decreased to less than two hundred thousand.¹⁵⁹ Foreign immigrant employment played a minor role, accounting for only 5.6% of the total number of domestic workers registered with the INPS during the decade of 1972-1982.¹⁶⁰ Even in the early 1980s, despite the initial arrival of immigrant flows, the number of individuals employed in the domestic sector continued its downward trend. Internal immigration, on the contrary, has given new vitality to the domestic sector during this period, although the relative figures now seem modest. However, this decline persisted throughout the decade, eventually stabilizing in the subsequent one.

Lately, a significant shift began to occur in the proportions between Italian and foreign employees. By 1991, the share of foreigners among domestic workers started increasing, leading to a transformative change in the composition and significance of the sector, with the first substantial surge in foreign workers occurred after the regularization process in 1995 when the total number of foreigners reached approximately 685,500 and the number of immigrants employed in the sector doubled, soaring from around sixty thousand (59,006) in 1995 to over one hundred thousand (109,797) in 1996.¹⁶¹ Scholars examining the labor supply in the sector agree that the surge in paid domestic work during the 1990s was primarily due to exponential rise in demand that made the significant difference.¹⁶² Around the beginning of the 10s, in

¹⁵⁸ *Ibidem.*

¹⁵⁹ *Ibidem.*

¹⁶⁰ Carrera F., De Angelis G., Mora M., Padoan V., *Rapporto IRES-FILCAMS: Il lavoro domestico e di cura: scenario, condizioni di lavoro e discriminazioni.*, 2009, p. 24.

¹⁶¹ *Ibidem.*

¹⁶² Catanzaro R., Colombo A., *op. cit.*, p. 26.

Italy, approximately 10% of households had utilized these services, whereas in the mid-1980s, it comprised only 2% of the total, with an income share expenditure of 0.2% of the monthly expenditure aggregate.¹⁶³ Specifically, analyzing ISTAT statistics from 1996 to 2001, it was found that around 7-7.5% of households employed a domestic helper, while 1.5-2% hired a babysitter, and approximately 2% used the services of a childminder or a 'carer'.¹⁶⁴ The situation was even more pronounced according to a survey conducted by the Association 'Viva gli anziani' in 2001 among 5,398 individuals aged over 64 living in seven Italian cities. The survey revealed that 13.3% of them were cared for by foreign 'carers,' a percentage that reached 24.1% among those aged over 80.¹⁶⁵

However, the turning point for the domestic and care workforce in Italy came with the 2001 census, marking the first time in over fifty years that the total number of domestic workers began to rise. A pivotal moment concerning foreign employment in the sector was undeniably the approval of law 189/02, followed by the amnesty that ensued after its enactment. In just over two months, approximately 348,764 domestic and family workers applied for regularization.¹⁶⁶ As a result of this regularization process, the total number of domestic workers in Italy reached 419,808, while the number of Italian domestic workers remained steady at around 132,261 individuals. Therefore, the impact of immigrant workers on the total domestic workforce reached 76 percent as a consequence of the regularization in 2002.¹⁶⁷

Afterwards, in the first decade of the 21st century, data from INPS indicate a slight decrease in the overall number of enrolled employees. According to the IRES-FILCAMS report dated April 2009, the period between 2003 and 2009 witnessed a decline of 80,000 regular employment relationships.¹⁶⁸ This decrease can be attributed to the economic strain faced by households in between the severe global economic crisis, which had a particularly significant impact in Italy.

However, it is essential to bear in mind that the data specifically pertain to workers registered with the INPS, and thus refer to regular employment relationships. The key observation to draw from such statistics is not necessarily that many Italian families

¹⁶³ *Ivi*, p. 16.

¹⁶⁴ Sarti R., *Servizio domestico, migrazioni e identità di genere in Italia: uno sguardo storico*, in Seminario "La catena globale della cura", Torino, 2004, pp. 3-4.

¹⁶⁵ *Ivi*, p. 4.

¹⁶⁶ Carrera F., De Angelis G., Mora M., Padoan V., *op. cit.*, pp. 25-27.

¹⁶⁷ Catanzaro R., Colombo A., *op. cit.*, p. 19.

¹⁶⁸ Carrera F., De Angelis G., Mora M., Padoan V., *op. cit.*, pp. 25-27.

have entirely abandoned private domestic service, but rather that the proportion of irregular relationships has notably increased. Around 2013, indeed, the estimated total number of domestic workers in Italy, considering both regular and irregular arrangements, stood at 871,000, with foreigners accounting for approximately 81.5% of this figure.¹⁶⁹

Moreover, nowadays, compared to a century ago, not only domestic work has increased in numbers, but it has also undergone significant transformations. Specifically, there have been notable shifts in the gender composition and the social and geographical origins of the workers, and a decline in employment in certain professions, such as nannies, while witnessing the emergence and growth of employment in other roles, notably that of carers for old and/or non-self-sufficient individuals. In addition to domestic workers, commonly known as domestic helpers or COLF, who are employed to clean, perform various household tasks like washing, ironing, and cooking, indeed, there has been a notable rise in the number of workers engaged in domestic work with a specific focus on caring for frail and non-self-sufficient individuals. This increasing trend has become so significant that it is often referred to as the '(carer) phenomenon', even if using this term might be considered reductive due to the quantity, quality, and delicate nature of the tasks carried out by these workers, who are particularly middle-aged women who play a crucial role in this field.¹⁷⁰ As a matter of facts, this is precisely the most complex phenomenon to date and one that has attracted the most the attention of scholars. That of family carers, who take care of dependent persons and often live under the same roof as the person being cared for, is in fact a relatively new phenomenon and has carried with it, since its emergence, a long series of political and sociological debates, aimed at understanding the causes of its emergence and analysing in depth the reproductive relationships that are modelled within it. In particular, scholars closely observe the difficulties of immigrant workers, but also of the people they take care of to adapt to living together, analyse the peculiarities of the labour relations that come into being, and question the role of the welfare state.

The primary factor influencing occupational mobility and the growth in the number of carers remain associated with the supply coming from Italian households, that has progressively shifted towards care work over time, largely driven by demographic shifts within the country or the recognition of the advantages of employing private personnel,

¹⁶⁹ Fondazione Leone Moressa, *L'inserimento degli stranieri nel mercato del lavoro italiano*, 2011, p. 6.

¹⁷⁰ Iori V., *Il sapere dei sentimenti. Fenomenologia e senso dell'esperienza*, Franco Angeli, 2009.

which is now considered an ideal arrangement by both families and public institutions. As a matter of facts, the effects of the ageing of the population have become more pronounced with a constant growth of about 3 percentage points every decade (e.g. from 2006 to 2016 the number of people over 65 rose from 19.9 per cent of the population to 22.0 per cent and this percentage will continue to grow steadily over the next 30 years).¹⁷¹

On top of that, during the past decade, another relevant shift has been represented by the presence of immigrant workers – both those with regular and irregular status – that has experienced a significant increase, particularly within the domestic and care sector. According to data from INPS, in 2015, there were a total of 888,125 registered domestic and care work relationships, and an impressive 75.9% (approximately 672,000) of these involved individuals of foreign origin. Women predominantly filled these roles, comprising 87.8% of the sector's workforce in 2015, while men accounted for only 12.2%.¹⁷² Additionally, it is essential to consider that there is at least another 50% of workers employed under irregular conditions in terms of contracts and legal status, operating within the undeclared market.¹⁷³

To conclude, according to the last available data provided by the ‘*Osservatorio annuale INPS*’ and referred to regular domestic workers, in 2021, there has been a slight rise in the total count of domestic workers compared to 2020, with an increase of 1.9%. Prior to 2020, there had been a gradual decline in domestic workers from 2012 to 2019. However, in 2020, a notable reversal occurred with a significant increase of 9.9%.¹⁷⁴ The reasons behind this surge in 2020, as reported in the Third DOMINA Observatory Report, were primarily linked to the pandemic.¹⁷⁵ During the first lockdown phase in March 2020, there was a notable surge in the hiring of domestic workers. This surge can be attributed to a form of "regularization from below," where households hired irregular domestic workers to circumvent mobility restrictions.¹⁷⁶ Notably, during the lockdown, leaving the house was only permitted for essential reasons, which included maintaining

¹⁷¹ ISTAT, *Rapporto annuale*, 2017.

¹⁷² INPS, *Statistiche in breve, lavoratori domestici*, (June, 2016), at https://servizi2.inps.it/docallegati/News/Documents/StatInBreve_LAVDOM_testointegrale_2016.pdf.

¹⁷³ Maioni R., Zucca G., (eds.), *Viaggio nel lavoro di cura: Chi sono, cosa fanno e come vivono le badanti che lavorano nelle famiglie italiane*, Ediesse, 2016.

¹⁷⁴ Osservatorio sui lavoratori domestici INPS, *Rapporto annuale 2022*.

¹⁷⁵ Osservatorio DOMINA sul lavoro domestico, *3° Rapporto Annuale sul Lavoro Domestico*, 2021.

¹⁷⁶ Osservatorio DOMINA sul lavoro domestico, *4° Rapporto Annuale sul Lavoro Domestico*, 2022, p. 116.

a family-related employment relationship. Furthermore, in 2020, the increase in domestic workers can be attributed to the "baby sitter bonus" and the regularization of irregular foreign workers. These factors also played a role in regularizing many domestic work positions. Moving into 2021, the overall number of domestic workers continued to increase, though at a slower pace. This trend is likely still influenced by the ongoing emersion procedure for non-EU foreigners, which extended into 2021 and 2022.¹⁷⁷

2.2 Analysis of the profiles and nationalities of migrant domestic and care workers in Italy

As the need for caregiving services rises, an increasing number of foreign workers have entered this sector, becoming an integral part of the domestic workforce. This paragraph aims to explore and analyze the profiles and nationalities of migrant domestic and care workers in Italy. By examining the demographics and origins of these workers, it is possible to have important insights into the evolving dynamics of caregiving and migration patterns within the country. Moreover, understanding the composition of this essential workforce will shed light on the social implications of this trend and contribute to the broader discourse on migration, labor, and care policies in Italy.

The strong connection between care work and minority status is widely recognized, with factors such as race, class, gender, and, increasingly, immigration status, all playing significant roles in the selection of domestic workers.¹⁷⁸ In Italy, for instance, countless families find themselves forced to hire migrant women, who represent the most affordable labor pool, in order to cater to the escalating demand for caregiving, particularly for the elderly.¹⁷⁹ The situation in Italy notably exemplifies the "incomplete revolution"¹⁸⁰ concerning women's integration into the labor market, revealing the absence of corresponding reforms in the welfare system and the persisting gender-based distribution of household and caregiving responsibilities.¹⁸¹ The distinct aspects of the Italian context are rooted in various factors, including the characteristics of the welfare

¹⁷⁷ *Ibidem.*

¹⁷⁸ Kaufka K., *op. cit.*, p. 168.

¹⁷⁹ Sciorba A., *Vulnerability, Freedom of Choice and Structural Global Injustices: The "Consent" to Exploitation of Migrant Women Workers*, in Velasco J. C., La Barbera M. (eds), "Challenging the Borders of Justice in the Age of Migrations", Springer, 2019, p. 229.

¹⁸⁰ Esping-Andersen G., *The Incomplete Revolution: Adapting to Women's New Roles*, Cambridge: Polity Press, 2009.

¹⁸¹ Sciorba A., *op. cit.*, p. 229.

structure, the enduring gender-based allocation of roles and duties within families, shifts in demographics marked by a pronounced aging of the population, and the notable segmentation within the labor market.¹⁸² These elements, together with the Italian women rejection for live-in domestic employment, occurred during the 1960s and 1970s,¹⁸³ have significantly influenced the Italian landscape over many decades. Ever since then, indeed, due to the absence of a revision of the welfare system and the gender-based roles within families, this type of work became the domain of black women from Africa and Asia who accepted positions and wage levels that local workers had turned down. Consequently, the threshold of unavailability established by Italian women was swiftly reduced due to the influx of migrant women.¹⁸⁴

Also nowadays, overall, the realm of domestic and care work continues to be predominantly occupied by foreigners and, in particular, by foreign women,¹⁸⁵ mostly in their 40s.¹⁸⁶ In 2022, indeed, 69.5% of registered domestic workers in Italy were of foreign nationality¹⁸⁷ and women represented the 86.4% of the total number of domestic workers.¹⁸⁸ Notably, as for their age, whether Italians or migrants, generally workers within this sector, fall within the mid- to upper-tier of the working age brackets, often surpassing 40 years of age and frequently extending beyond 50.¹⁸⁹ However, when the sector is further broken down based on the nature of the tasks performed, there is a more pronounced concentration of older age groups among those engaged in household chores. On the other hand, workers involved in care-related responsibilities tend to have a slightly lower average age. This distinction can be partially attributed to the higher proportion of migrants – who generally possess a slightly younger demographic compared to their Italian counterparts – being engaged in care-related duties, despite the fact that approximately 60.4 percent of migrant domestic workers are anyway aged over

¹⁸² Catanzaro R., Colombo A., *op. cit.*, pp. 1-34.

¹⁸³ Dalla Costa M., *Emigrazione, immigrazione e composizione di classe in Italia negli anni '70*, in “Economia e Lavoro”, Vol. 4, 1981, p. 127.

¹⁸⁴ *Ivi*, pp. 126-127.

¹⁸⁵ Zilli C., *Donne immigrate e lavoro di cura: un welfare invisibile ma bisognoso di innovazione sociale*, Università degli Studi di Milano, 2018, p. 5.

¹⁸⁶ Gallotti M., Mertens J., *Promoting integration for migrant domestic workers in Europe: A synthesis of Belgium, France, Italy and Spain*, International Migration Papers no. 118, ILO, Geneva, 2013, p. 11.

¹⁸⁷ Osservatorio sui lavoratori domestici INPS, *Rapporto annuale 2023*.

¹⁸⁸ INPS, *Statistiche in breve: lavoratori domestici*, (June, 2023), at <https://servizi2.inps.it/servizi/osservatoristatistici/api/getAllegato/?idAllegato=1013>, p. 2.

¹⁸⁹ Gallotti M., Mertens J., *op. cit.*, p. 11.

40.¹⁹⁰ This age distribution holds significant implications, not only in terms of heightened vulnerability to health-related issues linked to the physical exertion and emotional weight of caregiving tasks, but also concerning prospects for longer-term integration, individual aspirations, and life trajectories. However, migrant women still primarily secure positions in the specialized field of personal care services, consolidating one of the key avenue of employment.

This trend also persists regardless of their qualifications and educational attainment, often surpassing the prerequisites of their roles. Regarding the educational background of migrant laborers, indeed, it is worth noting that, while there are discrepancies in educational attainment based on different countries of origin (with Asian and Eastern European workers often displaying higher educational achievements), migrants, on the whole, exhibit higher education levels compared to Italian individuals employed in domestic work. Notably, in Italy, approximately 44% of migrant domestic workers possess an upper secondary or university degree.¹⁹¹ Moreover, migrant female EU nationals and third-country nationals tend to be more overqualified for their roles compared to male EU migrants.¹⁹² On top of that, over the last 20 years, even lower-income households have started to employ domestic workers, thus narrowing the distance between the worker's and the employer's income and, with it, also the distance in terms of schooling and professional qualification, as it may happen that the employer does not have a qualification, while the domestic worker has a university degree in his or her home country.¹⁹³ This (non)recognition of qualifications and professional skills, coupled with language barriers, are primary hurdles to achieving integration in the labor market and these challenges have substantial implications for both personal fulfillment and aspirations, as well as the potential for skills erosion.

However, this sector still offers migrant women the most substantial job prospects in Italy.¹⁹⁴ As per ISTAT's findings in late 2014, nearly 47% of foreign women residing in Italy were engaged in roles related to domestic and/or care services.¹⁹⁵ Notably, data collected by INPS show that, in 2015, 45.7% of foreign domestic workers were coming from Eastern Europe, 8.1% from Philippine, 7.1% from South America and 5.8% from

¹⁹⁰ *Ibidem.*

¹⁹¹ *Ibidem.*

¹⁹² Eurostat, *Migrants in Europe - A statistical portrait of the first and second generation*, 2011.

¹⁹³ IRES-FILCAMS, *Rapporto: Il lavoro domestico e di cura: scenario, condizioni di lavoro e discriminazioni*, 2009, p. 37.

¹⁹⁴ Zilli C., *op. cit.*, pp. 5-6.

¹⁹⁵ Maioni R., Zucca G., (a cura di), *op. cit.*

East Asia,¹⁹⁶ with an increase also of the (low) level of participation of migrant women from North African countries, entering the sector due to the loss of work of their partners.¹⁹⁷ As a matter of facts, the previously mentioned characteristics and needs of the Italian market, a decade ago, found a new counterbalance in migration from Eastern Europe, particularly from Romania.

In the Romanian context, migration could, indeed, be defined as an all-encompassing social phenomenon, involving the entirety of society and its institutions, as it encompassed a significant majority of the population.¹⁹⁸ Between 2010 and 2019, the number of Romanians leaving their country of origin totaled 2.3 million, largely due to the economic crisis and ensuing inflation affecting the former Soviet Union nations.¹⁹⁹ Another factor set off a detrimental cycle: the cost of living escalated due to the new economic benchmarks established by remittances from migrants.²⁰⁰ Given this context and the gender-specific divisions within social and familial roles, the onus of response fell upon women. In all the preceding Eastern European Soviet nations, women bore the primary burden of domestic and non-domestic labor.²⁰¹ When migration emerged as the predominant solution for escaping destitution and societal marginalization, women once again grappled with the circumstances, often being the ones who chose to migrate. Certainly, women found themselves automatically channeled into domestic and caregiving sectors due to the labor market segmentation in host countries like Italy. Migrant women, preferably of white Christian backgrounds, were sought after as care providers. These women struck a balance between cultural familiarity and distinctness, making them suitable for home care employment under exploitative conditions. The structure of the labor market relegated these women predominantly to domestic and caregiving roles, even if they possessed significant skills and education.²⁰²

These elements have all played a role in shaping the emergence of what is referred to as the "*badante* model", which relies on the utilization of migrant women for labor due to

¹⁹⁶ Osservatorio sui lavoratori domestici INPS, *Rapporto annuale 2016*.

¹⁹⁷ OECD, *International Migration Outlook 2012*, Paris, 2012.

¹⁹⁸ Mauss M., *The Gift: Forms and Functions of Exchange in Archaic Societies*, Cohen & West., London, 1966, p. 76.

¹⁹⁹ Vargas-Silva C., *EU Migrants in Other EU Countries: An Analysis of Bilateral Migrant Stocks*, The Migration Observatory at the University of Oxford, 2012.

²⁰⁰ Popescu C., Juverdeanu L., *Are Remittances Important for the Romanian Economy?*, Annals of the University of Oradea Economic Sciences, 2008, pp. 392–396.

²⁰¹ Vianello F. A., *Continuità e confini tra vita pubblica e vita privata. La doppia presenza delle assistenti familiari*, in "AG AboutGender, International Journal of Gender Studies", Vol. 1, no. 2, 2012, p. 185.

²⁰² Bonizzoni P., *Famiglie globali. Le frontiere della maternità*, Utet, Torino, 2009.

the fact that migrant women often receive severely inadequate compensation for their work. As a matter of facts, if more balanced and fair agreements were put in place, only a restricted number of households could manage the expense of employing individuals needed on a daily basis.²⁰³

Compared to a decade ago, nowadays, the proportion of workers from Eastern Europe has decreased, while the number of Italian workers has risen.²⁰⁴ Presently, indeed, 35.4% of the overall workforce originates from Eastern Europe, followed by 30.5% of Italian citizens, 7.8% from South America, and 6.8% from East Asia.²⁰⁵ However, the employment of foreign women workers is still prominent, especially as ‘*badanti*’ (carers) and their rights not yet sufficiently recognised and respected. The increase in the percentage of Italian workers – most likely due as a survival strategy to the economic crisis – is, indeed, significantly higher for the figure of domestic helper or ‘*colf*’ compared to that of family assistant or ‘*badanti*’. The main reason at the root of this difference is co-residence, which is much higher among family assistants and more accepted by foreigners, either because they do not have their own accommodation or because they are in an irregular situation. The possibility of co-residence, in fact, represents a strategy for accessing food and accommodation in a situation of need, but at the same time it exposes them to the risk of heavy exploitation.²⁰⁶

Nonetheless, internal mobility within the sector is also highly significant, and there are frequent instances of alternating between roles as domestic workers and caregivers. Based on a study conducted by Giovanna Fullin, Emilio Reyneri, and Valeria Vercelloni,²⁰⁷ it is possible to outline the nationality-based distribution in the two caregiving job categories. This data also sheds light on the changes that have occurred in this field over the past decade. Within the surveyed sample, a substantial two-thirds have gained experience in both sub-sectors of domestic work. Pathways can also diverge based on origin. The considered survey reveals that Africans tend to be the most mobile group (with 43% having performed both housekeeping and caregiving roles), while Asians and Eastern Europeans lean towards greater stability, showing a

²⁰³ Sarti R., *Lavoro domestico e di Cura: quali diritti?*, Ediesse, Roma, 2011.

²⁰⁴ Osservatorio sui lavoratori domestici INPS, *Rapporto annuale 2022*.

²⁰⁵ *Ibidem*.

²⁰⁶ Maioni R., Zucca G., (a cura di), *op. cit.*

²⁰⁷ Fullin G., Reyneri E., Vercelloni V., *Percorsi biografici e itinerari lavorativi*, in “Badanti & Co. Il lavoro domestico straniero in Italia”, Il Mulino, Bologna, 2009.

preference for domestic tasks in the former and caregiving tasks in the latter.²⁰⁸ Mobility between the roles of housekeeper and caregiver was even more prevalent in the past. Before 1999, almost 53% of the respondents had found employment as both housekeepers and caregivers, whereas this figure decreased to 36.6% in the subsequent decade. However, the data we have at our disposal still demonstrate the growing prevalence of employment in the caregiver role. Except for Asians, indeed, all the considered nationalities have experienced a significant increase in their respective shares of caregivers in recent years.²⁰⁹

The term "caregiver" refers to an individual who provides assistance to the elderly, the sick, and those who are not self-sufficient. They may also perform housekeeping duties if necessary and upon the employer's request, but these are not their primary functions. Depending on the elderly person's health condition, the caregiver can fully engage in assisting the elderly individual, aiding in medication intake, personal hygiene, dressing, mobility, accompanying them on errands, or simple walks. The caregiver generally does not perform more complex medical procedures, which fall within the duties of certified nursing assistants (CNAs) or nurses. However, they certainly contribute to overseeing the overall health status of the elderly individual and often serve as their primary source of companionship. As a result, the tasks carried out by caregivers can be quite extensive, mirroring the broad impacts of aging itself. The kind of activities performed by these formally or informally employed individuals is not a new phenomenon; several historical shifts and social changes have just contributed to the evolution and change of these professional roles and, in particular, of the profile of workers performing this tasks. However, even from the surveys conducted by ACLI Colf during the 1960s and 1970s, it was evident that those engaged in domestic work were primarily women, especially elderly ones, from working-class backgrounds with minimal education, often unmarried. These were women who hadn't necessarily "chosen" domestic work as a profession but were driven by necessity into jobs that offered minimal legal and contractual protection. In such roles, rule adherence was low, and tax evasion was common. These jobs were generally regarded as low-status within the social hierarchy, perceived as temporary but often becoming permanent in reality.²¹⁰ Such employment

²⁰⁸ *Ivi*, pp. 319-320.

²⁰⁹ *Ivi*, p. 321.

²¹⁰ Sarti R., «*Badante*»: una nuova professione? *Luci e ombre di una trasformazione in atto*, in Maioni R., Zucca G. (eds.), "Viaggio nel lavoro di cura. Chi sono, cosa fanno e come vivono le badanti che lavorano nelle famiglie italiane", Ediesse, Roma, 2016.

forced them into continuous contact with bourgeois environments where many felt undervalued and exploited. This work condemned them to a frustrating state of social marginalization and typically intense personal isolation.²¹¹ These conditions often reappear in the cases of contemporary family caregivers, particularly those who are foreign and undocumented.

2.3 Domestic and care work: main regulatory sources in Italy

In order for domestic workers' rights to be recognized and respected, a major role is played by domestic work regulation. Domestic workers, indeed, have to deal with distressing working conditions, exploitation in labor, and violations of their human rights, and the absence of adequate legal safeguards amplifies their susceptibility and obstructs their ability to seek remedies. Consequently, they frequently receive lower wages compared to counterparts in similar fields and endure extended work hours. Therefore, the landscape of domestic work regulation is a subject of extreme importance. In Italy, the domestic work regulation is shaped by a complex interplay of international conventions, national laws, and policy frameworks. This paragraph explores this intricate landscape, examining the main conventions, laws, and policies that shape the rights and working conditions of domestic workers in Italy. Specifically, this section provides a critical analysis of the content and implications of key instruments such as the ILO Convention no. 198, provisions within the Civil Code (Arts. 2240-2246), Law 339/1958, Presidential Decree no. 1403/1971, and the National Collective Bargaining Agreement of 2020, in order to shed light on the (evolving) characteristics of domestic labor governance in Italy and its implications for workers conditions.

2.3.1 ILO Convention no. 189

On 22 January 2013, the Government of Italy deposited with the International Labour Office (ILO) the instrument of ratification for the Domestic Workers Convention no. 189, of 2011, that entered into force on 5 September 2013. Notably, Italy has been the first EU member state and the fourth member state of the ILO to ratify this measure,

²¹¹ Turrini O., *Le casalinghe di riserva: lavoratrici domestiche e famiglia borghese*, Coines Edizioni, 1977.

aimed at enhancing the living and working conditions of domestic workers across the globe.²¹²

The drafting and adoption by the ILO of the Convention no. 189 is part of what Marchetti, Cherubini and Garofalo, in their analysis "Global Domestic Workers: Intersectional Inequalities and Struggles for Rights", have defined as the 'C189 process', i.e. the process of discussion of domestic workers' rights – characterizing the decade 2008-2018 – which began with the ILO's decision to put domestic work on the agenda and culminated with the adoption of the Convention no. 189 and its Recommendation no. 201.²¹³ These two instruments have emerged as the primary guidelines setting fundamental principles and minimum labor standards applicable to domestic work.²¹⁴ This represented an incredible step forward in the process of mainstreaming rights, especially considering that this sector had historically endured a profound absence of rights and that domestic work, in most of the countries, lacked recognition as work, or, if recognized, it was anyway considered a 'second-class job' not being regarded as 'real work'.²¹⁵

The aim of the Convention is, thus, precisely to guarantee domestic workers conditions that are at least as favorable as those of workers in other fields.²¹⁶ To this end, the Convention established global labor standards for paid care and domestic labor, effectively equalizing the labor rights of these workers to those of other workers in countries that ratified the Convention – not only in term of wages but also of workplace protections.²¹⁷ In so doing, the principle adopted is that of "no less favorable"²¹⁸ – implying that while the treatment does not have to be identical, it should have similar effects to those enjoyed by other workers.²¹⁹ Moreover, the Convention acknowledges that achieving these objectives necessitates considering the unique circumstances of each country and the specific nature of domestic labor.²²⁰ Therefore, Article 14(2)

²¹² ILO, *Italy ratifies the Domestic Workers Convention*, (January 22, 2013), at https://www.ilo.org/global/standards/information-resources-and-publications/news/WCMS_202859/lang--en/index.htm.

²¹³ Marchetti S., Cherubini D., Garofalo G., *op. cit.*, p. 2.

²¹⁴ ILO, *Social protection for domestic workers: Key policy trends and statistics*, Social protection policy paper no. 16, Geneva, 2016, p. 6.

²¹⁵ Marchetti S., Cherubini D., Garofalo G., *op. cit.*, p. 4.

²¹⁶ ILO, *Social protection for domestic workers*, *op. cit.*, p. 6.

²¹⁷ Marchetti S., Cherubini D., Garofalo G., *op. cit.*, p. 2.

²¹⁸ Art. 14 of the Domestic Workers Convention no. 189, 2011.

²¹⁹ ILO, *Social protection for domestic workers*, *op. cit.*, p. 7.

²²⁰ *Ivi*, p. 6.

allows Member States to gradually implement measures to provide domestic workers with social security protection – i.e. medical care, sickness benefits, unemployment benefits, old-age benefits, employment injury benefits, family benefits, maternity benefits, invalidity benefits, and survivors' benefits – considering their national circumstances and guaranteeing them some flexibility, as long as this protection is equivalent to that enjoyed by other workers and progressively leads to full equivalence. Given that a majority of domestic workers are women, the Convention also specifically addresses maternity protection.²²¹ Furthermore, within its provisions, the Convention addresses various other aspects, including the fundamental rights of workers, terms and conditions of employment, working hours, compensation, occupational safety and health, as well as regulations pertaining to child labor and migrant domestic workers.²²² Notably, with this Convention, States are made responsible for ensuring that domestic workers are afforded equitable employment terms and favorable working conditions,²²³ that include the provision to domestic workers of easily comprehensible details about their employment arrangements in order to address the common issue of domestic workers operating in isolated settings lacking access to crucial information.²²⁴ Moreover, the C189 states that domestic workers should enjoy equal treatment in terms of their working hours²²⁵ when compared to other workers and explicitly outlines entitlements, such as the minimum wage,²²⁶ a safe and healthy working environment,²²⁷ other than the already mentioned parity in social security protection,²²⁸ mirroring the rights of their counterparts in other professions. Additionally, the Convention mandates that states establish effective and accessible dispute resolution mechanisms²²⁹ specifically designed for domestic workers and Article 5 also underscores the necessity of offering "effective protection" also against instances of abuse, harassment, and violence.²³⁰

²²¹ *Ivi*, pp. 6-7.

²²² *Ivi*, p. 6.

²²³ Art. 6 of the Domestic Workers Convention no. 189, 2011.

²²⁴ Art. 7 of the Domestic Workers Convention no. 189, 2011.

²²⁵ Art. 10 of the Domestic Workers Convention no. 189, 2011.

²²⁶ Art. 11 of the Domestic Workers Convention no. 189, 2011.

²²⁷ Art. 13 of the Domestic Workers Convention no. 189, 2011.

²²⁸ Art. 14 of the Domestic Workers Convention no. 189, 2011.

²²⁹ Art. 16 of the Domestic Workers Convention no. 189, 2011.

²³⁰ Murphy C., *The enduring vulnerability of migrant domestic workers in Europe*, in "The International and Comparative Law Quarterly", Vol. 62, no. 3, Cambridge University Press, 2013, p. 604.

In setting all these standard, the Convention also places significant emphasis on the importance of consulting with the most representative organizations of employers and workers, as well as organizations representing domestic workers and employers of domestic workers, where applicable, when making changes to the rights and responsibilities of these groups.²³¹ As a matter of facts, the ILO also insisted that the expansion of labor rights must coincide with the creation of novel forms of associations and, when feasible, trade unions initiated by domestic workers themselves.²³²

Ultimately, it was clear these legal and socio-political shifts would not be possible without a cultural transformation concerning the societal perception of these laborers, aimed at combating the attached stigma. To this end, the Convention amalgamated the struggle for the specific labor rights of domestic workers with a broader endeavor for the human rights of especially susceptible groups, ranging from undocumented migrants to marginalized women of low caste or racial backgrounds.²³³ For instance, in Article 8, the Convention focuses on migrant domestic workers, stipulating that before crossing national borders, migrant domestic workers must receive a written job offer or a formal employment contract. Furthermore, Article 8(3) emphasizes the importance of ILO Members cooperating with each other to ensure the Convention's provisions are effectively applied to safeguard the rights of migrant domestic workers. Moreover, addressing the need for robust protection of migrant domestic workers against exploitative practices, Article 15 of the Convention specifically deals with the regulation of private employment agencies, highlighting the importance of regulating such agencies to prevent abusive practices in the recruitment and placement of migrant domestic workers. However, the Convention primarily addresses migrant domestic workers as "workers" rather than acknowledging them as migrants. Consequently, it still fails to adequately address crucial concerns such as the lack of opportunities for legal migration and the appropriate immigration status for these workers.²³⁴ Nonetheless, it establishes a foundational set of standards for an exemplary regulatory framework aimed at addressing employment-related challenges encountered by migrant domestic workers.²³⁵ As affirmed by the ILO, hence, the Convention can play a pivotal role in

²³¹ ILO, *Social protection for domestic workers*, *op. cit.*, p. 6.

²³² Marchetti S., Cherubini D., Garofalo G., *op. cit.*, pp. 4-5.

²³³ *Ibidem.*

²³⁴ Murphy C., *op. cit.*, p. 604.

²³⁵ *Ibidem.*

shaping labor laws pertaining to domestic workers.²³⁶ Moreover, when countries ratify it, they become bound by international legal obligations concerning domestic workers.²³⁷

Convention 189, hence, adopted an intersectional approach, simultaneously addressing matters of gender, race, ethnicity, religious affiliations, and class-based bias within workplaces, advocating for the safeguarding of the most vulnerable subsets of domestic workers, with a particular emphasis on migrant workers.²³⁸ What sets C189 apart is, therefore, its capacity to encompass individuals who were previously unseen.²³⁹

Moreover, Convention no. 189 is effectively complemented by the Social Protection Floors Recommendation, 2012 (no. 202), adopted two years later by the ILO to fully carry out its mandate in promoting social protection. This Recommendation, indeed, emphasizes the necessity of extending social security coverage to all individuals, including migrants, adapting the existing social security schemes to ensure their maximum inclusivity, in order for them to cover even flexible and atypical employment sectors like domestic work.²⁴⁰ Furthermore, the Domestic Workers Recommendation, 2011 (no. 201), urges member States of the ILO to take steps to simplify the payment of social security contributions and emphasizes the potential of bilateral and multilateral agreements to guarantee equal treatment of migrant domestic workers concerning social security. On top of that, it places significant emphasis on preserving acquired rights and on the unique challenges faced by migrant domestic workers. Lastly, Recommendation no. 201 makes reference to other Convention that establish fundamental principles with regard to the social security, namely, the Equality of Treatment (Social Security) Convention, 1962 (no. 118), the Maintenance of Social Security Rights Convention, 1982 (no. 157), and the Maintenance of Social Security Rights Recommendation, 1983 (no. 167).²⁴¹ Furthermore, other essential international standards that complement the labor protection framework for domestic work are the Forced Labour Convention, 1930 (no. 29), the Abolition of Forced Labour Convention, 1957 (no. 105), the Freedom of

²³⁶ ILO, *Effective Protection for Domestic Workers: A Guide to Designing Labour Laws*, (May 23, 2012), at https://www.ilo.org/travail/areasofwork/domestic-workers/WCMS_173365/lang--en/index.htm, p. 4.

²³⁷ *Ibidem*.

²³⁸ Schwenken H., *Speedy Latin America, Slow Europe? Regional Implementation Processes of the ILO Convention of Decent Work for Domestic Workers*, United Nations Research Institute for Social Development, Genève, 2013.

²³⁹ Marchetti S., Cherubini D., Garofalo G., *op. cit.*, pp. 4-5.

²⁴⁰ ILO, *Social protection for domestic workers*, *op. cit.*, p. 6.

²⁴¹ *Ibidem*.

Association and Protection of the Right to Organise Convention, 1948 (no. 87), the Right to Organise and Collective Bargaining Convention, 1949 (no. 98), the Minimum Age Convention, 1973 (no. 138), the Migrant Workers (Supplementary Provisions) Convention, 1975 (no. 143), the Migrant Workers Recommendation, 1975 (no. 151), and the Worst Forms of Child Labour Convention, 1999 (no. 182).²⁴²

To conclude, the adoption of the Convention no. 189 at the global level has had a ripple effect on local contexts through various channels. International standards and worldwide campaigns addressing this issue have been interpreted, adopted, or met with opposition in diverse manners by both institutional and non-institutional actors, including organizations representing domestic workers.²⁴³ As for Italy, the ratification of the Convention occurred in a top-down manner, but it was not followed by any specific legal reforms or implementation policies.²⁴⁴ Internationally, Italy is often cited as a positive example because the existing legislation is believed to align with the requirements of Convention 189, especially concerning tripartite negotiations and collective agreements within the domestic work sector.²⁴⁵ However, despite this favorable international assessment, organizations advocating for domestic workers' rights emphasize the need for improvements in the current national collective agreement governing domestic work to achieve full compliance with Convention 189, that would entail granting domestic workers equal rights as other workers – particularly in terms of maternity leave, access to healthcare and social security coverage – and establishing appropriate working hours for live-in workers. Nonetheless, there have been no visible initiatives from organizations or institutions to move in this direction and, in general, the decade 2008-2018, in Italy, was characterized by a lack of activity in the domestic workers' rights advocacy movement.²⁴⁶

2.3.2 Civil Code, Articles 2240-2246

As regards domestic legislation, domestic work in Italy is mainly regulated by Law 339/1958, Presidential Decree no. 1403/1971, National collective agreement 2023, and

²⁴² *Ibidem*.

²⁴³ Marchetti S., Cherubini D., Garofalo G., *op. cit.*, p. 2.

²⁴⁴ *Ivi*, p. 47.

²⁴⁵ Marchetti S., “*Domestic work is work*”? *Condizioni lavorative delle assistenti familiari in Italia, tra finzioni e realtà*, in R. Maioni R., Zucca G. (eds.), “Viaggio nel lavoro di cura. Chi sono, cosa fanno e come vivono le badanti che lavorano nelle famiglie italiane”, Ediesse, Rome, 2016, pp. 103-104.

²⁴⁶ Marchetti S., Cherubini D., Garofalo G., *op. cit.*, p. 47.

Articles 2240-2246 of the Civil Code. Also in legal terms, domestic work represents a distinct form of employment relationship, both in terms of its scope and the individuals involved. Unlike many other employment relationships, in fact, domestic employment does not typically pertain to an enterprise with an organized, often multi-faceted work structure that allows for substitutions or replacements. Instead, it primarily serves a small, homogeneous household, unfolding within the confines of daily private life and (limited) cohabitation.²⁴⁷ These distinctions are evident in the Civil Code of 1942, specifically in Title IV of Book V regarding labour regulation, which addresses "Employment in Particular Relationships". Notably, within it, Chapter II, titled "Domestic Work," contains certain specific provisions devoted to domestic workers, contained in Articles 2240 to 2246. The Code, in particular, provides some meager provisions regarding probationary periods, provision of board and lodging, rest periods, employment termination, and seniority indemnity, and Article 2240 explicitly refers only to customary agreements or practices – as they are more favourable to employees – to supplement these general regulations, also referring to Article 2068, which expressly excludes collective bargaining from this framework. However, the Constitutional Court, in its judgment no. 68 of 27 March 1969, declared the second paragraph of Article 2068 to be unconstitutional “in so far as it provides that employment relationships concerning domestic services are exempt from the discipline of the collective agreement”.²⁴⁸

With regard to the probationary agreement, Article 2241 provides that it must be concluded in writing and have a duration of eight days, during which both parties are free to withdraw, before final employment.²⁴⁹ After the end of the probationary period, instead, in accordance with Article 2244, if either contracting party wishes to withdraw from the contract of employment of indefinite, it shall give notice with a notice period of not less than eight days or, if the length of service exceeds two years, fifteen days.²⁵⁰ In the absence of notice, the resigning party is liable to the other party to an indemnity equivalent to the amount of the remuneration that would have been due for the period of notice.²⁵¹ However, where there is a cause which does not permit the continuation, even temporarily, of the relationship, either party may terminate the contract before the

²⁴⁷ Fatato G., Caso L., *Guida al lavoro domestico: L'assunzione, gli adempimenti del datore di lavoro, il rapporto di lavoro, i contributi*, EPC Libri, 2010, p. 13.

²⁴⁸ Italian Constitutional Court, judgment no. 68 of 1969.

²⁴⁹ Art. 2241 of the Italian Civil Code, 1942.

²⁵⁰ Art. 2244 of the Italian Civil Code, 1942.

²⁵¹ Art. 2118 of the Italian Civil Code, 1942.

expiry of the term, if the contract is a fixed-term contract, or without notice, if the contract is of indefinite duration (withdrawal for just cause).²⁵² An indemnity is also due to the employee in the event of termination of the contract, except in the case of dismissal through his own fault or voluntary resignation.²⁵³ On top of that, the Code recognises the employee's right to receive, upon termination of the contract, a certificate attesting to the nature of the duties performed and the period of service completed.²⁵⁴ With regard to the rights due to the employee, the Civil Code also provides that domestic workers – in addition to weekly rest in accordance with custom – are entitled to a period of paid leave, which may not be less than eight days²⁵⁵ and that live-in domestic workers are entitled – in addition to remuneration in money – to board and lodging and, in the case of short-term infirmity, to medical care and assistance.²⁵⁶

2.3.3 Law 339/1958

Domestic labor constitutes a form of subordinate employment in which the employer is not an entrepreneur but rather the individual in whose residence the worker carries out tasks aimed at fulfilling personal or family needs. Notably, according to Law no. 339 of 2 April 1958, a domestic worker is someone engaged in domestic services, dedicating a substantial portion of their workday – specifically at least four hours – to a single employer, who compensates them either with monetary payments or in-kind benefits.²⁵⁷ This Law – focused on safeguarding the domestic labor relationship – other than providing for a definition of domestic workers, constitutes a real additional regulatory framework for this employment arrangement. In particular, it addresses aspects not covered by the Civil Code, such as recruitment procedures, underage labor, the rights and responsibilities of both parties involved, working hours, vacation entitlements, marital leave, trade union relationships, compensation in the event of a worker's demise, and the provision of a thirteenth month's salary.²⁵⁸ With regard to workers' rights, for example, the law stipulates that live-in domestic workers must be guaranteed “an environment that is not detrimental to the worker's physical and moral integrity, as well

²⁵² Art. 2119 of the Italian Civil Code, 1942.

²⁵³ Art. 2245 of the Italian Civil Code, 1942.

²⁵⁴ Art. 2246 of the Italian Civil Code, 1942.

²⁵⁵ Art. 2243 of the Italian Civil Code, 1942.

²⁵⁶ Art. 2242 of the Italian Civil Code, 1942.

²⁵⁷ Art. 1 of the Law no. 339/1958.

²⁵⁸ Fatato G., *Caso L.*, *op. cit.*, p. 10.

as healthy and sufficient nutrition”²⁵⁹ and “the time necessary to fulfill the obligations and the essential duties of their religion”.²⁶⁰

Additionally, this law introduces more detailed guidelines for matters that were already addressed, such as the probationary period, rest periods, vacation policies, notice periods, and seniority-based compensation.²⁶¹ As for rest periods and vacation, for instance, the Law states that the worker is entitled to a weekly rest period of one full day or two half-days,²⁶² and to an adequate rest during the day and not less than eight consecutive hours of night rest, or, in the case of necessary night work, an adequate compensatory rest during the day.²⁶³ As to holidays, on the other hand, the law provides for fifteen to twenty-five consecutive days per year, depending on the type of work performed and years of seniority.²⁶⁴

Furthermore, the legislation envisages 'national trade associations' for domestic workers²⁶⁵ and 'trade union associations',²⁶⁶ as well as 'associations representing families' for (domestic) employers,²⁶⁷ paving the way for the acknowledgment of a significant role in collective bargaining concerning domestic labor-related issues. Notably, the law provides for the formation of a central commission and provincial commissions, made up of representatives of domestic workers and employers, as well as representatives of institutions, with the primary purpose of formulating proposals and establishing rules for better protection of domestic workers.²⁶⁸

Lastly, Law 339 marks an essential milestone in the recognition of the rights of care and domestic workers, introducing, within Article 5, a comprehensive system that classified workers into occupational categories, taking into account their qualifications.²⁶⁹

²⁵⁹ Art. 6 of the Law no. 339/1958.

²⁶⁰ *Ibidem*.

²⁶¹ Fatato G., Caso L., *op. cit.*, p. 10.

²⁶² Art. 7 of the Law no. 339/1958.

²⁶³ Art. 8 of the Law no. 339/1958.

²⁶⁴ Art. 10 of the Law no. 339/1958.

²⁶⁵ Art. 2 of the Law no. 339/1958.

²⁶⁶ Arts. 11-12 of the Law no. 339/1958.

²⁶⁷ Art. 11 of the Law no. 339/1958.

²⁶⁸ Arts. 11-14 of the Law no. 339/1958.

²⁶⁹ Degani P., *Domestic/Care Work and Severe Exploitation. The Limits of Italian Migrant Regularization Schemes*, in “Frontiers in Human Dynamics”, Vol. 4, 2022, p. 7.

2.3.4 Presidential Decree no. 1403/1971

Presidential Decree no. 1403 of 1971 represents another of the main regulatory sources regarding domestic work in Italy. This Decree introduces more detailed definitions than those seen for the application of legal or collective regulations. In particular, this Decree defines domestic and care workers as collaborators “who perform, exclusively for the functioning of family life, the tasks indicated by the laws governing the domestic employment relationship”.²⁷⁰ And it also includes within the scope of domestic work the relationships between individuals bound by family or affinity ties, but specifies that in such cases, the relationship is presumed to be unpaid, thus excluding the emergence of contribution obligations, unless proven otherwise.²⁷¹

Moreover, Presidential Decree no. 1403 of 31 December 1971 extended compulsory social insurance to the domestic employment relationship regardless of the duration of daily work, therefore, improving social security and welfare benefits for domestic and care workers.²⁷² Notably, the Decree extended to them: insurance against accidents at work; sickness insurance for dependent family members, insurance against involuntary unemployment; family allowances; and daily allowance for the period of compulsory maternity leave.²⁷³ Consequently, from the date of entry into force of the Presidential Decree, employers had to insure all domestic workers, regardless of the duration of the work and even if the work is carried out occasionally.²⁷⁴

2.3.5 National Collective Bargaining Agreement in Domestic Work

Between the end of the 60s and the beginning of the 70s, the need for a collective bargaining in the sector of domestic work started to be clear. Therefore, after numerous years of negotiations, on May 22, 1974, the first National Collective Bargaining Agreement in the field of Domestic Work, known as the *Contratto Collettivo Nazionale di Lavoro Domestico* (CCNLD), was officially ratified. The first CCNLD introduced regulations that closely resembled those found in Law No. 339/1958. However, it departed from the law in two key ways. Firstly, it extended its coverage to all domestic workers engaged in continuous employment, as opposed to exclusively those working

²⁷⁰ Art. 1 of the Presidential Decree no. 1403/1971.

²⁷¹ *Ibidem.*

²⁷² *Ibidem.*

²⁷³ INAIL, Circolare no.47 del 12 giugno 1972.

²⁷⁴ *Ibidem.*

more than four hours per day for a single employer. Secondly, unlike the law, which solely established minimum rest periods, the CCNLD of 1974 was groundbreaking in that it set a limit to the maximum working hours for domestic workers at 11 hours per day and 66 hours per week.²⁷⁵ Since that milestone, the CCNLD has undergone ten subsequent rounds of renegotiations in order to further foster domestic workers' rights. The CCNLD-2007, for instance, led to significant modifications. Notably, it introduced new categories of professional work within the domestic work realm, each featuring two tiers – one for individuals with formal training and one for those without.²⁷⁶ Furthermore, to address regulatory deficiencies pertaining to paid sick leave and professionalization, two bilateral bodies were established, i.e. Cas.sa.colf, responsible for administering a healthcare fund, and Ebincolf, an entity focused on training and research.²⁷⁷ The CCNLD-2020, instead, established a regulatory framework aimed at professionalizing domestic work. The term 'family assistant' now serves as the overarching designation for the three categories of domestic workers – multifunctional domestic workers (colf), babysitters, and live-in care workers (badanti) – and is not merely a label anymore. This term has, indeed, evolved into an official professional title that domestic workers can attain. Starting from January 2021, the bilateral training body known as Ebincolf, created by social partners, has gained accreditation to certify the competence of domestic workers either after completing a training course or by passing an examination.²⁷⁸ Furthermore, CCNLD-2020 entailed incentives for this professionalization process, by providing for an additional 24 hours of paid leave, resulting in a total of 64 hours of paid leave per year, for domestic workers who undergo a course recognized and funded by Ebincolf. Moreover, these courses offer more than just formal training; they also offer an opportunity for workers to combat their isolation by interacting with colleagues and sharing experiences.²⁷⁹ Additionally, they help workers enhance their practical and professional skills, including improving their proficiency in the Italian language and deepening their knowledge of Italian cuisine. Despite the time that workers need to take off from their jobs for these training

²⁷⁵ Ioli A., *Dal Primo Contratto Collettivo sul Lavoro Domestico ai Giorni Nostri*, in Sarti R. (ed.) "Lavoro Domestico e di Cura: Quali Diritti?", Ediesse, Roma, 2010, pp. 193-194.

²⁷⁶ Seiffarth M., *Collective bargaining in domestic work and its contribution to regulation and formalization in Italy*, in "International Labour Review", (December, 07, 2022), at <https://doi.org/10.1111/ilr.12382>, p. 13.

²⁷⁷ Ioli A., *op. cit.*, p. 200.

²⁷⁸ Seiffarth M., *op. cit.*, pp. 13-14.

²⁷⁹ *Ivi*, p. 14.

programs, employer representatives report that family employers appreciate these initiatives, as they ultimately benefit from the improved quality of care provided. This also highlights the shared interest of both workers and employers in enhancing working conditions and exemplifies their general inclination toward mutually agreed-upon negotiations.²⁸⁰

The existence of a CCNLD, since the first one, indeed, represented – and still does – the vital roles played by both trade union and employer representatives as central regulatory actors, shaping a comprehensive system of industrial relations within the realm of domestic and care work.²⁸¹ As a matter of facts, trade unions have historically and are currently pivotal in the regulation of the domestic work sector, enhancing working conditions for domestic workers. And, in Italy, these union activities have also run in parallel with the efforts of organizations representing employers. Remarkably, Italy stands out as the sole European country with dedicated bodies representing domestic employers, i.e. families.²⁸²

Presently, the CCNLD stands as the most comprehensive collective agreement within Italy’s domestic work sector, ensuring a wide range of labor and social protections for domestic workers, and operating alongside – rather than in lieu of – Law no. 339/1958, thus, regulating aspects of domestic work employment that fall outside the scope of the law.²⁸³

Technically, the CCNLD exclusively encompasses domestic workers – i.e. housekeepers, caregivers, babysitters and other professional figures such as gardeners, drivers, kitchen helpers, etc. – including non-Italian citizens, with formal employment status (meaning they are registered with social security and their contracts are under the purview of one of the social partners’ organizations) and hired by families (meaning that the CCNLD does not extend to professionals performing similar tasks within institutions such as hotels, nursing homes, clinics, etc.).²⁸⁴ Nevertheless, the CCNLD exerts an influence on other workers as well, including those engaged in informal employment, as it serves as a point of reference in labor disputes.²⁸⁵

²⁸⁰ *Ibidem.*

²⁸¹ De Vita L., Corasaniti A., *Regulating domestic and care work in Italy: Assessing the relative influence of the familistic model today*, in “Critical Social Policy”, Vol. 42, no. 3, 2021, p. 533.

²⁸² *Ibidem.*

²⁸³ Seiffarth M., *op. cit.*, p. 12.

²⁸⁴ Art. 1 of the National Collective Bargaining Agreement in Domestic Work, 2020.

²⁸⁵ Seiffarth M., *op. cit.*, p. 12.

Throughout its existence, the CCNLD has provided an extensive regulatory framework for the domestic work sector.²⁸⁶ The main goal is clearly to elevate the professionalism of a sector that is currently characterized by significant disparities and that is experiencing substantial growth and needs safeguards against profit-driven efforts to lower wages, which could ultimately undermine the quality of work.²⁸⁷

To this end, first of all, within the CCNLD, family assistants are classified into four levels - A, B, C, and D. Two salary parameters correspond to each of them, the highest of which is called 'Super'. In particular, family assistants belong to levels A and B when they carry out their duties at executive level and under the direct control of the employer, performing tasks that require, respectively, general skills (e.g. cleaner, laundry's responsible, companionship's responsible, etc.) and specific skills (e.g. driver, gardener, babysitter, carer of self-sufficient persons, etc.). Whereas, on the other hand, family assistants who perform tasks characterised by 'total autonomy and responsibility' (e.g. cook and untrained caregiver of dependent persons) and 'responsibility, decision-making autonomy and/or coordination' (e.g. trained caregiver of dependent persons, butler, administrator of family property, etc.) belong to levels C and D respectively.²⁸⁸

With regard to holidays, Art. 17 of the CCNLD provides that, in addition to leave and national holidays and regardless of the duration and distribution of working time, for each year of service with the same employer, the employee is entitled to a holiday period of 26 working days, which are normally of a continuous nature. However, they may be divided into no more than two periods per year, provided that this is agreed between the parties, on condition that, of the 26 days, two weeks are taken within the year in which they accrue, and the remaining period within 18 months of the year in which they accrue, except in cases where the worker of non-Italian citizenship needs to take a longer period of leave than that provided for above and for the purpose of non-definitive repatriation. In this case, in fact, at his request, he may agree with his employer to accumulate this period, but within a maximum of two years.²⁸⁹

Ordinary working time is, on the other hand, set at a maximum of 10 hours per day (non-consecutive and with breaks), for a total of 54 hours per week, for live-in workers;

²⁸⁶ *Ibidem*.

²⁸⁷ De Vita L., Corasaniti A., *op. cit.*, p. 544.

²⁸⁸ Art. 9 of the National Collective Bargaining Agreement in Domestic Work, 2020.

²⁸⁹ Art. 17 of the National Collective Bargaining Agreement in Domestic Work, 2020.

and 8 hours per day (non-consecutive and with breaks), for a total of 40 hours per week, spread over 5 days or 6 days, for non-cohabiting workers.²⁹⁰ Moreover, Article 15 also states that ‘the employee may be required to work overtime, either during the day or at night, unless there is a justified reason for his or her inability to do so, but in no case shall overtime work jeopardise the right to daily rest’.²⁹¹

With regard to the probationary period, Article 12 of the CCNLD confirms the 8 days provided for in the Civil Code, but extends the period to 30 days for workers classified in levels D and D Super and cohabiting workers, regardless of their classification level.²⁹²

Furthermore, Article 28 affirms the right of every worker to a safe and healthy working environment, also stating that ‘the employer shall ensure that all installations relating to domestic utilities are provided with a certificate of compliance with the law and shall ensure that the worker is informed of any risks existing in the working environment relating also to the use of equipment and exposure to particular chemical, physical and biological agents’.²⁹³ Whereas Article 36 states that ‘the working environment must not be detrimental to the worker's physical and moral integrity; the food provided must ensure a healthy and sufficient diet that is adequate in quantity and quality; and the cohabiting worker must be provided with suitable accommodation to safeguard his dignity and privacy’.²⁹⁴

Nonetheless, certain limitations concerning parity in treatment, sufficient representation, and the dynamics of collective bargaining continue to endure within the domain of domestic work.

As a matter of facts, despite collective bargaining serving as an effective tool to address legislative shortcomings and complement Special Law no. 339/1958, disparities in the treatment of domestic workers persist within the framework of the CCNLD. These disparities are evident in areas such as working hours, termination of employment, and maternity benefits.

To illustrate, first of all, the CCNLD remains in violation of the EU Working Time Directive no. 22 by permitting live-in care workers to work a maximum of 10 non-consecutive hours per day and 54 hours per week, in contrast to the 8 daily and 40

²⁹⁰ Art. 14 of the National Collective Bargaining Agreement in Domestic Work, 2020.

²⁹¹ Art. 15 of the National Collective Bargaining Agreement in Domestic Work, 2020.

²⁹² Art. 12 of the National Collective Bargaining Agreement in Domestic Work, 2020.

²⁹³ Art. 28 of the National Collective Bargaining Agreement in Domestic Work, 2020.

²⁹⁴ Art. 36 of the National Collective Bargaining Agreement in Domestic Work, 2020.

weekly hours allowed for live-out domestic workers and employees in other sectors.²⁹⁵ This divergence not only restricts opportunities for overtime work but also results in reduced overtime compensation for live-in workers, as they must work more hours before becoming eligible for overtime pay, and even when they do, they receive lower additional compensation.²⁹⁶

Moreover, the application of maternity protection laws to domestic workers remains incomplete, contravening Art. 14 of C189, which calls for equal treatment of domestic workers compared to other workers. As a matter of facts, according to Article 25 of the CCNLD, domestic workers are entitled to a five-month maternity leave (comprising two months before and three months after childbirth) at 80% of their regular wage. However, they are not entitled to additional benefits or extended parental leave, and their employment can be terminated at the conclusion of their maternity leave.²⁹⁷ In contrast, workers in other sectors can avail a one-month parental leave at 80% of their wage at any time until their child reaches the age of six, along with an eight-month parental leave at 30% of their wage, applicable until their child reaches 12 years of age.²⁹⁸ Furthermore, they are protected from dismissal until their child turns one year old.²⁹⁹ Worker representatives have sought to establish similar maternity rights to align domestic workers' benefits with those of other workers. However, employers' associations have been reluctant to engage in these discussions. They argue, in fact, that enhanced protection would exceed the contractual obligations of the CCNLD, potentially making it less attractive to family employers who might opt for a more 'employer-friendly' contract elsewhere.³⁰⁰

Furthermore, regarding representation, there is an issue where even when employers' associations are actively engaged and participating, domestic workers are not adequately represented or organized through other means.³⁰¹ In fact, throughout the collective bargaining process in Italy, the same organizations have been representing domestic workers since the beginning. While this may ensure continuity and strong

²⁹⁵ Seiffarth M., *op. cit.*, p. 21.

²⁹⁶ Scheiwe K., *Domestic workers, EU working time law and implementation deficits in national law: change in sight?*, in "EUI Working Paper Law", Vol. 3, 2021, p. 14.

²⁹⁷ Art. 25 of the National Collective Bargaining Agreement in Domestic Work, 2020.

²⁹⁸ Legislative Decree no. 105/2022.

²⁹⁹ Legislative Decree no. 151/2001.

³⁰⁰ Seiffarth M., *op. cit.*, p. 22.

³⁰¹ Marchetti S., Cherubini D., Garofalo G., *op. cit.*

collaboration,³⁰² it risks to also fosters a sense of institutional complacency with unconscious biases regarding domestic workers and their often immigrant status.³⁰³ Particularly concerning the specific needs and heightened vulnerability of migrant domestic workers to exploitation, there also appears to be a lack of political and moral commitment on the part of workers' representatives to advocate for all domestic workers in the same way they would for workers in other sectors during collective bargaining.³⁰⁴ There is, therefore, a pressing need to examine the underlying causes for the low rates of organized (migrant) domestic workers and their absence from the actual bargaining table.³⁰⁵

On top of that, another limitation is represented by the persistent informality that has characterized, and still characterize, the domestic work sector in Italy. Trade unions and employers' associations have also actively collaborated to address it. However, despite the creation of the CCNLD, the sector largely continues to operate informally. From this standpoint, on the one hand, collective bargaining has presented a potential avenue for reducing undeclared work and enhancing working conditions, but, on the other hand, it has also served to prevent the government from being held responsible for its inability to bring domestic and care services under public management.³⁰⁶

Moreover, the historical reliance on families to act as the primary providers of the social safety net, combined with Italy's limited and less impactful work-life balance policies, has led lawmakers to endorse measures that empower families to directly hire domestic and care personnel. And it is worth noting that this family-as-employer dynamic is an exceptional situation. As a matter of facts, families, as employers, are distinct from traditional profit-driven employers, as their primary focus lies in meeting their own needs.³⁰⁷ Moreover, it's essential to recognize that both family employers and domestic workers have their vulnerabilities. As a matter of facts, if domestic workers, predominantly migrant women, often find themselves at the fringes of Italian society, facing various challenges, on the other hand, employers of domestic workers tend to be, on average, over 65 years old,³⁰⁸ may be dealing with multiple health issues, and could

³⁰² Ioli A., *op. cit.*, p. 195.

³⁰³ Seiffarth M., *op. cit.*, p. 24.

³⁰⁴ *Ibidem.*

³⁰⁵ *Ivi*, p. 25.

³⁰⁶ De Vita L., Corasaniti A., *op. cit.*, p. 533.

³⁰⁷ *Ibidem.*

³⁰⁸ Osservatorio DOMINA sul lavoro domestico, *2° Rapporto Annuale sul Lavoro Domestico*, 2020, p. 50.

be stretching their financial resources to be able to employ someone.³⁰⁹ Therefore, the collective bargaining process in the context of domestic work differs from traditional labor negotiations that involve capital versus labor, as it encompasses profound power imbalances and necessitates the integration of the needs and concerns of both families and workers. However, if, on the one hand, balancing these unique vulnerabilities and requirements is crucial for fostering a fair and equitable framework for domestic work, that also meets the needs of families, on the other, the result is that the procedures for managing employment relationships in this context are more straightforward, with less stringent obligations and penalties.³¹⁰ Consequently – because of the power placed in the hands of families and the adoption of less stringent rules – the adoption of the standard contract depends greatly on the willingness of families to utilize it, and this willingness is strongly influenced by their economic resources. Implementing the contract – which includes provisions for social security, holidays, overtime, and sick leave payments – indeed, entails higher costs for family employers that may discourage the use of it.³¹¹ Moreover, even after entering into a contract, families who are left to manage the employment relationship on their own have different chances to deviate from its terms, reducing, for instance, hourly wages or failing to provide compensation for holidays or overtime.³¹² These significant areas of flexibility not only emphasize the central role of families, shifting them from caregivers to care managers³¹³, but they also foster the growth of a substantial unregulated informal market, that can be thought of as an "invisible welfare" system,³¹⁴ primarily sustained by migrant workers.³¹⁵

2.4 Intersectional (situational) vulnerabilities of migrant domestic and care workers in Italy: definition and legal recognition

The lack of tailored legal recognition and protective measures tends to overshadow the essential work of migrant domestic workers that – despite significantly contributing to

³⁰⁹ Seiffarth M., *op. cit.*, p. 26.

³¹⁰ De Vita L., Corasaniti A., *op. cit.*, p. 533.

³¹¹ *Ivi*, p. 535.

³¹² Marchetti S., *Lavoro e conflitto nel servizio domestico*, in Catanzaro R., Colombo A (eds.), "Badanti & Co. Il Lavoro Domestico Straniero in Italia", Il Mulino, Bologna, 2009, p. 331.

³¹³ Ambrosini M., *Employers as "care managers": Contracts, emotions and mutual obligations within Italy's Invisible welfare system*, in Triandafyllidou A., Marchetti S. (eds.), "Employers, Agencies and Immigration. Paying for Care", Routledge, New York, 2015, pp. 17–33.

³¹⁴ Ambrosini M., *Irregular Migration and Invisible Welfare*, Palgrave Macmillan, UK, 2013.

³¹⁵ De Vita L., Corasaniti A., *op. cit.*, p. 535.

the economies and welfare of host countries – in the intricate intersection of global migration and domestic labour, experience the convergence of multiple layers of vulnerability. Seeking employment and stability in foreign countries, they often find themselves at the crossroads of intersecting challenges, especially due to their migrant status, their gender and their role as domestic workers. Focusing on the context of Italy, the following analysis explores the realm of vulnerabilities faced by migrant domestic workers through the adoption of a gender-centered intersectional approach. Notably, by focusing on the landscape of these vulnerabilities and their definition and legal recognition, this analysis aims to analyze the difficulties these workers face daily, urging to reconsider existing paradigms of protection and advocate for a more inclusive and equitable framework.

Since the latter part of the 1990s, the concept of intersectionality has been embraced as a pivotal tool for investigating an extensive spectrum of discriminations, political initiatives and social movements.³¹⁶ Recently, adopting this approach, many research has brought to light the exploitation faced by women, particularly migrant women, across different labor sectors, highlighting the intricate interplay of factors that make these women susceptible to exploitative dynamics. Emerging from the realms of Black, postcolonial, lesbian feminisms, and critical race theory, intersectional analyses, indeed, unveil the intricate interplay among various dimensions of social differentiation – such as race, gender, class, age, sexuality, ability, religion, origin, nationality, and more – that mold individuals' lives, identities, societal disparities, and power dynamics.³¹⁷ In particular, a gender-centered analysis of vulnerability, especially with regard to women, involves acknowledging their subordinate status within patriarchal structures, which is intertwined with various factors, including capitalism – especially neoliberal policies – and other forms of discrimination.³¹⁸ However, applying an intersectional approach also necessitates avoiding the oversimplification of perspectives regarding individuals' encounters, and striving for a more profound comprehension of the authentic factors that either unite or differentiate them. Essentially, an intersectional outlook implies acknowledging that even among individuals who outwardly share similar experiences or

³¹⁶ Cho S., Crenshaw K. W., McCall L., *Toward a Field of Intersectionality Studies: Theory, Applications, and Praxis*, in “Signs”, Vol. 38, no. 4, *Intersectionality: Theorizing Power, Empowering Theory*, 2013, pp. 800-804.

³¹⁷ Marchetti S., Cherubini D., Garofalo G., *op. cit.*, p. 7.

³¹⁸ Giammarinaro M. G., Palumbo L., *Situational Vulnerability in Supranational and Italian Legislation and Case Law on Labour Exploitation*, (April 07, 2022), at <https://www.vulner.eu/99788/Situational-Vulnerability>.

social circumstances, there can still be significant distinctions. Within the examination of migrant domestic labor, this phenomenon manifests across two distinct levels: in the disparities *among* migrant domestic workers resulting from factors such as their diverse nationalities, gender, ages, legal statuses, and so on and so forth, and in the disparities that exists *within* this labour market and leads to certain workers occupying more advantageous positions compared to others.³¹⁹

As for the disparities among migrant domestic workers, for instance, according to a comprehensive survey conducted by the Fundamental Rights Agency (FRA) involving 23,500 immigrants and ethnic minorities in the EU27 countries, individuals belonging to 'visible' minorities (those with distinctive physical appearances) more frequently reported experiencing discrimination.³²⁰

Moreover, non-EU female migrants have been identified as the migrant subgroup that experiences the lowest level of integration.³²¹

However, at the same time, Romanian workers, due to their status as EU citizens, are often utilized as a source of inexpensive labor, precisely because their employers cannot be held accountable for exploiting undocumented migrants.³²² Furthermore, the ease of crossing internal borders within the EU results in a phenomenon known as 'circular migration'³²³ – i.e. 'a repetition of legal migration by the same person between two or more countries'³²⁴ – which actually facilitates their exploitation. Lastly, migration from Eastern Europe is notably characterized by a high proportion of women and primarily consists of women who are "migrating alone", therefore, this specific demographic composition can give rise to distinct vulnerabilities that contribute to exploitative dynamics.³²⁵

On top of that, migrant domestic workers have been proved to be more vulnerable during their initial phase after arrival.³²⁶ As highlighted by the International Labour

³¹⁹ Marchetti S., *Migration and Domestic Work*, *op. cit.*, p. 53.

³²⁰ FRA, *EU MIDIS: Data in Focus Report: Multiple Discrimination*, 2011.

³²¹ Gallotti M., Mertens J., *op. cit.*, p. 8.

³²² Palumbo L., Sciarba A., *Vulnerability to Forced Labour and Trafficking. The Case of Romanian Women in the Agricultural Sector in Sicily*, in "Antitrafficking Revue", Vol. 5, 2015, pp. 89-108.

³²³ Triandafyllidou A., *Irregular Migrant Domestic Workers in Europe. Who Cares?*, Farnham: Ashgate, 2013.

³²⁴ European Commission, *European Commission Communication on Circular Migration and Mobility Partnerships*, 2007.

³²⁵ Vianello F. A., *Migrando sole. Legami transnazionali tra Ucraina e Italia*, FrancoAngeli, Milano, 2009.

³²⁶ Gallotti M., Mertens J., *op. cit.*, p. 19.

Organization, indeed, the early phase of arrival is marked by a heightened susceptibility influenced by migrants' urgent economic necessities – often tied to covering travel costs and debts – as well as a lack of awareness regarding rights and access to support networks in the destination country. As a matter of facts, despite frequently proving to be among the most resourceful individuals within their home communities – possessing valuable human capital that is much needed – as they first arrive, migrants often find themselves agreeing to engage in the most vulnerable and labor-intensive tasks of domestic work, frequently taking on roles as live-in workers providing care for non-dependent family members.³²⁷ Notably, migrant workers without legal status rarely perceive themselves as holders of rights and generally hesitate to express their grievances over inadequate working conditions. This does not imply an unquestioning acceptance of this situation; on the contrary, they can gradually get to know the 'unwritten rules of informality' and use them to improve their working conditions and prospects. However, the prevailing power imbalance and dependency intrinsic to domestic labor relationships often obstruct these efforts, keeping numerous migrant domestic workers in a state of vulnerability over an extended period.³²⁸

Simultaneously, differences within the domestic labour market itself also contribute to making one or the other migrant worker more or less vulnerable, and thus, more or less exposed to discrimination and exploitation, by making them hold more or less advantageous positions. In this respect, an excellent analysis of the domestic labour market is provided by Marchetti in her book 'Migration and Domestic Work'.³²⁹

First of all, Marchetti underlines how the market is influenced by 'essentialist gendered assumptions' regarding the "traditional culture" of migrant women and an overly idealized perception of family dynamics within their countries of origin, that lead clients to have preferences on the ethnicity, religion, nationality of their domestic workers, and sometimes even hostility towards those who do not meet their expectations.

Secondly, continuing in a similar vein, Marchetti mentions the difference between domestic workers engaged in traditional household-based domestic service and those employed in organized home care within the non-profit sector. A significant portion of caregivers associated with these cooperatives possess formal qualifications and their job constitutes an opportunity of professional and societal advancement for them. As a

³²⁷ *Ibidem.*

³²⁸ *Ibidem.*

³²⁹ Marchetti S., *Migration and Domestic Work, op. cit.*

matter of facts, individuals in these roles have the opportunity to collaborate within a team and benefit from guidance and oversight provided by certain cooperatives. These advantages help offset the adverse working conditions and the challenges faced by caregivers as they transition between multiple clients throughout the course of their workday.³³⁰ Therefore, once again, beneath the overarching categorization, it emerges an intricately nuanced panorama that encompasses various overlapping personal attributes, including the educational and professional backgrounds of these migrant laborers.

Lastly, Marchetti highlights the previously mentioned distinction among domestic workers engaged in live-out and live-in roles, where the former are responsible for a greater variety of tasks, such as hourly cleaning, babysitting, or daytime elderly care, whereas the latter are responsible for full-time assistance to elderly individuals or children within their residences, as well as household cleaning, gardening, and shopping. This distinction in employment often contributes to the reproduction of an intersectional hierarchy among migrant workers – shaped by factors such as the racialized backgrounds and gender of employees, the host country citizenship rights, and so on and so forth – since those who opt for live-in positions – typically considered more demanding – are often individuals with fewer opportunities in the labor market due to their personal attributes. These workers often express discontent regarding their limited leisure time and the sensation of being wholly absorbed into the family life of the person they are assisting.³³¹ Nevertheless, these positions enable workers to save a significant portion of their income, as accommodation and food are provided by their employers, which is particularly vital as they usually remit these savings to their families back home.³³² Conversely, live-out work is often viewed as a more favorable option for migrant domestic workers as women in these roles have the opportunity to live independently, potentially accommodating their husbands and children and cultivate personal interests and pursuits beyond work, including cultural and political activities.³³³

On top of that, in determining the vulnerability of domestic workers a major role is also played by the regulation of this sector. The difficulties in overseeing private residences

³³⁰ *Ivi*, pp. 54-55.

³³¹ *Ivi*, p. 54.

³³² Bocagli P., Ambrosini M., *Cercando il benessere nelle migrazioni. L'esperienza delle assistenti familiari straniere in Trentino*, FrancoAngeli, 2012, pp. 35-39.

³³³ Marchetti S., *Migration and Domestic Work*, *op. cit.*, p. 54.

as places of work and the consequent omission of domestic/care workers from enforced labor regulations, indeed, contribute to the heightened vulnerability of household workers, especially migrant domestic workers.³³⁴

While these observations of disparities do not inherently demonstrate instances of discrimination, they do serve to highlight discrepancies in outcomes and potential vulnerabilities for migrant laborers. Specifically, they shed light on the distinct vulnerabilities or hazards to which various subsets of migrants are exposed.³³⁵ Moreover, emphasizing the connection between individuals' vulnerability and their power and social positioning, as well as other individual and structural factors, feminist scholars have challenged the notion of vulnerability as an unchanging or rigid trait. Notably, they have taken into account the interplay of personal and structural factors which make a person vulnerable to exploitation or abuse by others and this have led to the development of a 'situational' understanding of vulnerability.³³⁶ Within this framework, vulnerability is not in opposition to, nor does it exclude, one's agency – as more accurately explored in the next paragraph. Instead, it acknowledges the manners in which individuals take action, navigate, and exercise their choices within circumstances defined by systemic injustices and disparities.

However, as highlighted by Giammarinaro and Palumbo in their analysis on “Situational Vulnerability in Supranational and Italian Legislation and Case Law on Labour Exploitation”, a paradox arises when considering institutional actors that still tend not to apply this gender-focused approach to women's vulnerability. Even when applied, indeed, this perspective tends to reinforce traditional patriarchal stereotypes, depicting women as innately 'weak' and 'vulnerable', thus legitimizing paternalistic interventions that can further jeopardize those they aim to protect. Since the cases of exploitation frequently pertain to extraordinary circumstances where individuals confront an 'unfeasible decision' between incomparable necessities – such as self and familial survival versus respectable employment – this 'situational' comprehension of vulnerability would, instead, require a case-by-case evaluation of the interaction between individual and situational elements that give rise to it.³³⁷

³³⁴ Degani P., *op. cit.*, p. 6.

³³⁵ European Parliament, *Discrimination of migrant workers at the workplace*, (April, 2014), at https://www.europarl.europa.eu/RegData/etudes/note/join/2014/518768/IPOL-EMPL_NT%282014%29518768_EN.pdf, p. 43.

³³⁶ Giammarinaro M. G., Palumbo L., *op. cit.*

³³⁷ *Ibidem.*

Among the judicial decisions of the European Court of Human Rights, for instance, only in 2017, for the first time, the Court addressed a case of labour exploitation of undocumented migrants working in the agricultural sector in Greece taking into account the ‘situational’ character of vulnerability of the workers, as well as their consent to exploitation, pointing out that “where an employer abuses his power or takes advantage of the vulnerability of his workers in order to exploit them, they do not offer themselves for work voluntarily. The prior consent of the victim is not sufficient to exclude the characterisation of work as forced labour. The question whether an individual offers himself for work voluntarily is a factual question which must be examined in the light of all the relevant circumstances of a case. [...] In the present case the Court notes that the applicants began working at a time when they were in a situation of vulnerability as irregular migrants without resources and at risk of being arrested, detained and deported”.³³⁸

In a similar manner, within the Italian case law on international protection, this approach has been applied by the Tribunal of Milan for the decision RG. 57114/2018 of 12/05/21, recognizing the humanitarian protection to an asylum seeker exploited in the agricultural sector in Italy. In this decision, indeed, the judge states that the “humanitarian protection [...] is rooted in the constitutional right of asylum, and the unreported condition of labour exploitation clearly integrates an element of the already extensive vulnerability present in this case. A vulnerability that has its roots in the total absence of concrete alternative solutions, given the impossibility of finding a regular job combined with the fear of losing the one found, which - although irregular and lacking the minimum guarantees of protection - allows them to survive in an extremely inhuman context”.³³⁹

Nonetheless, also from Giammarinaro and Palumbo's analysis, it emerges that, apart from some significant rulings by the European Court of Human Rights concerning the exploitation of sex work and domestic servitude, along with few national judicial decisions, there exists a dearth of substantial legal precedent regarding the exploitation of women in labor – especially migrant women. And this deficiency underscores the challenges in finding out and tackling such instances, as well as acknowledging the associated states of vulnerability.³⁴⁰

³³⁸ ECtHR, *Case of Chowdury and Others v. Greece*, no. 21884/15, 2017.

³³⁹ Tribunal of Milan, decision RG. 57114/2018 of 12/05/2021.

³⁴⁰ Giammarinaro M. G., Palumbo L., *op. cit.*

2.5 The exploitation of female migrant domestic and care workers in Italy and the other intersectional vulnerability factors

In comparison to the other work sectors, migrant care workers are employed in a market that lacks substantial regulation or safeguards. This lack of regulation, coupled with the private nature of domestic caregiving and the condition of vulnerability often faced by migrant domestic workers, makes them being particularly susceptible to poor wages, strenuous work conditions, and various forms of exploitation including racial, gender-related, and sexual harassment.³⁴¹ This paragraph focuses on the conditions under which these workers operate, shedding light on the multifaceted vulnerabilities they confront and the intricate interplay of intersecting factors that exacerbate their situation.

Due to its poor regulation, private nature and the relative difficulty of monitoring it, the domestic sector is highly characterized by informality, legal non-compliance,³⁴² and the significant presence of irregular migrant workers.³⁴³ Moreover, although being undeniably essential for the whole society and demanding for workers, domestic care continues to be both formally and culturally categorized as unskilled labor primarily associated with women and, therefore, not recognized as legitimate employment.³⁴⁴ The characteristics of the sector, combined with this public perception of domestic work, often result in inadequate remuneration and poor working conditions. Notably, the working conditions experienced by domestic workers frequently are below the minimum level of protection mandated by law, with – but not limited to – long working hours, the absence of provisions for sick or annual leave, abrupt and unilateral changes to working time arrangements, including unannounced cancellations of work hours, inadequate payment, and a lack of safeguards related to maternity protection.³⁴⁵ Regarding the working hours, for instance, even if collecting data is especially challenging and varies substantially between countries, as for Italy, the existing statistics indicate that approximately a quarter of employees in this field work beyond 36 hours weekly, and around 22 percent work over 40 hours per week, with 55 percent of workers engaged in a single household, whereas roughly 45 percent having multiple employers.³⁴⁶

³⁴¹ Kaufka K., *op. cit.*, p. 160.

³⁴² Marchetti S., Cherubini D., Garofalo G., *op. cit.*, p. 45.

³⁴³ Gallotti M., Mertens J., *op. cit.* p. 14.

³⁴⁴ Kaufka K., *op. cit.*, pp. 172-173.

³⁴⁵ Gallotti M., Mertens J., *op. cit.*, p. 14.

³⁴⁶ *Ivi*, p. 12.

This is especially true for those workers employed in the South of Italy³⁴⁷ and for migrant domestic workers, even more so if they are irregular migrant and/or newcomers. As a matter of facts, migrants generally work longer and yet receive lower wages³⁴⁸ in comparison to national domestic workers,³⁴⁹ and, on top of that, they have reported an higher incidence of sexual abuse and gender-based violence.³⁵⁰

Furthermore, even those migrant workers who are regularly employed often find themselves hired under less costly employment contracts that do not accurately reflect the actual demands of their roles in terms of working hours, skill requirements, and responsibilities.³⁵¹

Moreover, even after obtaining legal status, migrant workers continue to face vulnerability due to the strong connection between their immigration status and employment situation. The potential loss of their job, indeed, could result in a return to an irregular status, compelling numerous migrant workers to be more inclined towards accepting poorly compensated positions and enduring conditions of exploitation in their workplaces.³⁵²

On top of that, when they are newcomers, the majority of them – who already represent the most socially, economically, and legally disadvantaged among migrant groups – take their first step by entering the most demanding and sensitive sector of domestic work, involving intensive labor, i.e. caring for elderly or disabled individuals who require live-in assistance.³⁵³

Moreover, a certain level of segregation within the sector based on the workers' country of origin has also been emphasized, with approximately 80 percent of migrants workers engaged in home-care work reported to originate from the African continent.³⁵⁴ This particular role is characterized by the lowest wages and extremely unfavorable working conditions, also due to the fact that these employers often have a limited understanding

³⁴⁷ Maioni R., Zucca G. (eds.), *op. cit.*

³⁴⁸ To illustrate, estimates from 2004 suggest that in Western Europe, migrant domestic workers received wages approximately 24 percent lower than their native counterparts (Data from: Gallotti M., *The gender dimension of domestic work in Western Europe*, International Migration Papers no. 96, Geneva, 2009.).

³⁴⁹ ILO, *Social protection*, *op. cit.*, p. 16.

³⁵⁰ D'Souza A., *Moving towards Decent work for Domestic workers: An Overview of the ILO's work*, Working Paper no. 2, ILO, Geneva, 2010.

³⁵¹ Marchetti S., "Domestic work is work"?, *op. cit.*, pp. 104-106, 114.

³⁵² Castagnone E., Salis E., Premazzi V., *Promoting integration for migrant domestic workers in Italy*, International Migration Papers no. 115, ILO, 2013, p. 3.

³⁵³ *Ivi*, p. 2.

³⁵⁴ Gallotti M., Mertens J., *op. cit.*, p. 12.

of their responsibilities towards their employees and tend to view these workers more as family substitutes than as proper employees, further complicating the dynamics of this situation.³⁵⁵

This situation also creates a paradox that underscores a twofold vulnerability: on one hand, that of migrant domestic workers due to their uncertain legal status and their economic and social fragility, and, on the other hand, that of their employers – primarily from the lower-middle strata of Italian society – for whom, often, hiring migrant domestic workers, even if irregularly, to provide care for dependent elderly or disabled individuals might be the only viable choice.³⁵⁶ And this is also strictly connected to the high rate of informality in this sector. As a matter of fact, studies show a close connection between the abundance of migrants with irregular immigration status and the prevalence of informal economies, indicating a short-term convergence of interest between the employer and employee to preserve an informal working arrangement.³⁵⁷ Due to the severe budget cuts made to social policy funds, indeed, new coping mechanisms are being developed by households and unreported employment is increasing, fostering the exploitation of migrant domestic workers.

However, despite this condition of exploitation, after initially entering the labor market, some migrant domestic workers continue to actively choose live-in work, even without having a proper contract, because it is useful for short-term migration projects and for maximizing earnings in order to achieve predetermined goals (such as the education of children, repayment of debts in the country of origin, etc.).³⁵⁸ Nonetheless, the majority of migrant workers try to transition to live-out domestic work as soon as possible. As previously mentioned, indeed, residing within the same household as your employer often entails adverse working and living conditions.³⁵⁹

Notably, the departure from this specific segment of the domestic industry mainly occurs due to the will of evading isolation and loneliness, that derive from having a 24-h employment due to the requirement of cohabiting with those in need.³⁶⁰ Moreover, this shift also facilitates liberation from the intricate web of dependence and isolation that defines the framework of co-residency. In cases of live-in domestic work there is, in

³⁵⁵ Castagnone E., Salis E., Premazzi V., *op. cit.*, pp. 2-3.

³⁵⁶ *Ivi*, p. 2.

³⁵⁷ Gallotti M., Mertens J., *op. cit.*, p. 14.

³⁵⁸ Castagnone E., Salis E., Premazzi V., *op. cit.*, p. 3.

³⁵⁹ *Ibidem*.

³⁶⁰ Sciarba A, *op. cit.*, p. 233.

fact, a condition of 'seclusion'. This concept was introduced into the scientific debate by Ferruccio Gambino in the early 1990s to describe the working conditions of migrants, characterized by isolation and the compression of different daily activities into a single space.³⁶¹ By seclusion he means "a spatial arrangement that reinforces the overlapping of work, leisure, rest and more generally the reproduction of the daily life of an individual or a group in a single place, from which they are formally free to leave at certain times of the day or, more often, of the week".³⁶² This condition does not only represent a factor of vulnerability per se, but it also expose migrant domestic workers to other intersectional vulnerability factors, often leading to exploitation, human rights violations and even sexual harassment.³⁶³

First of all, within this area of care work, the duties carried out within a family setting frequently undergo transformations over time, particularly as the health of the requiring family members declines. However, the intimate relationships that evolve over the course of time play a role in motivating workers to persist working for the same employers, even when the assigned responsibilities and remuneration no longer align with the initial agreements.³⁶⁴

Secondly, in numerous cases, the dynamic between the employing household and the domestic worker might resemble a "master-and-servant" relationship, more than an employer-employee one, and this kind of relationship more frequently lead to the violation of the human rights, skills, and expertise of the migrants.³⁶⁵ Despite their educational qualifications and abilities, these women find it hard to switch professions or advance in their careers.³⁶⁶ Moreover, the co-residence results in the isolation of migrant domestic workers – also due to their unfamiliarity with local laws and customs, limited proficiency in the local language, and minimal contact with support organizations, friends, and family³⁶⁷ – that not only prevents them from the possibility

³⁶¹ Vianello F. A., *Seclusione e modelli di doppia presenza*, in Bellè E., Poggio B., Selmi G. (eds.), "Secondo convegno nazionale del Centro di Studi Interdisciplinari di Genere. Attraverso i confini del genere. Atti del convegno", Università degli studi di Trento, 2012, p. 205.

³⁶² Gambino F., *Migranti nella tempesta. Avvistamenti per l'inizio del nuovo millennio*, Ombre Corte, 2003, pp. 104-105.

³⁶³ Giammarinaro M. G., *Understanding Severe Exploitation Requires a Human Rights and Gender-Sensitive Intersectional Approach*, in "Frontiers in Human Dynamics", 2022, p. 10.

³⁶⁴ Gallotti M., Mertens J., *op. cit.*, p. 17.

³⁶⁵ Gündüz Z. Y., *op. cit.*

³⁶⁶ Bettio F., Simonazzi A., Villa P., *Change in care regimes and female migration: The 'care drain' in the Mediterranean*, in "Journal of European Social Policy", Vol. 16, no. 3, 2006, p. 281.

³⁶⁷ Kaufka K., *op. cit.*, p. 174.

to socialize and become part of their new community, but it also makes them being largely defenseless when faced with discrimination, exploitation, and abuse – including situations like imprisonment, violence, sexual harassment, and even rape³⁶⁸ – and unable to request fair compensation or additional benefits in line with the hazardous and degrading nature of their work.³⁶⁹

Furthermore, engaging in an occupation that lacks significant regulation and is often not recognized as legitimate work results in domestic care workers being left out also of the state's protective measures. This leaves them particularly susceptible to various forms of exploitation, including racism, sexism, sexual harassment, exposure to harmful chemicals, and demanding working conditions, especially – again – for those who reside with their employers.³⁷⁰ As a matter of facts, first of all, because of the private nature of households, identifying women who are at risk of being exploited is extremely challenging. Moreover, given that many female migrant workers lack proper residence or work permits, the irregularity of their stay and work, as well as their fear of deportation or of losing their main, often sole, source of income, worsen their situation and make it even more challenging to take action against those responsible. As a result, cases where their legal documents are confiscated, they are underpaid or not paid at all, and they are denied breaks (including sick leave) or fair compensation for overtime, are more common than exceptional.³⁷¹ Furthermore, the continuous availability of such a living arrangement frequently leads to extended working hours and a blurring of roles,³⁷² as well as to the creation of a close bond between domestic care workers and their employers that leads to a unique situation of dependency in which domestic workers do not enjoy benefits provided by the "legitimate" public job market. Namely, many domestic care positions offer no healthcare coverage, time off, or sick leave, and formal training related to the job is lacking.³⁷³ On top of that, the concept of domestic workers being considered "part of the family" enables some employers to mitigate

³⁶⁸ Michel S., *Beyond the Global Brain Drain: The Global Care Drain*, in "The Globalist", (October 20, 2010), at <http://theglobalist.com>.

³⁶⁹ Kaufka K., *op. cit.*, p. 174.

³⁷⁰ Ivi, p. 173.

³⁷¹ Gündüz Z. Y., *op. cit.*

³⁷² Romero M., *op. cit.*, pp. 1659-1660.

³⁷³ Kaufka K., *op. cit.*, p. 174.

certain non-compliances or inconsistencies with traditional labor standards and the absence of access to public welfare exacerbates the situation for migrant workers.³⁷⁴

Lastly, one of the most significant challenges faced by migrant care workers is related to the right to care – i.e. both the right to receive care and the right to provide care for their own families.³⁷⁵ Rights are, indeed, intricately intertwined with the conditions under which individuals work, and their violation also has consequences that affect the quality of life and mental and physical well-being. In the case of migrant domestic workers, the exploitative working and living conditions mentioned above create an insurmountable barrier for these women – who are often also mothers – to have their children accompany them, thus preventing them from enjoying the right to care.³⁷⁶ The significant number of children, particularly notable in countries like Romania, who are left behind, represents the other side of the coin within the context of global care chains.³⁷⁷ As a matter of facts, for numerous women, this seems to be the sole means of ensuring their children access reasonable living standards and the opportunity to pursue education and plan for their futures.³⁷⁸ However, the consequences of this decision typically impose a considerable emotional and psychological burden on both mothers and children. The "choice" to leave their children behind emerges as both a direct outcome and an underlying consequence deriving from the initial "choice" to emigrate and enter the Italian care sector. As a result, this situation leads to a secondary layer of human rights violations linked to the rights related to maintaining family unity and ensuring children's access to care, enshrined in the sixth principle of the 1959 UN Declaration on the Rights of the Child and in article 9 of the 1989 UN Convention on the Rights of the Child.³⁷⁹

However, addressing this matter proved to be a challenging undertaking, not only due to the fact that tackling this significant "social cost" would require the involvement of various stakeholders – including the state, employers, and the migrant women themselves – but also because of the widespread shame on the part of migrant women

³⁷⁴ Anderson B., *Just another Job? The Commodification of Domestic Labor*, in Ehrenreich B., Hochschild A.R. (eds.), "Global Woman: Nannies, Maids and Sex Workers in the New Economy", Metropolitan Books, New York, 2003.

³⁷⁵ Gündüz Z. Y., *op. cit.*

³⁷⁶ Sciarba A., *op. cit.*, p. 231.

³⁷⁷ Parreñas R. S., *Migrant Filipina Domestic Workers*, *op. cit.*

³⁷⁸ Piperno F., Tognetti Bordogna M. (eds.), *Welfare transnazionale. La frontiera esterna delle politiche sociali*, Ediesse, Rome, 2012.

³⁷⁹ Sciarba A., *op. cit.*, p. 232.

workers in dealing with this issue. As a matter of facts, many migrant mothers find themselves unjustly labeled as "bad mothers" and also distressed by the prolonged separations from their children. These mothers, indeed, perceive their departure as a delicate and private affair, rather than as a personal reflection of a broader public concern.³⁸⁰ However, this is, in fact, a public matter and migrants deserve the right to maintain family bonds and to be reunited with their children. Bringing families back together would lead to a reduction or potential elimination of transnational care networks,³⁸¹ but achieving this goal would necessitate sociopolitical transformations and adjustments within the field of care work, including the allocation of public funds to households, the professional advancement of care-related occupations, an elevation in their societal standing, and the formal recognition of the rights of migrant laborers.³⁸² Ultimately, the existing exploitative framework rooted in patriarchy, racial disparities, capitalism, and imperialism should be replaced.³⁸³ However, as an initial and modest step, it is imperative to advocate for the fundamental right of all children to be alongside their parents in all circumstances. This way, even if mothers are employed in households, they can continue to share family life.³⁸⁴

2.6 Women domestic and care workers' migration projects: agency, consent, responsibility and the "ideal victim" bias

The condition of vulnerability of migrant domestic workers, and (often) their consequent exploitation, are also closely linked to the perception of them in public discourse. When speaking of female migrant domestic workers, in fact, it recurs the paternalistic idea that, due to their condition and vulnerability, they are helpless victims of the system, or rather, of chance, which then translates into luck or misfortune depending on the conditions in which they "find themselves" living. Despite sounding like an empathy-based rhetoric that plays in favour of female migrant domestic workers, in reality, this idea can prove detrimental to them, depriving them of their subjectivity, decision-making capacity and agency and failing to recognise their choices and consent to work. The aim of this paragraph is, therefore, to explore this rhetoric, observe its

³⁸⁰ Isaksen L., Devi U., Hochschild A., *op. cit.*, p. 64.

³⁸¹ Gündüz Z. Y., *op. cit.*

³⁸² Kontos M., *European Policies in the Wake of the Globalisation of Care Work*, Gunda Werner Institute, 2010.

³⁸³ Gündüz Z. Y., *op. cit.*

³⁸⁴ Isaksen L., Devi U., Hochschild A., *op. cit.*, p. 76.

consequences and propose an alternative analysis that takes into account the agency of migrant domestic workers and their consent to work.

In particular, when it comes to public perceptions of migrant domestic workers, two types of rhetoric emerge, both of which can be traced back to a paternalistic conception of women – especially migrant women, and especially those migrant women who hold a socially recognised as inferior working position – that involves the non-recognition of their agency.

On one side, indeed, as revealed by Loyens and Paraciani's analysis³⁸⁵, when subject to labour exploitation, within the realm of public discourse, workers are often depicted as vulnerable and lacking agency,³⁸⁶ while those exploiting them are depicted as nefarious profiteers thriving on others' suffering.³⁸⁷ Notably, a prevailing narrative of victimhood depicts victims as passive survivors, uninvolved in creating their dire circumstances.³⁸⁸ And, in particular, data reveals that media predominantly spotlight female victims, whereas men facing similar victimization are cast as "irregular migrants" facing the threat of deportation.³⁸⁹ This distinction can be attributed to gendered assumptions regarding "women's vulnerability in the migration stream", often tied to paternalistic attitudes,³⁹⁰ that stem from societal perceptions.

However, the concept introduced by Christie N., in 1986, of the "ideal/iconic victim" asserts that the notion of a victim is not an inflexible, objective truth, but rather a label assigned to individuals who best fit the criteria of being considered a legitimate victim.³⁹¹ According to Christie, the "ideal/ironic" victim is characterized as weak, virtuous, and free of blame. Moreover, victims are often envisioned as waiting passively to be rescued by figures embodying heroism, such as law enforcement officials or social

³⁸⁵ Loyens K., Paraciani R., *Who is the ("Ideal") Victim of Labor Exploitation? Two Qualitative Vignette Studies on Labor Inspectors' Discretion*, in "The Sociological Quarterly", Vol. 64, no. 1, 2023.

³⁸⁶ Bouché V., Farrell A., Wittmer-Wolfe D. E., *Challenging the Dominant Frame: The Moderating Impact of Exposure and Knowledge on Perceptions of Sex Trafficking Victimization*, in "Social Science Quarterly", Vol. 99, no. 4, 2018, pp. 1283- 1302.

³⁸⁷ O'Brien E., *Challenging the Human Trafficking Narrative: Victims, Villains, and Heroes*, Routledge, London, 2019.

³⁸⁸ *Ibidem*.

³⁸⁹ Gallagher A., Pearson E., *The High Cost of Freedom: A Legal and Policy Analysis of Shelter Detention for Victims of Trafficking*, in "Human Rights Quarterly", Vol. 32, 2010, pp. 73–114.

³⁹⁰ Chuang J. A., *Rescuing Trafficking from Ideological Capture: Prostitution Reform and Anti-trafficking Law and Policy*, in "University of Pennsylvania Law Review", Vol. 158, 2010, p. 1710.

³⁹¹ Christie N., *The Ideal Victim*, in Fattah E. A. (ed.), "From Crime Policy to Victim Policy. Reorienting the Justice System", Palgrave Macmillan, London, 1986, p. 18.

workers.³⁹² Only when individuals align with these "criteria of popularly conceived injustice"³⁹³ they are acknowledged as victims worthy of compassion and empathy, otherwise, they may be categorized as "non-ideal" victims, referring to those deemed too powerful or resolute to convincingly assert their victim status, or victims who reject the victim label.³⁹⁴

On the other side, if not as victims, they are depicted in benevolent (paternalistic) terms. Across various European nations, indeed, a notable contrast emerges in public perceptions of women migrant domestic and care workers when juxtaposed against the broader narrative surrounding migration in other sectors. In the context of Italy, where this phenomenon has garnered heightened attention in recent times, for instance, migrant care workers are occasionally characterized as "angels" or elevated to the status of "family members", rather than workers, by the individuals they serve.³⁹⁵ This phenomenon underscores a critical issue: the prevailing failure to recognize this form of labor within the framework of employment relationships. Consequently, these workers are not acknowledged as such and are consequently denied the protections afforded by human and labor rights. Notably, this perspective is sometimes embraced by the migrants themselves, viewing what they receive not as a right, but rather as a benevolent "gift" from the host society, for which they have to feel a sense of gratitude, and this stands as one of the key mechanisms contributing to the formation of situations characterized by vulnerability.³⁹⁶ Additionally, the commitment of employers to aid in the regularization process often serves as a ray of hope for these workers and this prospect of potential regularization fosters a sense of optimism that compels them to persist in accepting poor working conditions.³⁹⁷ This, therefore, represents a consent to exploitation, which, however, is not a full and free consent.

The issues of consent to exploitation, the public perception of migrant women employed in care work and their vulnerability are all closely linked. The condition of vulnerability in which migrant domestic workers find themselves, in fact, on the one hand, fuels the

³⁹² Srikantiah J., *Perfect Victims and Real Survivors: The Iconic Victim in Domestic Human Trafficking Law*, in "Immigration and Nationality Law Review", Vol. 28, 2007, pp. 741-795.

³⁹³ Wilson M., O'Brien E., *Constructing the Ideal Victim in the United States of America's Annual Trafficking in Persons Reports*, in "Crime, Law and Social Change", Vol. 65, 2016, p. 9.

³⁹⁴ Christie, N., *op. cit.*

³⁹⁵ Gallotti M., Mertens J., *op. cit.* p. 17.

³⁹⁶ Degani P., *op. cit.*, p. 6.

³⁹⁷ Gallotti M., Mertens J., *op. cit.* p. 17.

paternalistic public discourse and, on the other, deprives them of the possibility of expressing full and free consent to work and exploitation.

Frequently, migrant women find themselves receiving very low wages, having often also to reside within the same household as their employers, therefore facing inadequate conditions of living and, at times, a complete lack of personal space. These exploitative situations seem to arise from negotiations between the workers and employers. Nonetheless, these decisions consistently unfold within an imbalanced power dynamic. In cases where migrant women have familial obligations, for instance, they commonly choose to "live in" to send more money back home.³⁹⁸ Moreover, the system undoubtedly promotes and even compels employers to exploit their workforce.³⁹⁹ However, due to their vulnerable positions, migrant women are the weakest participants in bargaining and are forced to give their "consent" to exploitation as they lack feasible alternatives. In a neoliberal job market, indeed, the concept of contractual freedom is often used as a tool of dominance by the stronger entities, while the weaker factions are simply coerced into agreeing to imposed terms, operating within a context of coerced willingness.⁴⁰⁰ As a matter of facts, in many cases, it can be argued that those whose dignity is violated due to exploitation have effectively been coerced into providing consent within a facade of fictitious choice.⁴⁰¹ From a gender perspective, Carol Pateman has raised questions regarding the concepts of "freedom" and "coercion" in contracts, defining a "contract" as a foundation of social interaction and one of the foremost methods of establishing social connections.⁴⁰² She revealed how within contract theory, universal freedom is perpetually a supposition, a narrative, a political fabrication, and how contract invariably generate political authority in the shape of power dynamics and subordination relationships.⁴⁰³ The intricate matter of "freedom" within contractual relationships is closely intertwined with the manner in which the weakest parties extend their "consent" to formal or informal contracts. Consequently, when analyzing contemporary modes of exploitation, specific attention is directed

³⁹⁸ Sciarba A., *op. cit.*, pp. 230-231.

³⁹⁹ Del Boca D., Rosina A., *Famiglie sole. Sopravvivere con un welfare inefficiente*, Il Mulino, Bologna, 2009.

⁴⁰⁰ Weber M., *Economy and Society. An Outline of Interpretative Sociology*, University of California Press, Berkeley/Los Angeles, 1978, p. 334.

⁴⁰¹ Sciarba A., *op. cit.*, p. 227.

⁴⁰² Pateman C., *The Sexual Contract*, Stanford University Press, Stanford, 1988, p. 5.

⁴⁰³ *Ivi*, p. 8.

towards comprehending the intricate pathways through which the "consent" of susceptible migrant women laborers is molded.⁴⁰⁴

Also from a legal standpoint, indeed, the international and supranational legislation provide that, if the employer abuses his power or uses the worker's vulnerability to his advantage to exploit him, the worker's consent to exploitation is irrelevant and, although effectively expressed, cannot be used in defence of the exploiter. Legal actors should, therefore, take into account the practical circumstances – i.e. factors and contextual aspects that contribute to a state of vulnerability that makes labour exploitation the only viable option when compared to more unfavorable alternatives – under which the worker provided consent to specific exploitative actions.⁴⁰⁵

However, despite the legal irrelevance of their consent, it is important to carefully examine the above mentioned women's "choices" to restore their agency and dignity. Their own testimonies, indeed, demonstrate the acute awareness these exploited laborers possess regarding their precarious circumstances. They seem to possess a keen understanding of the profound injustices that delineate their "choice" to migrate and compel them to "accept" oppressive working and living situations.⁴⁰⁶ For these women in question, the "degradation of existence"⁴⁰⁷ is both imposed externally and adopted internally and the self-imposition occurs with a conscious acknowledgment of the lack of viable alternatives. This is evident, for instance, in the circumstances of migrant women who either "decide" to abandon their children to endure exploitation in caregiving and domestic labor or to stay close to their children but within degrading conditions, working in the agricultural sector where they "consent" to become targets of severe work exploitation and, often, sexual abuse.⁴⁰⁸ This type of choice is unique, necessitating the recognition of not only constraining factors but also the limited personal agency to counteract such constraints. As a matter of facts, in their act of "choosing" their paths and granting "consent" to exploitation, the women under discussion remain "masters of their souls".⁴⁰⁹ In this situation, the distress they experience derives precisely from their heightened awareness of the suffering itself. While these women retain some control over unaltered preferences and desires, indeed,

⁴⁰⁴ Sciorba A., *op. cit.*, pp. 227-228.

⁴⁰⁵ Giammarinaro M. G., Palumbo L., *op. cit.*

⁴⁰⁶ Sciorba A., *op. cit.*, p. 235.

⁴⁰⁷ De Beauvoir S., *The Second Sex*, Vintage, New York, 1949, p. XX.

⁴⁰⁸ Sciorba A., *op. cit.*, pp. 235-236.

⁴⁰⁹ Elster J., *Sour Grapes. Studies in the Subversion of Rationality*, Cambridge University Press, Cambridge, 1983, p. vi.

their actions are largely governed by their specific circumstances. This paradox is evident right from the point they decide to depart from their homeland, with or without their children. Nonetheless, making a choice, however unfair the scenario might be, and being aware of that form of injustice, indeed, still entails a form of decision-making.⁴¹⁰

When tackling the phenomenon of labour exploitation, therefore, it is essential, not only to take legal action against the exploiters, but also to provide empowerment paths addressed to women workers so that they themselves can assert their agency, making conscious decisions, and express their full, free and informed consent to work.

A research conducted by the International Labour Organization, for instance, shows how some migrant domestic workers, during their stay in Italy, experience a general empowerment process and how this progressive empowerment enables them to increasingly shape their trajectories and more effectively assert their own agency.⁴¹¹ In fact, the acquisition of legal status and formal employment contracts, the enhancement of skills and qualifications, engagement in training programs, the establishment of diverse and extensive social connections, alongside access to information, collectively let migrant domestic workers in Italy gradually gain comprehension of the sector functioning and their own entitlements as domestic laborers. Consequently, they are empowered to reject exploitative labor conditions and to make decisions concerning both work and personal life that align with their individual preferences and necessities.⁴¹²

Moreover, the agency proved to be preserved by vulnerable individuals even when facing exploitation plays a crucial role also in their ability to self-organize.⁴¹³ This empowerment is evident in various settings such as trade unions and worker-focused NGOs, where efforts are made to safeguard workers' rights and foster forms of interconnected independence.⁴¹⁴

In empowering migrant domestic workers and recognising their agency, a significant role is also played by the shared conception of vulnerability per se. The previously analysed 'situational' conception of vulnerability, indeed – moving away from the prevailing narrative that depicts groups of people as uniform entities and situating

⁴¹⁰ Sciorba A., *op. cit.*, p. 236.

⁴¹¹ Castagnone E., Salis E., Premazzi V., *op. cit.*, p. 3.

⁴¹² *Ibidem.*

⁴¹³ Giammarinaro M. G., *op. cit.*, p. 10.

⁴¹⁴ ACTIONAID BRIGHT, *Per i diritti delle donne lavoratrici. Creare forme inclusive di governance per i cittadini "mobili"*, (2020) at <https://morethanprojects.actionaid.it/projects/bright-diritti-donne-lavoratrici/>.

individual experiences within a comprehensive systemic analysis of power dynamics and gender relations – has the potential to distinguish between labeling women and girls merely as vulnerable groups versus comprehending the intricate ways in which power dynamics influence their life journeys.⁴¹⁵ This is essential in the recognition of migrant domestic workers' agency since the idea that women are intrinsically vulnerable reproduces and fosters the rhetoric of women as "perfectly innocent victims" or "person in need", therefore, negating their agency.⁴¹⁶

To conclude, examining the intricate notions of consent, choice, coercion, and even vulnerability among migrant domestic workers naturally leads to an exploration into the accountability surrounding human rights violations experienced by those subjected to labor exploitation.⁴¹⁷ As a matter of facts, taking into account the previously mentioned unequal power relations between workers and employers in the bargaining process, the condition of vulnerability in which the consent to work is expressed by migrant domestic workers, and the "global social logic"⁴¹⁸ underlying migrations, migrant women engaged in domestic labor cannot be held accountable for the rights violations that derive from their "choices", even if taken with awareness and (limited) autonomy.⁴¹⁹ Simultaneously, when focusing on the employers who exploit these women, it becomes necessary to question whether considering them as solely responsible is sufficient. While legal considerations might require such attribution, in fact, a broader societal and political viewpoint demands a more nuanced analysis of the intricate web of responsibilities inherent in this multifaceted issue.⁴²⁰ As a matter of facts, the "choices" confronting migrant women primarily originate from their vulnerability and a lack of true freedom concerning alternatives beyond rights violations and exploitation. Moreover, their condition, rather than being directly related to exploiters, results from a complex global framework of social and structural injustice, shaped by a convergence of factors. As also underlined in the first chapter, these include economic disparities between countries of origin and destination, the social and economical exploitation of migratory movements, the specific gender norms of countries of origin, the regulatory measures of domestic work in the country of arrival,

⁴¹⁵ Degani P., *op. cit.*, p. 6.

⁴¹⁶ Wylie G., *The International Politics of Human Trafficking*, Palgrave Macmillan UK, London, 2016.

⁴¹⁷ Sciarba A., *op. cit.*, p. 228.

⁴¹⁸ Hochschild A. R., *Love and Gold*, in "The Scholar and Feminist Online", Vol. 8, no. 1, (Fall 2009), at http://sfonline.barnard.edu/work/hochschild_02.htm, p. 5.

⁴¹⁹ Sciarba A., *op. cit.*, p. 238.

⁴²⁰ *Ibidem*.

and the patriarchal norms in destination countries like Italy, that, in cases of domestic work, can lead to a commodified transfer of caregiving responsibilities based on neo-servile and feminized labor forms.⁴²¹ While identifying these factors does not facilitate precise assignment of blame, such analysis opens avenues for a more accurate exploration of the factors, laws and policies fostering the exploitation of migrant domestic and care workers. By discerning the types of structural modifications required, indeed, effective remedies can be enacted.

⁴²¹ *Ibidem.*

Chapter Three

THE EXPLOITATION OF MIGRANT DOMESTIC AND CARE WORKERS IN ITALY: ANALYSIS OF THE FACTORS, LAWS AND POLICIES FOSTERING EXPLOITATION

Over ninety years have passed since the implementation of the International Labour Organization (ILO) Convention on Forced Labor (no. 29). However, the persisting issues of labor exploitation, forced labor, and other contemporary forms of slavery still plague the realm of employment and remain a pressing concern for those in policymaking positions.⁴²² The factors analysed so far – such as the increasing liberalisation of trade, capitalist economy, intense global competition, international migration, gender biases, discrimination and social exclusion – are certainly the main factors behind different types of labour exploitation and are sometimes beyond the control of policymakers at the domestic level. Yet, policies and laws adopted at the domestic level still have the power to either counter or foster labour exploitation within the country. Therefore, the aim of this chapter is, first of all, to provide a deeper analysis of the notion of “exploitation”, and, then, to analyse those factors, especially in terms of policies and laws, that in Italy – by (mis)regulating the management of immigration, the domestic sector and labour in general – contribute to the spread of exploitative practices.

3.1 The notion of exploitation

3.1.1 Distinction between labour exploitation and severe labour exploitation

Global estimates provided by the ILO indicate that in 2016, around 40 million individuals globally fell victim to various forms of modern slavery, i.e. “situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power”.⁴²³ This included nearly 25 million people subjected to forced labor – with a significant portion, 16 million, toiling within the private sector – and 15 million individuals forced into marriages against their will.⁴²⁴ Among victims of

⁴²² Corbanese V., Rosas G., *Politiche per prevenire e contrastare lo sfruttamento lavorativo e il lavoro forzato in Europa*, ILO, Geneva, 2021, p. iii.

⁴²³ ILO, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, Geneva, 2017, p. 9.

⁴²⁴ *Ivi*, pp. 9-10.

modern slavery, women accounted for 71%, whereas among victims of forced labour, women represented 99% in the commercial sex industry, and 57.6% in other sectors.⁴²⁵ The sector with the largest proportion of workers subjected to forced labor was domestic work, accounting for 24% of cases, followed by construction at 18%, manufacturing at 15%, and agriculture and fishing at 11%.⁴²⁶ Since 2016, a further increase of 10 million people has been recorded, with 50 million people living in modern slavery in 2021, including 28 million subjected to forced labour.⁴²⁷ As for Europe, according to data from the Global Slavery Index, in 2018, approximately 1.3 million individuals fell victim to modern slavery within the European Union (EU) countries. Notably, countries like France, Germany, Italy, Poland, Spain, and the United Kingdom collectively accounted for over 63% of the total estimated cases of modern slavery.⁴²⁸

Based on ILO estimates, forced labor within the private sector yields around \$150 billion in illicit profits annually. Of this sum, roughly two-thirds, amounting to \$99 billion, originate from illicit gains derived from sexual exploitation, while the remaining \$51 billion arises from forced economic exploitation.⁴²⁹

However, although explanatory and significant, this is an incomplete overview of the extent of the phenomenon of exploitation. When analysing the notion of exploitation, it's, indeed, crucial to acknowledge that modern slavery and forced labour are the worst forms of labour exploitation, but not the only forms of exploitation perpetuated. Exploitation is not a fixed, unchanging concept; instead, it exists along a *continuum*,⁴³⁰ manifesting in various ways and involving escalating degrees of unjust treatment and rights deprivation over time.⁴³¹ As a matter of facts, various types of labor exploitation can be inflicted upon individuals, encompassing human trafficking for labor exploitation, both domestically and internationally, forced labor, slavery, servitude, but also different kinds of breaches of fundamental labor principles and rights.

Frequently, distinguishing clear boundaries between these distinct forms of exploitation is challenging due to the numerous abuses and violations that workers may endure, all

⁴²⁵ Ivi, pp. 5, 10.

⁴²⁶ Ivi, p. 11.

⁴²⁷ Walk free, *The Global Slavery Index*, 2023, p. ii.

⁴²⁸ Walk free, *The Global Slavery Index*, 2019.

⁴²⁹ ILO, *Profits and Poverty: The Economics of Forced Labour*, 2014.

⁴³⁰ Skrivankova K., *Between Decent Work and Forced Labour: Examining the Continuum of Exploitation*, Joseph Rowntree Foundation, London, 2010.

⁴³¹ Giammarinaro M. G., *op. cit.*, p. 2.

of which threaten their freedom and dignity.⁴³² Nonetheless, in order to distinguish between the various forms of exploitation, the European Union Agency for Fundamental Rights (FRA) has established a framework based on the various categories and degrees of labor exploitation, as stipulated in the EU Charter of Fundamental Rights and a collection of directives focused on safeguarding workers.⁴³³ This framework establishes connections between the distinct manifestations of labor exploitation and the relevant legal provisions, whether they fall under criminal law or labor and civil law.⁴³⁴ Notably, among the violations attributable to criminal law, the Agency refers to forced or compulsory labour, servitude and slavery, including trafficking in human being⁴³⁵ and other forms of severe labour exploitation,⁴³⁶ including ‘particularly exploitative working conditions’.⁴³⁷ The latter are defined in Article 2 (i) of the “Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals”. Based on this Article, the working conditions of illegally staying third-country nationals can be defined as being particularly exploitative “where there is a striking disproportion compared with the terms of employment of legally employed workers which, for example, affects workers’ health and safety, and which offends against human dignity”.⁴³⁸ Forced or compulsory labour, instead, “shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.⁴³⁹ Whereas servitude is a “particularly serious form of denial of freedom”,⁴⁴⁰ i.e. “an obligation to provide one’s services that is imposed by the use of coercion”.⁴⁴¹ The notion includes, “in addition to the obligation to perform certain services for others, the obligation for the ‘serf’ to live on another person’s property and the impossibility of altering his or her condition by stopping work or leaving the

⁴³² Corbanese V., Rosas G., *op. cit.*, p. 1.

⁴³³ FRA, *Severe labour exploitation: workers moving within or into the European Union, States’ obligations and victims’ rights*, 2015, pp. 34-36.

⁴³⁴ Corbanese V., Rosas G., *op. cit.*, p. 5.

⁴³⁵ Art. 5 of the EU Charter of Fundamental Rights, 2000.

⁴³⁶ FRA, *Severe labour exploitation*, *op. cit.*, p. 36.

⁴³⁷ Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009.

⁴³⁸ Art. 2 (i) of the Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009.

⁴³⁹ Art. 2 (1) of the Forced Labour Convention, 1930 (no. 29).

⁴⁴⁰ ECtHR, *Case of Van Droogenbroeck v. Belgium*, Commission's report of 9 July 1980, Series B, no. 44, para. 78-80.

⁴⁴¹ ECtHR, *Case of Siliadin v. France*, no. 73316/01, 26 July 2005, paragraph 124.

premises”.⁴⁴² Slavery, instead, is the worst form of severe labour exploitation, involving “the status or condition of a person over whom any or all of the powers of the right of ownership are exercised”.⁴⁴³ Lastly, as for trafficking, a definition is provided by Article 2 of the EU Anti-Trafficking Directive, stating that a person is considered trafficked when three specific conditions are met: one of the actions among “recruitment, transportation, transfer, harboring, or reception of persons, including the exchange or transfer of control over those persons” is undertaken; illicit means are employed, which may involve “threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”; the action is executed with the intention of exploitation.⁴⁴⁴

Therefore, the expression 'severe labor exploitation' encompasses all instances of labor exploitation that “imply gross human rights violations”⁴⁴⁵ markedly diverging from the established legal norms and standard working conditions⁴⁴⁶ and are considered criminal offenses according to the legislation of the European Union (EU) Member State in which the exploitation takes place.⁴⁴⁷ Notably, in the context of the European Union, severe exploitation in all its manifestations signifies a breach of Article 1 of the EU Charter of Fundamental Rights, which states the inviolability of human dignity, as well as a violation of Article 5, which prohibits slavery and forced labor. Furthermore, it encompasses the denial of rights enshrined in Article 31, which pertains to fair and equitable working conditions.⁴⁴⁸

Historically, significant emphasis has been placed on examining specific instances of severe exploitation, especially within the context of human mobility. For instance, during the 1990s, there was a notable emphasis on the trafficking of women into the European Union (EU) from central and eastern European nations, primarily for the purpose of sexual exploitation. Consequently, addressing this particular form of trafficking became a priority for policymakers. In more recent times, the perspective has

⁴⁴² *Ivi*, paragraph 123.

⁴⁴³ Art. 1 of the Slavery Convention of 25 September 1926.

⁴⁴⁴ Art. 2 of the Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011.

⁴⁴⁵ Giammarinaro M. G., *op. cit.*, p. 2.

⁴⁴⁶ Crippa E., *On the severe labour exploitation of migrant women in Italy: a human rights and multi-level policy perspective*, in “Peace Human Rights Governance”, Vol. 4, no. 3, 2020, p. 312.

⁴⁴⁷ FRA, *Severe labour exploitation*, *op. cit.*, p. 3.

⁴⁴⁸ Giammarinaro M. G., *op. cit.*, p. 2.

expanded to acknowledge additional forms of abuse, including trafficking with the intent of labor exploitation.⁴⁴⁹

However, various other forms of exploitation exist, often intertwined with factors such as job insecurity, continuous monitoring of work performance, exploitation stemming from the necessity for workers to hold multiple jobs in order to attain a decent income, and additional types of exploitation that have been exacerbated by the COVID-19 pandemic.⁴⁵⁰ Within the framework established by the FRA, these other forms of exploitation are classified as violations of civil and labour law and, thus, are not criminalized by European countries.⁴⁵¹

Notably, according to the International Labour Organization, exploitation can include exploitation through: bad living conditions, excessive working days or hours, hazardous work, low or no salary, no access to education, no respect of labour laws or contract signed, no social protection, very bad working conditions, and wage manipulation.⁴⁵²

Exploitation related to substandard living conditions includes scenarios where individuals are deprived of their freedom to choose their place of residence or living conditions. It involves being coerced into residing in cramped spaces, unsanitary or unhealthy environments, or places lacking privacy rights. Such exploitation may also involve individuals being rendered homeless and compelled to live on the streets.⁴⁵³

Being coerced into working excessively long hours and/or days encompasses various situations, including forced overtime, the deprivation of breaks, the denial of leisure time, the obligation to cover the shifts or working hours of colleagues, and being on call 24 hours a day, 7 days a week. But it also includes shouldering heavy or unmanageable workloads or having to meet excessively high productivity quotas within the confines of regular working hours.⁴⁵⁴

Hazardous work pertains to several aspects, including the nature of the assigned task, such as working under dangerous conditions without protective measures, being compelled to provide sexual services without the use of condoms, being assigned work that is too physically demanding for the individual, or work that is unsuitable for a minor. It can also involve a hazardous work environment, such as extreme heat or cold,

⁴⁴⁹ FRA, *Severe labour exploitation*, *op. cit.*, p. 33.

⁴⁵⁰ Giammarinaro M. G., *op. cit.*, p. 2.

⁴⁵¹ FRA, *Severe labour exploitation*, *op. cit.*, p. 36.

⁴⁵² ILO, *Details of indicators for labour exploitation*, at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_105035.pdf.

⁴⁵³ *Ivi*, p. 4.

⁴⁵⁴ *Ibidem*.

or perilous travel to the workplace. Additionally, hazardous work encompasses degrading tasks that are humiliating or involve dirty and degrading conditions.⁴⁵⁵

Moreover, exploitation can extend to the denial of access to education and study opportunities, further emphasizing the range of ways in which individuals can be subjected to exploitative conditions.⁴⁵⁶

The absence of respect for and non-compliance with labor laws or the terms of a signed contract serves as another significant indicator of exploitation. This includes scenarios where: individuals are compelled to work without a formal employment contract; existing contracts are violated, or are inherently unlawful; the recruitment process itself is conducted in an illegal manner. Moreover, this indicator encompasses aspects related to the nature and conditions of work, such as: deception regarding the job's true nature; deception about the employer's identity; deception about the availability of work; deception regarding the number of working hours, whether they are excessively long or unduly restrictive; deception about working conditions, including exploitative, precarious, or illegal working conditions.⁴⁵⁷ Exploitation stemming from the non-compliance with labor laws or contractual agreements also extends to payment issues. Notably, "no salary" pertains to situations in which an individual is entirely deprived of their rightful wages. This also encompasses instances where compensation is provided in the form of "goods" or "in-kind" payments instead of monetary wages. On the other hand, "low salary" refers to cases where an individual receives less than the previously agreed-upon wage (often due to deception) or is paid less than the legally mandated minimum wage, but also to instances where individuals receive lower wages compared to regular employees or are paid in cash when other workers receive payments via checks or bank transfers.⁴⁵⁸

Furthermore, exploitation through wage manipulation encompasses various practices, such as: paying wages to a middleman, intermediary, or a family member instead of the worker; imposing fines or excessive deductions from wages for food and lodging; and manipulating wages to the extent that the individual lacks control and the freedom to manage their own earnings.⁴⁵⁹

⁴⁵⁵ *Ibidem.*

⁴⁵⁶ *Ivi*, p. 5.

⁴⁵⁷ *Ibidem.*

⁴⁵⁸ *Ibidem.*

⁴⁵⁹ *Ibidem.*

Also the denial of the right to access social protection, including social insurance and benefits, encompasses various aspects of exploitation. This includes situations where individuals are: denied access to social insurance or any form of social protection; but also forced to work while ill, thereby being denied sick leave or medical assistance; compelled to work while pregnant; coerced into working while menstruating.⁴⁶⁰

Lastly, a strong indicator of extremely poor working conditions involves individuals being coerced into tolerating unacceptable working conditions or being compelled to work in perpetually shifting locations.⁴⁶¹

Worker exploitation is not a rare or minor issue. Consumers may unknowingly encounter the consequences of labor exploitation when they purchase items from a supermarket, stay at a hotel, dine in a restaurant, or pass by a construction site. However, it's worth noting that worker exploitation, as a broader concept, has received less research attention compared to related phenomena like human trafficking or forced labor. Consequently, there is limited evidence available concerning the significant number of people who move between European Union (EU) Member States or migrate into the EU, and due to their economic and social circumstances, are compelled to accept working conditions that fall far below the recognized legal standards.⁴⁶² Nonetheless, the persistent existence of widespread exploitation should not be viewed as a temporary anomaly but rather as a fundamental and systemic aspect of contemporary capitalism.⁴⁶³ The FRA focuses severe exploitation, as only encompassing the most serious forms that constitute criminal offenses. However, it's essential to recognize that these severe forms of exploitation, while significant, are still relatively limited on a global scale.⁴⁶⁴ In contrast, structural exploitation is deeply ingrained in global economies and necessitates responses focused not (only) on punitive measures but on addressing social justice concerns.⁴⁶⁵

⁴⁶⁰ *Ibidem.*

⁴⁶¹ *Ibidem.*

⁴⁶² FRA, *Severe labour exploitation, op. cit.*, p. 3.

⁴⁶³ Mezzadra S., Neilson B., *Operazioni del Capitale. Capitalismo contemporaneo tra sfruttamento ed estrazione*, Manifestolibri, Roma, 2021.

⁴⁶⁴ Giammarinaro M. G., *op. cit.*, p. 2.

⁴⁶⁵ Giammarinaro M. G., *Access to remedy for victims of trafficking for abuses committed by businesses and their suppliers*, to the 44th Session of the United Nations General Assembly, New York, 2019.

3.1.2 A (missing) definition at the International and National level

Exploitation can be understood as a specific violation of human rights and human dignity.⁴⁶⁶ This notion, for instance, seems to be implied in Article 4 of the European Social Charter⁴⁶⁷ and, concerning Italy, in Articles 3 and 41 of the Italian Constitution.⁴⁶⁸ The concept of human dignity is also foundational to the definition of "decent work" put forth by the International Labour Organization.⁴⁶⁹ Across these three texts, indeed, the dignity of workers serves as both a benchmark for assessing fair working conditions, including wages, and a constraint on the freedom of contracts.⁴⁷⁰

Moreover, as previously underlined, the FRA differentiates between two categories of exploitation: forced labour, servitude, slavery, and other severe forms of exploitation, which are criminalized, and less severe work irregularities and forms of exploitation, such as, but not limited to, poor working conditions and underpayment, that do not qualify as criminal offenses.

On top of that, to provide a clearer understanding of what constitutes unacceptable forms of work, the International Labour Office, in 2015, developed a comprehensive and evolving model. This model comprises twelve dimensions – including, for instance, health and safety, pay, working hours, and legal protection – each characterized by a set of indicators designed to identify the phenomenon and shape policies for its prevention and eradication. The foundation of this model lies in the extensive body of over four hundred ILO international labor standards, which define unacceptable forms of work and labor exploitation as the opposite of the concept of decent work.⁴⁷¹ Unacceptable forms of work and labor exploitation encompass all conditions that undermine the effective exercise of fundamental labor rights, posing risks to the life, health, freedom, human dignity, and safety of workers.⁴⁷²

Lastly, the ILO has also developed a set of 17 indicators, called 'Key Indicators of the Labour Market' (KILM), on the basis of which it has been created a database that collects country level data since 1980 in order to establishing standards, overseeing labor markets on a global scale and verifying the existence of decent working

⁴⁶⁶ Scieurba A., *op. cit.*, p. 227.

⁴⁶⁷ Council of Europe, European Social Charter, CETS no. 163, 1999.

⁴⁶⁸ Constitution of the Italian Republic, 22 December 1947.

⁴⁶⁹ ILO, *Decent Work. Report of the Director-General to the 87th Session of the International Labour Conference*, 1999.

⁴⁷⁰ Scieurba A., *op. cit.*, p. 227.

⁴⁷¹ Corbanese V., Rosas G., *op. cit.*, p. 3.

⁴⁷² Fudge J., McCann D., *Unacceptable Forms of Work: A Global and Comparative Study*, ILO, 2015.

conditions.⁴⁷³ Notably, these indicators cover the employment, human rights and social security dimensions.⁴⁷⁴ The development of these indicators was rooted in the belief that effective, evidence-driven policymaking relies not only on recognizing and quantifying best practices in the labor market but also on identifying shortcomings, such as underemployment and deficits in decent work. This initial step is crucial in formulating employment policies designed to improve the welfare of workers and stimulate economic growth. This holistic perspective of the labor market necessitates the thorough collection, structuring, and analysis of labor market data. In this regard, the KILM can function as a valuable tool for monitoring and evaluating various aspects related to the performance of labor markets.⁴⁷⁵ As a matter of facts, the KILM serves as a valuable tool for identifying areas where conditions for decent work are inadequate. This encompasses not only individuals who are employed but still unable to raise themselves and their families above the poverty line (KILM 17), but also those experiencing poor-quality employment or complete worklessness. Moreover, the absence of any employment can be identified through unemployment indicators (KILMs 9 and 10), and more broadly through inactivity (KILM 13). On top of that, to assess poor-quality work, a combination of indicators can be used; for instance, by identifying individuals engaged in vulnerable employment (based on their employment status and sector – KILMs 3 and 4), working excessively long hours (KILM 7), participating in the informal economy (KILM 8), experiencing underemployment (KILM 12), or being involved in low-productivity jobs (KILM 16).⁴⁷⁶

Nonetheless, despite the existence of different indicators aimed at identifying situations of exploitation, ultimately, no international instruments provide for a proper definition of the notion of exploitation.⁴⁷⁷ Therefore, labor exploitation remains a complex issue characterized by both moral and legal ambiguity, as there exists a blurry line between those who can be identified as victims and those who cannot⁴⁷⁸ and between criminal

⁴⁷³ ILO, *Key Indicators of the Labour Market*, Ninth Edition, Geneva, 2016.

⁴⁷⁴ Di Martino A., *Sfruttamento del lavoro. Il valore del contesto nella definizione del reato*, il Mulino, Bologna, 2020, pp. 86-87.

⁴⁷⁵ ILO, *Key Indicators of the Labour Market*, *op. cit.*, p. 7.

⁴⁷⁶ *Ibidem*.

⁴⁷⁷ Giammarinaro M. G., *Understanding Severe Exploitation*, *op. cit.*, p. 1.

⁴⁷⁸ Charman S., *Making Sense of Policing Identities: The 'Deserving' and the 'Undeserving' in Policing Accounts of Victimisation*, in "Policing and Society", Vol. 30, no. 1, 2019, pp. 1-17.

and non-criminal offenses.⁴⁷⁹ Within the European Union, individual member states determine the conditions under which work irregularities are classified as labor exploitation, leading to varying and sometimes wide-ranging regulatory frameworks in which key terms remain undefined. This legal ambiguity, thus, presents inspectors with the difficult task of discerning who qualifies as a victim of labour exploitation or severe (and thus criminal) labor exploitation and who does not.⁴⁸⁰

As for Italy, in the absence of a clear definition of labor exploitation in labor law, this issue has been addressed within the criminal law framework, thus taking into account only those forms of severe exploitation punishable under criminal law. Namely, within the Italian legal framework, labor exploitation is deemed to exist when a judge encounters one of the four conditions outlined by the legislator in Article 603 bis, paragraph 3, of the Criminal Code.⁴⁸¹ The indices perform the function of making the concept of exploitation precise. Their character is not peremptory and they may occur alternatively.⁴⁸² Therefore, even a single indication of exploitation is sufficient to establish the commission of the offence referred to in Article 603bis of the criminal code,⁴⁸³ alongside the exploitation of the worker's vulnerable position. Both subjecting the worker to conditions of labor exploitation and taking advantage of their vulnerable situation are essential elements of the offense in question. By means of these indices, criminal law has opted to examine the working conditions of the individuals who are subjected to exploitation. This includes assessing how they work, the number of hours they work each day, and the violations of fundamental human rights guaranteed by the Constitution and supranational sources.⁴⁸⁴ In essence, criminal law has taken a closer look at the practical aspects of exploitation and the impact it has on the individuals involved.

Notably, the first exploitation index concerns underpayment practices, i.e. “the repeated payment of wages that are [...] manifestly disproportionate to the quantity and quality of work performed”.⁴⁸⁵ This provision echoes Article 36 of the Constitution, where it

⁴⁷⁹ Paraciani R., Rizza R., *Ispettori del lavoro e street-level bureaucracy. Gestire le irregolarità lavorative tra spinte isomorfe e spazi discrezionali*, in “Polis”, Vol. 35, no. 3, 2020, pp. 597–620.

⁴⁸⁰ Loyens K., Paraciani R., *op. cit.*, pp. 27-28.

⁴⁸¹ Italian Code of Criminal Procedure, 1988.

⁴⁸² Rausei P., *Sfruttamento della manodopera fra norme in vigore e prospettive di riforma*, in “Diritto e pratica del lavoro”, Vol. 16, 2016, pp. 988-989.

⁴⁸³ Corte di Cassazione Penale, Sez. V, 12/01/2018, n.17939.

⁴⁸⁴ Art. 603bis of the Italian Code of Criminal Procedure, 1988.

⁴⁸⁵ Art. 603bis, paragraph 3, of the Italian Code of Criminal Procedure, 1988.

states that: "the worker has the right to remuneration commensurate with the quantity and quality of his or her work and in any case sufficient to ensure for himself or herself and his or her family a free and dignified existence".⁴⁸⁶ Moreover, with regard of this index, in 2016, the term "systematic" was replaced with the adjective "repeated," which is more likely to be encountered in practice. This change is significant because, "while the use of the term "systematic" referred to an organizational choice that contradicted regulations on remuneration, the term "repeated" suggests a simple recurrence without the need for such conduct to constitute the overall "system" of organization within that specific work context".⁴⁸⁷

The second index concerns "the repeated violation of regulations on working hours, rest periods, weekly rest periods, compulsory leave, and holidays".⁴⁸⁸ This refers, therefore, to the protection of the employee's psychological and physical well-being, compromised by a service provided in violation of the mentioned provisions.⁴⁸⁹ Once more, the adjective "systematic" has been substituted with the less stringent "repeated". This change still pertains to repeated actions but no longer necessitates the element of systematicity. As a result, behavior that was previously not punishable is now also safeguarded, despite the somewhat uncertain nature of the 'repeated' element in the conduct.

The third circumstance refers instead to the "existence of violations of occupational health and safety regulations";⁴⁹⁰ where, of course, serious disregard for the health and safety of the worker as a person is required, violations of a formal nature are not sufficient to constitute the offence.⁴⁹¹

The fourth index refers to the "subjection of the worker to working conditions, surveillance methods or housing situations that are degrading".⁴⁹² What this index is concerned with, therefore, is the concept of 'degradation', which must be considered to include any treatment that is detrimental to human dignity.⁴⁹³ And it is precisely the

⁴⁸⁶ Art. 36 of the Constitution of the Italian Republic, 22 December 1947.

⁴⁸⁷ De Santis G., Corso S. M., Delvecchio F. (eds.), *Studi sul caporalato*, Giappichelli, Torino, 2020, p. 65.

⁴⁸⁸ Art. 603bis, paragraph 3, of the Italian Code of Criminal Procedure, 1988.

⁴⁸⁹ Garofalo D., *Il contrasto al fenomeno dello sfruttamento del lavoro (non solo in agricoltura)*, in "Diritto della Sicurezza Sociale", II, annata XVIII, Il Mulino, Bologna, 2018, p. 245.

⁴⁹⁰ Art. 603bis, paragraph 3, of the Italian Code of Criminal Procedure, 1988.

⁴⁹¹ Stolfa F., *La legge sul "caporalato" (l. n. 199/2016): una svolta "etica" nel diritto del lavoro italiano? Una prima lettura*, in "Diritto della sicurezza sul lavoro", 2017, pp. 92-93.

⁴⁹² Art. 603bis, paragraph 3, of the Italian Code of Criminal Procedure, 1988.

⁴⁹³ Stolfa F., *op. cit.*, pp. 92-93.

concept of human dignity, of the dignity of the worker, that has once again become the legal asset to be protected by Article 603bis of the criminal code.

However, also in this case, the legislator did not provide a clear and precise definition of exploitation, but indicated, again, just a number of exploitation indicators.

3.2 Factors fostering the exploitation of migrant women employed in domestic and care work in Italy

The susceptibility of migrant domestic workers to exploitation is the result of various factors that interact. These factors encompass not only the previously highlighted devaluation of domestic work, the unique traits of the sector, and the features of the contemporary global capitalist economy, but also deficiencies in migration and welfare policies, as well as gaps in legislation related to domestic work.⁴⁹⁴ Notably, the factors contributing to the resurgence of labor exploitation can be categorized into four main groups: regulatory and institutional framework (i.e. shortcomings in workplace monitoring, insufficient regulation of relevant labor sectors, migration policies that impede regular employment, etc.); personal situations and background of workers (i.e. extreme poverty, low levels of education, discrimination, communication difficulties among workers, etc.); work-related factors (i.e. working in industries and occupations that are particularly vulnerable to labor exploitation, as well as working in isolated conditions, etc.); employers' behavior (i.e. seeking lower production costs, failing to provide employment contracts and information on workers' rights, creating dependency among workers by controlling access to necessities like food, housing, and transportation, etc.).⁴⁹⁵ If up to now the analysis has focused on the last three categories, the aim of this paragraph will be to analyse the Italian regulatory and institutional framework in order to highlight how the policies and laws adopted on migration and domestic work contribute to the spread of exploitative practices.

3.2.1 Domestic and care work and exploitation: the role played by domestic and care work policies and laws in Italy

The domestic and care sector continues to present challenges, particularly in terms of its regulation. Italy stands out as a distinctive and exceptional case in this regard, where

⁴⁹⁴ EU Commission, *European Policy Brief*, 2016, p. 3.

⁴⁹⁵ FRA, *Severe labour exploitation*, *op. cit.*, pp. 43-52.

domestic and care work remains primarily within the realm of family management, and the majority of this work is performed by immigrant workers. In Italy, domestic and care work is, indeed, still governed in a manner that, despite commodifying it, firmly situates it within the household sphere.⁴⁹⁶

As mentioned in the previous chapters, Italy, like other Western nations, has experienced a growing trend of outsourcing care work in response to the aging population and increased female participation in the workforce.⁴⁹⁷ Consequently, Italy is characterized by the limited development of public care services, especially for children and the elderly⁴⁹⁸ and Italian policies predominantly prioritize commodification, favoring, in particular, monetary payments that families can then use to employ home caregivers or domestic aides, with a special emphasis on immigrant women in these roles.⁴⁹⁹ As a matter of facts, the primary means used by the State to address long-term care needs in Italy is through the provision of financial benefits⁵⁰⁰ and these cash-for-care schemes represent the predominant mechanisms facilitating the outsourcing of care.⁵⁰¹ Notably, there are two primary instruments in use: the "*indennità di accompagnamento*" (assistance allowance) and the "*assegno di cura*" (care allowance).⁵⁰² These two measures differ significantly. Assistance allowance is, indeed, a fixed-sum payment provided to all citizens with a certified disability, determined through consistent medical evaluation criteria applied nationwide. In contrast, the Care allowance is a financial aid granted to individuals who care for a dependent person with disability in their own home, it is administered by local welfare departments and relies on highly selective criteria that vary from one municipality to another.⁵⁰³ Hence, the responsibility for caregiving is shifted onto the family, necessitating them to either carry out the caregiving tasks themselves or seek assistance from the labor market. This approach is often described as "do-it-yourself" (DIY) welfare.⁵⁰⁴ However, a crucial

⁴⁹⁶ De Vita L., Corasaniti A., *op. cit.*, pp. 531- 532.

⁴⁹⁷ England K., *op. cit.*, pp. 367–385.

⁴⁹⁸ Borelli S., *Le diverse forme dello sfruttamento nel lavoro domestico di cura*, in "Lavoro e diritto", Vol. 2, 2021, p. 534.

⁴⁹⁹ De Vita L., Corasaniti A., *op. cit.*, p. 532.

⁵⁰⁰ Commissione per le spese fiscali Ministero dell'Economia e delle Finanze, *Rapporto annuale sulle spese fiscali*, 2019.

⁵⁰¹ De Vita L., Corasaniti A., *op. cit.*, p. 534.

⁵⁰² *Ibidem*.

⁵⁰³ Naldini M., Saraceno C., *Social and family policies in Italy: Not totally frozen but far from structural reforms*, in "Social Policy & Administration", Vol. 42, no. 7, 2008, pp. 733–748.

⁵⁰⁴ Borelli S., *op. cit.*, p. 286.

question remains how these caregiving schemes influence informal work and the position of potential family caregivers.⁵⁰⁵ As a matter of facts, while these schemes tend to be highly regulated in countries like Sweden, France, and the Netherlands, Italy lacks regulations restricting how these funds can be used.⁵⁰⁶ In most cases, families use the allowances to pay the wages of domestic and care workers.⁵⁰⁷ Italy, compared to other European countries, has in fact the highest proportion of domestic and care workers directly employed by families: 32.5%, in contrast to 15% in France, 9.3% in Germany, and 0.4% in Finland.⁵⁰⁸ In contrast to the family-centric management model, indeed, Northern European countries have adopted systems where care workers are hired and supervised by agencies that operate an extensive network of day care centers, in-home services, nursing facilities, and rehabilitation centers.⁵⁰⁹

In the DIY welfare system, the satisfaction of care needs primarily hinges on the cost of care labor. The lower the cost of this labor, the more accessible it becomes for families, unless they choose to undertake the care work themselves, often carried out by women within the family.⁵¹⁰ In Italy, without family support, in fact, only 6% of non-self-sufficient pensioners could afford a career.⁵¹¹ Therefore, in an attempt to manage domestic and care work while controlling costs and ensuring flexibility, families tend to prefer hiring migrant workers. This predominance of migrants in the domestic and care work sector helps address cost concerns and ensures social acceptance. Economically, this workforce meets the country's increasing social demand for care and assistance in a flexible and personalized manner, while also enabling families to keep costs relatively low.⁵¹² From a societal perspective, the widespread practice of employing care workers directly within families aligns with the deeply rooted view of care as a responsibility managed at the household level.⁵¹³ The concept of Italian familism and the inclination

⁵⁰⁵ De Vita L., Corasaniti A., *op. cit.*, p. 534.

⁵⁰⁶ Da Roit B., Le Bihan B., *Similar and yet so different: Cash-for-care in six european countries' long-term care policies*, in "The Milbank Quarterly", Vol. 88, no. 3, 2010, pp. 286-309.

⁵⁰⁷ De Vita L., Corasaniti A., *op. cit.*, p. 534.

⁵⁰⁸ Osservatorio DOMINA sul lavoro domestico, 1° *Rapporto Annuale sul Lavoro Domestico*, 2019.

⁵⁰⁹ De Vita L., Corasaniti A., *op. cit.*, p. 536.

⁵¹⁰ Borelli S., *op. cit.*, pp. 286-287.

⁵¹¹ Osservatorio DOMINA sul lavoro domestico, 2° *Rapporto Annuale sul Lavoro Domestico*, 2020, p. 106.

⁵¹² De Vita L., Corasaniti A., *op. cit.*, p. 535.

⁵¹³ *Ibidem*.

to depend on live-in caregivers⁵¹⁴ or immigrant workers are closely intertwined.⁵¹⁵ The familistic Italian model⁵¹⁶ has thus evolved from a "family model of care" to a "migrant in the family model of care".⁵¹⁷ This transition allows care work to remain within the family, perpetuating gender-based divisions of labor, while also controlling costs by relying on employees who work long hours for comparatively lower wages.⁵¹⁸ Moreover, through this do-it-yourself welfare system – i.e. through the shifting of responsibility for care from the state to individual households – capital not only secures low-cost labour force, but also a constraint on public spending and, consequently, on the tax burden.⁵¹⁹

As a result, the Italian legal system has introduced additional mechanisms to contain the cost of care work and promote the familistic model. These mechanisms give rise to what can be termed as the legal exploitation of domestic workers,⁵²⁰ distinguishing it from illegal exploitation, which becomes a criminal offense under Article 603-bis of the criminal code.⁵²¹

Notably, first of all, one of the techniques employed to contain labor costs is the legislative approach referred to as "subtractive".⁵²² This approach involves “not applying the protections established for other workers”⁵²³, contrary to Article 14 of Convention 189, which establishes the principle of equal treatment among workers.

⁵¹⁴ Castegnaro A., *La rivoluzione occulta nell'assistenza agli anziani: Le aiutanti domiciliari*, in “Studi Zancan: Politiche e Servizi Alle Persone”, Vol. 2, 2002, pp. 11-34.

⁵¹⁵ Da Roit B., *Privately paid care for older people in Italy: Testing the equivalence between macroregions*, in “Quality and Quantity: International Journal of Methodology”, Springer, Vol. 48, no. 2, 2014, pp. 577-591.

⁵¹⁶ Ferrera M., *The southern model of welfare in social Europe*, in “Journal of European Social Policy”, Vol. 6, no. 1, 1996, pp. 17-37.

⁵¹⁷ Bettio F., Simonazzi A., Villa P., *op. cit.*, pp. 271-285.

⁵¹⁸ Van Hooren F. J., *Varieties of migrant care work: Comparing patterns of migrant labour in social care*, in “Journal of European Social Policy”, Vol. 22, no. 2, 2012, pp. 133-147.

⁵¹⁹ Borelli S., *op. cit.*, p. 287.

⁵²⁰ *Ibidem*.

⁵²¹ The coexistence of legal and illegal forms of exploitation is further illustrated by turnover data. For many women workers, indeed, domestic work is seen as temporary, low-status, poor and wearisome occupation done while awaiting better employment opportunities. (Commissione europea, *Libro verde sull'invecchiamento demografico. Promuovere la solidarietà e la responsabilità fra le generazioni*, 2021, p. 19).

⁵²² Borelli S., *op. cit.*, p. 288.

⁵²³ De Martino C., *Chi bada alle badanti? La specialità del lavoro domestico alla prova del Covid*, in “Giornale di diritto del lavoro e di relazioni industriali”, no. 1, 2021, p. 57.

As a matter of facts, for instance, domestic workers are excluded from workplace safety regulations⁵²⁴ and, as mentioned in the previous chapter, they can be dismissed without just cause with a short notice period of eight days.⁵²⁵

Moreover, they are still denied many rights related to crucial matters such as maternity protection, wages, and working hours. Most live-in workers, for instance, does not only have poor wages but also work more than the maximum weekly working hours (54 hours) stipulated by the national collective agreement, performing tasks that should ideally be done by at least two individuals.⁵²⁶ On top of that, these working hours, even when adhered to, already deviate from Legislative Decree no. 66/2003.⁵²⁷

Moreover, another example of deviating regulations pertains to social safety nets, diverging, again, from the ILO Convention prescription of equal treatment in social security matters.⁵²⁸ As a matter of facts, for instance, domestic workers do not have access to numerous income support measures, such as wage integration programs.⁵²⁹ Furthermore, the annual determination of social security contributions for all domestic work relationships is made by the National Social Security Institute (INPS), following criteria that, once again, deviate from the principle of equal treatment mandated by the ILO Convention.⁵³⁰

In addition, in terms of workplace inspections, the areas where labor inspectors can carry out their duties are defined by Presidential Decree 520/1955, which excludes private residences from the standard rules governing access to workplaces.⁵³¹ While labor inspectors have the "authority to visit at any time of the day or night the workshops, factories, construction sites, and any other works under their supervision, as well as the dormitories and dining areas attached to these establishments", they must "refrain from visiting premises adjacent to workplaces that are not directly or indirectly connected with the company's operations, unless they have reasonable grounds to suspect that these premises are being used to commit or conceal violations of the

⁵²⁴ Angelini L., Pascucci P., *La tutela della salute e sicurezza dei lavoratori domestici. Nuovi spunti di riflessione dopo il d. lgs. 81/2008*, in Sarti R. (ed.), "Lavoro Domestico e di Cura: Quali Diritti?", Ediesse, Roma, 2010, p. 242.

⁵²⁵ EU Commission, *European Policy Brief*, *op. cit.*, p. 3.

⁵²⁶ *Ivi*, pp. 3-4.

⁵²⁷ Borelli S., *op. cit.*, p. 290.

⁵²⁸ *Ivi*, p. 288.

⁵²⁹ Borelli S., *Who cares? Il lavoro nell'ambito dei servizi di cura alla persona*, Jovene, Napoli, 2020, p. 189.

⁵³⁰ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 290.

⁵³¹ Degani P., *op. cit.*, p. 10.

law".⁵³² Their authority to access is thus constrained by the inviolability of private residences that do not constitute a proper "workplace," as clarified in Constitutional Court ruling no. 10 of 1971.⁵³³ Thus, labor inspectors' limited access powers correspondingly lead to fewer sanctions targeting irregular employment relationships within households, reducing deterrence.⁵³⁴

Furthermore, finally, the issue of equal treatment for domestic workers also resurfaced in the debate regarding the minimum wage. Advocates of the legal minimum threshold – that would amount to 9 Euros per hour – indeed, quickly realized that applying this threshold to domestic work would pose significant challenges for families.⁵³⁵ Therefore, to address this issue, it was proposed to introduce tax breaks to ease the cost of domestic labor, a solution that has long been demanded by social partners as well.⁵³⁶ However, this measure has a drawback that is often overlooked: reducing the tax burden means depriving the state of part of its public resources, thus undermining the essential prerequisite for the development of public care services for individuals,⁵³⁷ to the point that some scholars have even calculated that, for the state, it would be more advantageous to increase the number of public care services rather than granting tax breaks for care work.⁵³⁸

Lastly, another technique employed to contain the cost of domestic work is the proliferation of national collective labor agreements for the sector.⁵³⁹ According to data available in the “Consiglio Nazionale dell’Economia e del Lavoro” (CNEL) database (as of September 25, 2023), there are currently 28 national collective labor agreements (CCNL) in force for domestic work,⁵⁴⁰ signed by various employers' associations representing families, even though the care needs of these families should ideally be

⁵³² Art. 8 of the Presidential Decree no. 520/1955.

⁵³³ Osservatorio DOMINA sul lavoro domestico, *Il lavoro domestico e l'attività di vigilanza*, at <https://www.osservatoriolavorodomestico.it/il-lavoro-domestico-e-l-attivita-di-vigilanza>.

⁵³⁴ Degani P., *op. cit.*, p. 10.

⁵³⁵ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.* p. 288.

⁵³⁶ Osservatorio DOMINA sul lavoro domestico, *2° Rapporto Annuale sul Lavoro Domestico*, 2020, p. 95.

⁵³⁷ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 288.

⁵³⁸ Morel N., Carbonnier C., *Taking the Low Road: The Political Economy of Household Services in Europe*, in Morel N., Carbonnier C. (eds.), “The Political Economy of Household Services in Europe”, Palgrave Macmillan, Londra, 2015, p. 31.

⁵³⁹ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 288.

⁵⁴⁰ Consiglio Nazionale dell’Economia e del Lavoro (CNEL), *Archivio Nazionale dei Contratti Collettivi di Lavoro*, at <https://www.cnel.it/Archivio-Contratti>.

equally guaranteed by the state.⁵⁴¹ Furthermore, some of these contracts are signed by associations representing cooperatives, non-profit organizations, or businesses that "provide services to families,"⁵⁴² but whose interests do not necessarily align with those of the families. The provision of domestic work is indeed one of the most evident phenomena of commodification of care work: allowing providers of this commodity to negotiate CCNL agreements that must be adhered to by their consumers (families) means prioritizing market logic over the protection of care needs.⁵⁴³

3.2.2 Migrant labour and exploitation: the role played by immigration policies and laws in Italy

As already widely pointed out, the vast majority of domestic workers in Italy are foreign women, so much so that, as previously mentioned, the familistic Italian model of care has been referred to as "migrants in the family model of care".⁵⁴⁴ On the one hand, indeed, domestic work offers clear advantages for foreign women too, especially irregular migrants,⁵⁴⁵ providing them with food and accommodation (though often not in dignified conditions) and keeping them relatively invisible due to the difficulty of inspections in private homes. On the other hand, however, also in this perspective, there is a need to control the cost of outsourced care work to immigrant women in order for Italian families to be able to afford it.⁵⁴⁶ To this end, a central role is also played by immigration legislation. Notably, the exploitation (both legal and illegal) of foreign women in Italy (and beyond) is also made possible precisely because of immigration laws.⁵⁴⁷

Numerous scholars have extensively demonstrated, for instance, how the procedure for obtaining a residence permit for work reasons is so complex that, in practice, it makes it nearly impossible for foreigners to enter Italy legally.⁵⁴⁸ Additionally, these migrant care workers are generally disadvantaged by policies that favor skilled migration over

⁵⁴¹ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 289.

⁵⁴² Art. 1 of the National Collective Agreement (Coopitaliane, Adli, Famar, Confamar), 2020.

⁵⁴³ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 289.

⁵⁴⁴ Bettio F., Simonazzi A., Villa P., *op. cit.*, p. 271.

⁵⁴⁵ Ambrosini M., *Irregular Migration*, *op. cit.*

⁵⁴⁶ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 291.

⁵⁴⁷ *Ibidem.*

⁵⁴⁸ Chiaromonte W., *L'ingresso per lavoro: l'irrazionalità del sistema e le sue conseguenze al tempo delle fake news e della retorica nazionalista*, in "Ius migrandi Trent'anni di politiche e legislazione sull'immigrazione in Italia", FrancoAngeli, Milano, 2020, p. 241.

unskilled migration.⁵⁴⁹ At the same time, the situation is problematic also for households that, on the one hand, cannot find suitable or affordable care within shrinking welfare states and among fellow nationals who are unwilling to take on these jobs, and, on the other hand, are also discouraged or prohibited from directly hiring a domestic worker who is a non-European national.⁵⁵⁰ Consequently, irregular migration and informal work are spreading within private homes, and the new class of domestic care workers is becoming more isolated, dispersed, and effectively invisible.⁵⁵¹

In particular, the conditions faced by many foreign women working in the domestic and care sector in Italy have worsened due to the consequences of restrictive immigration and asylum policies that have been implemented in recent years to “secure” state borders⁵⁵² against the arrival of migrants.⁵⁵³ These policies have come in response to the resurgence of asymmetric conflicts in regions surrounding the Mediterranean, such as Syria, Libya, the Sahel, the Horn of Africa, the Middle East, and Central Asia, resulting in an increase in the number of so-called 'forced' or 'irregular' migrants.⁵⁵⁴ Notably, with the increase in the number of migrants entering Europe, the European Union (EU) and European states have adopted a strategy of externalizing the asylum policy in collaboration with key states, notably Turkey, to control the flow of potential asylum seekers towards Europe.⁵⁵⁵ Moreover, individual EU member states, including Italy, have also pursued similar agreements, creating a network of readmission and cooperation agreements with governments on the southern shores of the Mediterranean.⁵⁵⁶ On top of that, a significant part of the EU-Africa cooperation agenda has been restructured to prevent irregular migration and reduce the number of potential asylum seekers reaching European coastlines.⁵⁵⁷ However, non-cooperation with

⁵⁴⁹ Marchetti S., *Migration and Domestic Work*, *op. cit.*, p. 33.

⁵⁵⁰ *Ibidem.*

⁵⁵¹ Kaufka K., *op. cit.*, p. 168.

⁵⁵² Freedman J., *Analysing the gendered insecurities of migration*, in “International Feminist Journal of Politics”, Vol. 14, 2012, pp. 36-55.

⁵⁵³ Degani P., *op. cit.*, pp. 3-4.

⁵⁵⁴ Degani P., De Stefani P., *Addressing Migrant Women’s Intersecting Vulnerabilities. Refugee Protection, Anti-trafficking and Anti-violence Referral Patterns in Italy*, in “Peace Human Rights Governance”, Vol. 4, no. 1, 2020, p. 117.

⁵⁵⁵ *Ibidem.*

⁵⁵⁶ Wolman A., *The Role of Departure States in Combating Irregular Emigration in International Law: An Historical Perspective*, *International Journal of Refugee Law*, Vol. 31, no. 1, 2019, pp. 30-54.

⁵⁵⁷ Crawley H., Blitz B. K., *Common agenda or Europe’s agenda? International protection, human rights and migration from the Horn of Africa*, in “Journal of Ethnic and Migration Studies”, no. 45, 2019, pp. 2258-2274.

European states in addressing irregular (often referred to as 'illegal' or 'clandestine') migration may also result in restrictions on regular entry permits for nationals of a given state – namely, States that do not actively cooperate in addressing clandestine immigration or in repatriating their own nationals who have been issued deportation orders – migrating for work purposes.⁵⁵⁸ In summary, the strategy aimed at addressing forced migration involves delegating responsibilities for processing international protection applications to third states, including states of departure. It is, therefore, clear that this approach per se falls short of meeting contemporary human rights standards.⁵⁵⁹ And, on top of that, these measures to combat irregular immigration have often been implemented with limited regard for human rights-related issues.⁵⁶⁰

Furthermore, the few policies that would allow legal entry into Italy are so difficult to enforce that they are inapplicable in practice. In the 1990s, for instance, a system of non-call contracting and planned quotas was introduced to determine the maximum number of individuals eligible to apply for a residence permit for employment as domestic workers or caregivers each year.⁵⁶¹ This system became the sole legal entry pathway for non-EU migrant workers following the 2002 immigration law, commonly known as the Bossi-Fini law.⁵⁶² Therefore, non-EU citizens can obtain a residence and work permit as domestic workers only if they fall within the (relatively small) annual quota allocated for on-call recruitment in this sector, and if they are offered a permanent contract for a minimum of 26 hours per week,⁵⁶³ with only few exceptions having access to the labor market beyond the established quotas, such as highly skilled workers and executives.⁵⁶⁴ However, these quotas are typically established based on a regional estimate of labor demand in the domestic work sector, which often does not align with the actual demand.⁵⁶⁵ The reality, indeed, is that household requirements for caregiving or cleaning services cannot be predicted by prospective employers in the same way that a private company can forecast labor needs in industrial or agricultural sectors. Care needs frequently arise unexpectedly, such as when someone falls ill or a child is born.

⁵⁵⁸ Degani P., De Stefani P., *op. cit.*, p. 118.

⁵⁵⁹ Wolman A., *op. cit.*, pp. 51-52.

⁵⁶⁰ Crépeau F., *Regional study: management of the external borders of the European Union and its impact on the human rights of migrants*, Report of the Special Rapporteur on the human rights of migrants, 2013.

⁵⁶¹ Marchetti S., Cherubini D., Garofalo G., *op. cit.*, pp. 46-47.

⁵⁶² Law no. 189/2002.

⁵⁶³ Marchetti S., Cherubini D., Garofalo G., *op. cit.*, p. 47.

⁵⁶⁴ Presidential Decree no. 394/1999.

⁵⁶⁵ Marchetti S., *Migration and Domestic Work*, *op. cit.*, p. 36.

Consequently, the entire system of annual quotas for labor demand in the domestic work sector is ill-suited to meet the dynamic needs of households.⁵⁶⁶ Moreover, the administrative procedures associated with it are excessively complex and time-consuming, and employers often prefer to hire individuals they have had a chance to meet in person beforehand.⁵⁶⁷ Article 22 of the Consolidated Immigration Act, indeed, outlines three specific obligations that an employer must fulfill when seeking to regularly hire a foreign worker for subordinate employment – i.e., conducting a preliminary check, through the relevant Employment Center, to confirm the unavailability of a worker already present on the national territory for the specific job position, commonly referred to as the economic necessity test;⁵⁶⁸ providing accommodation for the worker; proposing the signing of a residence contract for subordinate work, including an undertaking by the employer to pay the costs of the worker's return to the country of origin.⁵⁶⁹ Once these obligations are met, within six months of receiving the visa – issued after appropriate checks – the foreigner must enter Italy. Within eight days of their arrival, they must sign the residence contract for subordinate work, which finally grants them the coveted residence permit for work reasons.⁵⁷⁰ Moreover, the Bossi-Fini law introduced an additional restriction, stipulating that foreigners cannot enter Italy solely for the purpose of seeking employment.⁵⁷¹ Consequently, the initial connection between job seekers and employers must occur while the foreigner is still in their home country. This restriction hinders interactions between job seekers and employers, a crucial aspect, especially for low-skilled positions, failing to acknowledge that employment relationships for low-skilled jobs are built through face-to-face encounters and direct contact between labor supply and demand.⁵⁷² Consequently, the lack of a functional and feasible system for regulating migration flows, which, under the current legal framework, necessitates an unrealistic

⁵⁶⁶ *Ibidem*.

⁵⁶⁷ EU Commission, *European Policy Brief*, *op. cit.*, p. 3.

⁵⁶⁸ Initially, this verification pertained to the unavailability of a "national or EU worker," but current regulations only require ensuring no other workers, whether Italian or foreign, are already present at the location (Reyneri E., *Introduzione alla sociologia del lavoro*, Il Mulino, Bologna, 2021, p. 263).

⁵⁶⁹ Article 22 of the Legislative Decree no. 286/1998, Consolidated Act on Immigration.

⁵⁷⁰ Recchia G. A., *L'accesso al lavoro dei migranti economici*, in Chiaromonte W., Ferrara M.D., Ranieri M. (eds.), "Migranti e lavoro", il Mulino, Bologna, 2020, p. 105.

⁵⁷¹ Law no. 189/2002.

⁵⁷² Chiaromonte W., *Cercavamo braccia, sono arrivati uomini. Il lavoro dei migranti in agricoltura fra sfruttamento e istanze di tutela*, in "Giornale di diritto del lavoro e di relazioni industriali", no. 158, 2018, p. 2.

"remote" assumption for regular entry, inevitably results in a period of clandestinity as an intermediate stage toward regularization⁵⁷³ and makes irregular migrants vulnerable to exploitation.⁵⁷⁴ As a matter of facts, the Italian quota system for admitting third-country foreign workers has proven inadequate over the years and many individuals – particularly those urgently in need of domestic workers – have employed 'irregular' migrants already in Italy, with the intention of regularizing their status later.⁵⁷⁵ On top of that, since 2010, quotas for domestic work – that, historically, have already been quite limited – have not even been allocated anymore.⁵⁷⁶ Therefore, due to this general tendency in Italy to close the channels of entry for regular economic migration, the circuits of undeclared work and labour exploitation will continue to represent one of the (very few) employment alternatives for invisible foreigners which, in turn, determines their perpetuation.⁵⁷⁷

Additionally, laws and policies, not only related to immigration, but also to international protection recognition after arrival, are drafted in such a way to favour the persistence of irregular migrants, even after they have entered the country. In the case of Italy, for instance, the reception of migrants seeking international protection is not governed by specific legislation, despite Article 10.3 of the Italian Constitution seemingly requiring such regulation. Instead, it falls under the purview of the Consolidated Act on Immigration, initially enacted in 1998 and subsequently subject to frequent amendments.⁵⁷⁸

Moreover, Italy's legislative framework concerning the recognition of asylum seekers' status and their reception largely aligns with European Union directives and regulations developed since the 1990s. These directives and regulations collectively form the Common European Asylum System (CEAS), which operates within the broader framework of the European Global Approach on Migration and Mobility (GAMM) and

⁵⁷³ Caputo A., *Immigrazione e politiche del diritto in Italia*, in Peretti I. (ed.), "Schengenland. Immigrazione: politiche e culture in Europa", Ediesse, Roma, 2010.

⁵⁷⁴ Paggi M., *Lo sfruttamento nel lavoro domestico e di cura: dall'invisibilità sociale all'invisibilità giuridica*, in Brambilla A., Degani P., Paggi M., Zorzella N. (eds.), "Donne straniere, diritti umani, questioni di genere. Riflessioni su legislazione e prassi", Cooperativa Libreria Editrice dell'Università di Padova (Cleup), Padova, 2022, p. 54.

⁵⁷⁵ EU Commission, *European Policy Brief*, *op. cit.*, p. 3.

⁵⁷⁶ Paggi M., *op. cit.*, p. 54.

⁵⁷⁷ Nicodemi F., *Le vittime della tratta di persone nel contesto della procedura di riconoscimento della protezione internazionale. Quali misure per un efficace coordinamento tra i sistemi di protezione e di assistenza?*, in "Diritto, immigrazione, cittadinanza", no. 1, 2017.

⁵⁷⁸ Degani P., De Stefani P., *op. cit.*, pp. 123-124.

the EU's Migration Agenda, as well as Italy's own migration policies.⁵⁷⁹ Consequently, refugee policies are viewed as an aspect of immigration policies rather than a distinct, purely humanitarian concern. Therefore, State policies in this domain can be influenced by a range of factors, including political, geopolitical, economic, security, and humanitarian considerations, alongside human rights concerns.⁵⁸⁰

This becomes evident also when examining the Consolidated Act on Immigration, specifically Legislative Decree no. 286/1998. Its original intent, in fact, was to oversee and regulate migration in line with public order principles, as well as to facilitate the integration of foreigners into Italian society. However, over time, the primary objective has gradually taken precedence over the latter.⁵⁸¹ More precisely, as per the Consolidated Act, the Prime Minister is entrusted with the responsibility of drafting a programmatic document every three years, focused on "immigration and foreigners' policies within the national territory", setting out the "general criteria for defining the inflow of individuals into the national territory".⁵⁸² Moreover, another decree, known as the "Decreto flussi," is issued annually by the Prime Minister to determine the "maximum quotas of foreigners allowed into Italian territory for both subordinate and self-employed work".⁵⁸³ Nonetheless, the triennial programmatic document hasn't been adopted for several years, with the most recent example dating back to the 2004-2006 period. Consequently, this has shifted the responsibility for all immigration-related matters onto the "Decreto flussi", that, over time, also due to the security-focused migration policy, has led to increasingly restricted admission quotas. Therefore, as a result, the excessively inflexible regulation of incoming migrant flows often compels many immigrants to resort to clandestine means, forcing them into low-skilled work under exploitative conditions, proving that these measures are adopted mainly to meet political, geopolitical, economic, security needs, rather than humanitarian and human rights-related ones. As a matter of facts, "the alternative to regular entry is not non-entry but rather clandestinity, which fuels the vicious circle of exploitation that accompanies the foreigner from the country of departure to the destination country".⁵⁸⁴ Therefore, "a

⁵⁷⁹ *Ivi*, p. 124.

⁵⁸⁰ *Ibidem*.

⁵⁸¹ Recchia G. A., *op. cit.*, pp. 93-94.

⁵⁸² Legislative Decree no. 286/1998.

⁵⁸³ Ferrante V. (ed.), *Economia informale e politiche di trasparenza. Una sfida per il mercato del lavoro*, Vita e Pensiero, Milano, 2017, p. 112.

⁵⁸⁴ Laforgia S., *Il contrasto allo sfruttamento lavorativo dei migranti*, in Chiaromonte W., Ferrara M. D., Ranieri M. (eds.), "Migranti e lavoro", il Mulino, Bologna, 2020.

highly restrictive policy for the entry of migrants from non-EU countries triggers a cycle of limited quotas, irregular entries, and unreported labor. Consequently, extracomunitario migrant workers find themselves in a state of institutional isolation, as their irregular presence on national territory hinders their access to mechanisms for reporting and safeguarding their rights, making them susceptible to genuine existential coercion”.⁵⁸⁵

Currently, due to the complex and fragmented nature of contemporary migration patterns and labor markets, there is no empirical evidence establishing a direct causal link between restrictive immigration procedures and a surge in irregular migration and asylum applications.⁵⁸⁶ Nonetheless, a noticeable correlation between these two trends has been observed.⁵⁸⁷ Providing legal pathways for both skilled and less-skilled migrant workers, along with broader systemic reforms, for instance, would reduce the number of irregular migrants.⁵⁸⁸ Whereas, restrictive visa and asylum policies contribute to a measurable shift of migrants into irregular status.⁵⁸⁹ Additionally, it is evident that offering legal avenues for entering a country, as opposed to unlawful means, can significantly safeguard the human rights of migrants by preventing human smuggling, exploitation, and abuse.⁵⁹⁰ The intuitive connection between stricter legislative and procedural requirements and an increase in irregular entries and overstays has also been quantified to some extent. For instance, Czaika and Hobolth conducted research using data from twenty-nine European countries and estimated that a 10% increase in restrictive regulatory measures could lead to a 4% increase in irregular migration.⁵⁹¹

The restrictive immigration and asylum policies adopted in Italy (and beyond), therefore, indirectly contribute to exploitation and human rights violations. As a matter of facts, undocumented immigrants in host countries or those without permission to

⁵⁸⁵ De Martino C., Lozito M., Schiuma D., *Immigrazione, caporalato e lavoro in agricoltura*, in “Lavoro e Diritto”, no. 2, 2016.

⁵⁸⁶ Triandafyllidou A., Bartolini L., Guidi C.F., *Exploring the Links Between Enhancing Regular Pathways and Discouraging Irregular Migration: A discussion paper to inform future policy deliberations*, Discussion Paper, International Organization for Migration (IOM), Geneva, (2019), at <https://cadmus.eui.eu/handle/1814/61251>

⁵⁸⁷ Degani P., De Stefani P., *op. cit.*, p. 117.

⁵⁸⁸ Barlund M., Di Salvo M., Ludolph L., *Can regular replace irregular migration across the Mediterranean?*, CEPS and Medam Project Report, 2019, at https://www.ceps.eu/wp-content/uploads/2019/06/Substitution_regular_irregular_Barlund-et-al.pdf.

⁵⁸⁹ Degani P., De Stefani P., *op. cit.*, p. 117.

⁵⁹⁰ *Ibidem*.

⁵⁹¹ Czaika M., Hobolth M., *Do restrictive asylum and visa policies increase irregular migration into Europe?*, in “European Union Politics”, Vol. 17, no. 3, 2016, pp. 345-365.

work are undoubtedly the most vulnerable to exploitation.⁵⁹² Researches by the Fundamental Rights Agency⁵⁹³ and Anna Triandafyllidou⁵⁹⁴ on irregular migration in domestic work, for instance, have demonstrated that the unique characteristics of domestic work, such as taking place inside private homes, often with flexible hours and duties, can lead to highly exploitative working conditions and extreme vulnerability when combined with undocumented migration status and informal work arrangements.⁵⁹⁵ Moreover, the challenges faced by irregular migrants are also evident in the jurisprudence related to Article 603-bis of the Italian Penal Code, where it is considered that their status inherently fulfills the requirement of the "state of need."⁵⁹⁶ This is because irregular migrants are viewed as individuals "lacking concrete alternatives" and willing to accept any work conditions in order to ensure their survival within the territory.⁵⁹⁷ On top of that, they are particularly vulnerable because the employment contract with an irregular migrant is void. As a matter of facts, while the law allows for the collection of owed wages and contributions for the period during which work was performed, if an irregular migrant asserts her rights, she risks being charged under Article 10-bis of Legislative Decree no. 286/1998 and facing deportation.⁵⁹⁸

However, despite the evidences regarding the correlation between restrictive immigration policies, irregular migrations, vulnerability and exploitation, the significant restriction of legal migration channels and the growing prevalence of stringent migration policies worldwide further support the idea that an "edge population" – i.e., a particularly vulnerable portion of the society, targeted for exploitation and severe exploitation due to intersecting vulnerabilities – is necessary in the functioning of global economic systems.⁵⁹⁹ As a matter of facts, the presence of irregular migrants serves as a labour market calmer.⁶⁰⁰ In order to diminish the vulnerability of migrant workers trapped in irregular situations and exposed to exploitation and abuse, indeed, it would rather be essential to resolve prolonged irregularity issues through regularization

⁵⁹² Degani P., *op. cit.*, p. 3.

⁵⁹³ FRA, *Migrants in an irregular situation employed in domestic work: Fundamental rights challenges for the European Union and its member states*, FRA, 2011.

⁵⁹⁴ Triandafyllidou A., *op. cit.*

⁵⁹⁵ Marchetti S., *Migration and Domestic Work*, *op. cit.*, p. 37.

⁵⁹⁶ Corte di Cassazione Penale, Sez. IV, 18/03/2021, no.10554.

⁵⁹⁷ *Ibidem.*

⁵⁹⁸ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 291.

⁵⁹⁹ Giammarinaro M. G., *Understanding Severe Exploitation*, *op. cit.*, p. 3.

⁶⁰⁰ Paggi M., *op. cit.*, p. 54.

programs. Notably, the criteria and processes for such schemes should be equitable and transparent, and they should be devised in partnership with organizations that advocate for the welfare of the affected migrant workers.⁶⁰¹

In Italy, the primary instrument for the regularisation of irregular immigrants is the administrative mechanism commonly referred to as "sanatoria".⁶⁰² Amnesties offers a significant opportunity for individuals with irregular residency or entry to gain administrative access for regularization.⁶⁰³ These mechanisms have, to some extent, also facilitated the inclusion of domestic and care workers into the Italian labor market, both thanks regular admission quotas and mass regularization initiatives.⁶⁰⁴ As a matter of facts, through these measures a substantial number of foreign workers, including those not primarily engaged in domestic roles, have been able to access legal employment opportunities.⁶⁰⁵ Moreover, it is important to note that the impact of ten rounds of amnesty for irregular foreign residents granted between 1981 and 2009 has been particularly remarkable also in shaping the demographic composition of the migrant population.⁶⁰⁶ The 2002 amnesty, in particular, led to a shift in the composition of the migrant population that from being predominantly composed by males and North Africans became primarily composed by females and Eastern Europeans, largely due to the significant presence of migrant women working as caregivers for the elderly.⁶⁰⁷ Additionally, the expansion of the EU towards the east has had an influence on the sector of care and domestic work, promoting the regularization of established migrant workers from these countries and fostering new patterns of EU east-to-west migration.⁶⁰⁸

However, it's essential to recognize that these mass regularization initiatives for undocumented migrants are primarily driven by the necessity to meet demand in certain sectors, rather than addressing exploitation and advancing human rights. Consequently,

⁶⁰¹ FRA, *Severe labour exploitation, op. cit.*, p. 44.

⁶⁰² Degani P., *op. cit.*, p. 7.

⁶⁰³ *Ibidem.*

⁶⁰⁴ Castagnone E., Salis E., Premazzi V., *op. cit.*

⁶⁰⁵ Pasquinelli S., Rusmini G., *La regolarizzazione delle badanti*, in Network Non Autosufficienza (eds.), "L'assistenza agli anziani non-autosufficienti in Italia. Rapporto 2010", Maggioli Editore, Sant'arcangelo di Romagna, 2010.

⁶⁰⁶ Marchetti S., Cherubini D., Garofalo G., *op. cit.*, p. 47.

⁶⁰⁷ Marchetti S., Piazzalunga D., Venturini A., *Costs and Benefits of Labour Mobility between the EU and the Eastern Partnership Countries. Country Study: Italy*, IZA Discussion Paper No. 7635, IZA, Bonn, 2013, p. 22.

⁶⁰⁸ Triandafyllidou A., Marchetti S., *Migrant Domestic and Care Workers in Europe. New Patterns of Circulation?*, in "Journal of Immigration and Refugee Studies", Vol. 11, no. 4, 2013, pp. 339-346.

various regularization programs that retroactively address irregular situations often focus on specific sectors,⁶⁰⁹ further fostering the so-called "racist" segmentation of reproductive labor⁶¹⁰ by effectively limiting workers to the occupations in which they are needed, including domestic work.⁶¹¹

Furthermore, within the context of domestic work, the intermittent nature of provisions concerning the regularization of irregular migrant, coupled with the limited compliance of employers with regularization procedures, has not significantly improved the conditions of women engaged in paid reproductive labor.⁶¹² In this regard, many female workers also have, at some point, had to bear the economic burden entailed by the regularization procedure and accept reduced wages. In practice, when employers do choose to regularize employment, this does not necessarily lead to the eradication of illegal exploitation; instead, it often results in employers transferring the costs of regularization onto the workers themselves.⁶¹³ Consequently, while the regularization mechanism partially addresses the issue of clandestinity, it often yields limited results and, in some instances, further entrenches workers' dependency on their employers.

The problem of migrant workers' reliance on their employers has also been acknowledged by the UN Committee on Migrant Workers. In 2011, the Committee issued a General Comment recognizing the vulnerability of migrant domestic workers "throughout the migration cycle".⁶¹⁴ Notably, the document acknowledges that immigration laws can create "specific vulnerabilities" for migrant domestic workers, particularly when these laws link their status to the continued sponsorship of specific employers.⁶¹⁵ According to the Committee, sponsorship systems limit workers' mobility and heighten the risk of exploitation, including forms of severe exploitation as forced labor and servitude.⁶¹⁶ Essentially, workers are less likely to initiate legal proceedings

⁶⁰⁹ Chiaromonte W., D'Onghia M., *Cronaca di una sanatoria in tempo di emergenza sanitaria: genesi, finalità e limiti*, in "DIC", vol. 3, 2020.

⁶¹⁰ Busi B., *Introduzione. Genere, "razza" e composizione di classe nel lavoro domestico e di cura*, in Busi B. (ed.), "Separate in casa. Lavoratrici domestiche, femministe e sindacaliste: una mancata alleanza", Ediesse, Roma, 2020, p. 28.

⁶¹¹ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 291.

⁶¹² Degani P., *op. cit.*, p. 7.

⁶¹³ *Ibidem.*

⁶¹⁴ UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, General Comment no. 13, CMW/C/GC/3, 2017.

⁶¹⁵ *Ibidem.*

⁶¹⁶ Osservatorio DOMINA sul lavoro domestico, *3° Rapporto Annuale sul Lavoro Domestico*, 2021.

against individuals upon whom their immigration status depends due to their lack of resources and alternative employment opportunities, especially if they are in debt.⁶¹⁷

On top of that, the risk of exploitation is exacerbated by labor migration systems that bind residence rights to work permits. Schemes that bind workers to specific employers and grant permits to employers, rather than employees, indeed, create a precarious dependency between workers and employers, amplifying the risk of severe exploitation. And such situations may lead workers to accept working conditions that fall far below the legal standards of the host country.⁶¹⁸

Moreover, linking residence permits to employment contracts means that even legally residing migrants often face challenges when asserting their rights.⁶¹⁹ As a matter of facts, if a domestic worker dares to protest against her working conditions, she would be almost certain to be dismissed (also considering that, in domestic work, adherence to the notice period specified in the collective labor agreement is sufficient for termination) and the dismissed worker would also lose her accommodation.⁶²⁰ Furthermore, a dismissed worker is at risk of struggling to find alternative employment, given the informal, word-of-mouth nature of job placements in this sector.⁶²¹

All of these factors have led the Philosopher and Feminist Theorist Nancy Fraser to characterize the situation of migrant labor not only as exploitation but also as expropriation.⁶²² Migrant (domestic and care) workers, indeed, not only often have to work in conditions of exploitation, but they often also lack the means to seek public intervention against the abuses they endure.⁶²³

In addition to these challenges, the Bossi-Fini law of 2002 also eliminated the possibility for immigrant workers to redeem pension benefits even after a few years of work.⁶²⁴ Under the 1995 pension reform, foreign workers who chose to leave Italy and return to their home country following the cessation of their employment could request the settlement of their contributions, with an annual increase of 5%.⁶²⁵ However, the aforementioned law now stipulates that, in case of repatriation, foreign workers can only

⁶¹⁷ Degani P., *op. cit.*, p. 7.

⁶¹⁸ FRA, *Severe labour exploitation*, *op. cit.*, p. 44.

⁶¹⁹ Calafà L., *Migrazione economica e contratto di lavoro degli stranieri*, Il Mulino, Bologna, 2013.

⁶²⁰ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, pp. 291-292.

⁶²¹ *Ivi*, p. 292.

⁶²² Fraser N., Jaeggi R., *Capitalism. A conversation in critical theory*, Polity Press, Londra, 2018, p. 105.

⁶²³ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 292.

⁶²⁴ Law no. 189/2002.

⁶²⁵ Law no. 335/1995.

access their contributions when they meet the requirements specified by current regulations and reach the age of sixty-five.⁶²⁶ Consequently, migrants themselves have little incentive to regularize their status and, instead, prefer to receive immediate cash payments to support their own families and those in their countries of origin.

To summarize, the opportunity for individuals to migrate to Italy as domestic workers is significantly limited, if not completely absent, and undocumented domestic workers already working in Italy have few avenues – beyond general regularization programs – for later regularization. This situation risks pushing migrant workers further toward irregular channels, thereby increasing their vulnerability to exploitation.⁶²⁷ Nevertheless, it's important to note that even EU citizen migrant workers, who have the freedom to move within the EU, remain highly vulnerable to mistreatment and abuse.⁶²⁸ This vulnerability primarily arises from the linkage between residency, which determines access to social rights, and income. Furthermore, the illegal employment of EU citizen migrants is less risky for employers, as they do not face charges related to facilitating and exploiting irregular migration.⁶²⁹

Ultimately, as pointed out by Professor Recchia, the situation remains unresolved, and there is a need to reconsider the sponsorship mechanism and overhaul the flow programming system.⁶³⁰ On the other hand, according to the Researcher in Philosophy and Sociology of Law Alessandra Scurba, the most effective way to combat the exploitation of migrant labor "would involve establishing legal and practical entry channels for non-European Union citizens, decoupling the stay of European Union citizens from their income to empower them in asserting their rights, and creating transnational welfare structures accessible to all to facilitate family reunification".⁶³¹ This is because workers find themselves "in a genuine state of existential dilemma, torn between reporting (with the associated risk of expulsion) or enduring degrading living and working conditions to remain in the national territory".⁶³²

⁶²⁶ Calafà L., Iavicoli S., Persechino B. (eds.), *Lavoro insicuro*, Il Mulino, Bologna, 2020, p. 109.

⁶²⁷ EU Commission, *European Policy Brief*, *op. cit.*, p. 3.

⁶²⁸ *Ibidem*.

⁶²⁹ *Ibidem*.

⁶³⁰ Recchia G. A., *op. cit.*, p. 109.

⁶³¹ Scurba A., *La cura servile, la cura che serve*, Pacini editore, Pisa, 2015, p. 186.

⁶³² Di Noia F., *Le policy di prevenzione del lavoro insicuro e di promozione della legalità in agricoltura*, in "Lavoro insicuro", il Mulino, 2020, p. 195.

3.2.3 Irregular labour and exploitation: the role played by grey and black labour in Italy

Domestic and care work in Italy is characterized by a high percentage of irregular employment, that can gradually slide into invisibility, exposing workers to varying degrees of exploitation, including labor law violations, to severe breaches of fundamental rights.⁶³³ This particularly affects female domestic workers and laborers subjected to gangmaster exploitation (known in Italy as "*caporalato*"⁶³⁴) while lacking essential documents and services.⁶³⁵ Irregular work, indeed, represents another significant factor contributing to the maintenance of low labor costs and, at the same time, promoting different forms of exploitation. Irregular work encompass both undeclared work, known in Italy as '*lavoro nero*' (black labour), but also more sophisticated forms of informal labor, i.e., the so-called '*lavoro grigio*' (grey labour), which often, despite leading to less severe exploitation, are more widespread and operate within the bounds of legality. The aim of this paragraph is, therefore, that of analyzing irregular work in Italy and understanding how it contributes to exploitation.

3.2.3.1 Grey labour and exploitation: analysis of grey work and the challenges in tackling it

When discussing irregular employment, it is, first of all, crucial to introduce the concept of the shadow economy, which encompasses "activities contributing to a country's income and wealth formation but not officially recorded in official statistics".⁶³⁶ In Italy, the shadow economy represents a consistent component – i.e., around the 10% in 2020⁶³⁷ – of the Gross Domestic Product (GDP) and, despite a slightly decrease that has

⁶³³ Crippa E., *op. cit.*, p. 322.

⁶³⁴ An unlawful method of recruitment and labor organization, particularly prevalent in agriculture, involves intermediaries (known as gangmasters or corporals) who hire daily workers on behalf of the contractor. These intermediaries often receive bribes and operate outside the standard employment channels, disregarding the contractual minimum wage rates. (Rigo E., *Lo sfruttamento come modo di produzione; introduzione a leggi, migranti e caporali. Prospettive critiche e di ricerca sullo sfruttamento del lavoro in agricoltura*, Pacini Editore, Pisa, 2015).

⁶³⁵ Crippa E., *op. cit.*, p. 322.

⁶³⁶ Schilirò D., *Shadow economy and black labor*, Università Cattolica di Milano, (2004), at <https://mpira.ub.uni-muenchen.de/44107/>, p. 2.

⁶³⁷ Commissione per la redazione della Relazione sull'economia non osservata e sull'evasione fiscale e contributiva, *Relazione sull'economia non osservata e sull'evasione fiscale e contributiva anno 2023*, (2023), at https://www.finanze.gov.it/export/sites/finanze/galleries/Documenti/Varie/Relazione-evasione-fiscale-e-contributiva-2023_26set-finale.pdf, p. 10.

characterized recent years, overall, especially in recent decades, it has expanded as businesses seek greater workforce flexibility. Notably, the predominant elements within the shadow economy are associated with rectifying undervalued value-added and employing irregular labor. In the year 2020, for instance, they constitute 50.7% and 39.7%, respectively, of the total value-added generated within the shadow economy.⁶³⁸ Within the shadow economy, immigrants become the primary participants due to their vulnerability and isolation, rendering them more susceptible to unreported and informal work.⁶³⁹ Particularly in the case of irregular immigrants lacking valid residence permits, their livelihood often depends solely on the shadow economy. This is due to the impracticality of entering into regular employment contracts, especially after the already mentioned Law No. 189 of July 30, 2002 (commonly known as the Bossi-Fini Law, named after its signatories, Gianfranco Fini and Umberto Bossi), eliminated their ability to claim pension contributions even after a few years.⁶⁴⁰ This, indeed, creates an implicit agreement between employers and migrant workers, ultimately facilitating their exploitation.⁶⁴¹

However, if until a few years ago, exploitation in domestic work primarily affected individuals without residence permits who were in an irregular situation within the territory (mostly non-EU workers from Eastern Europe); nowadays, this issue has extended to include Eastern European EU citizens, especially Romanians, asylum seekers, and other permit holders under the national system.⁶⁴² Consequently, despite the absence of official statistics, it is possible to state that fewer individuals without residence permits are employed in domestic work compared to the past, especially in northern Italy.⁶⁴³ However, this has not diminished exploitation but has given rise to more sophisticated practices aimed at minimizing the risk of sanctions and claims. Indeed, it is a commonly observed phenomenon, even though it may seem counterintuitive, that advocating for wage disparities or conditions of exploitation in favor of irregular non-EU citizens, who are clearly working completely off the grid, often proves to be more effective than doing so for individuals who are legally residing

⁶³⁸ *Ibidem*.

⁶³⁹ Lucifora C., *Economia sommersa e lavoro nero*, Mulino 2003.

⁶⁴⁰ Law no. 189/2002.

⁶⁴¹ Reyneri E., *op.cit.*, p. 263.

⁶⁴² Degani P., *op. cit.*, p. 9.

⁶⁴³ *Ibidem*.

or hold EU citizenship.⁶⁴⁴ This distinction hinges on the threat of criminal penalties imposed on employers, which is exclusively applicable to the hiring of irregular non-EU residents. Conversely, in other scenarios, criminal penalties can only be enforced in cases of severe exploitation, a determination that tends to be more arbitrary, particularly in domestic environments.⁶⁴⁵ As a matter of fact, when it comes to irregular non-EU citizens, a mere assessment of one day's work performance, coupled with the absence of a permit, is sufficient to establish a criminal offense as stipulated in Article 22, paragraph 12, of the Consolidated Act on Immigration.⁶⁴⁶

On the contrary, the fundamental issue, impacting both irregular and lawfully residing individuals, whether they are EU citizens or Italians, is that establishing wage disparities, as well as identifying situations of exploitation, presents specific challenges.⁶⁴⁷ These challenges extend beyond proving the existence of a subordinate employment relationship when there is no formal employment contract. More significantly, they revolve around verifying the actual extent and quality of work performed, even in cases where a contract does exist. The formalization of grey employment arrangements is, indeed, widespread, even in the context of personal care assistance.⁶⁴⁸ Notably, this "*lavoro grigio*" occurs when a worker is categorized in a lower income tier, as stipulated by the national collective labor agreement (CCNL), than the actual work they perform.⁶⁴⁹ But it also extends to the non-payment of overtime and night shifts, and the denial of daily, weekly, and annual rest periods.⁶⁵⁰ Additionally, grey labour occurs also in cases where an individual works for multiple employers and some of these employments are officially declared, while others remain undisclosed.⁶⁵¹ Alternatively, it transpires when a worker's work hours are underreported to evade social security contributions.⁶⁵² This often involves part-time contracts, frequently for 25 hours per week, or less (even fewer in contracts formalized for family collaboration).⁶⁵³ These contracts, typically remunerating based solely on officially declared hours, encompass and almost always compensate for work that is

⁶⁴⁴ Paggi M., *op. cit.*, p. 56.

⁶⁴⁵ *Ibidem*.

⁶⁴⁶ Degani P., *op. cit.*, pp. 9-10.

⁶⁴⁷ Paggi M., *op. cit.*, pp. 56-57.

⁶⁴⁸ *Ivi*, p. 57.

⁶⁴⁹ Seiffarth M., *op. cit.*, p. 19.

⁶⁵⁰ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 293.

⁶⁵¹ Castagnone E., Salis E., Premazzi V., *op. cit.*, pp. 42-43.

⁶⁵² Seiffarth M., *op. cit.*, p. 19.

⁶⁵³ Paggi M., *op. cit.*, p. 57.

actually carried out on a full-time basis or significantly exceeds the hours outlined in the national collective labor agreement (CCNL).⁶⁵⁴ In the latter scenario, the interests of employers and (migrant) workers may conveniently converge.⁶⁵⁵ Making contributions for a 'fictitious' 25-hour workweek is, indeed, adequate for the migrant worker to obtain a residence permit, but it is manageable for the family.⁶⁵⁶ Moreover, it is worth noting that foreign workers themselves sometimes willingly accept to receive part of their salary "off the books" partially also due to the Bossi-Fini law (Law No. 189/2011), which, as previously mentioned, prevented migrants from seeking reimbursement of their contributions if they were to return to their home country.⁶⁵⁷ This declared contractual hourly structure has been the norm in almost all employment relationships subjected to recent and past regularization initiatives, with little differentiation between personal care assistance and family collaborations.⁶⁵⁸ This, therefore, highlights the deeply ingrained and systematic nature of employing this form of grey labor, especially considering that the situation remains unchanged for those who already possess a residence permit or do not require one as EU or Italian citizens.⁶⁵⁹

As mentioned, these grey labour also entails evading social security contributions, arduous working hours with no breaks, seven-day work weeks, and a lack of permits. Such conditions per se qualify as forms of exploitative labor and can result in more severe penalties when conditions of oppressive employment or violations of the worker's private sphere are confirmed.⁶⁶⁰ However, as just highlighted, the issue of providing proof is challenging and often proves insurmountable, thereby hindering both criminal and civil protection.⁶⁶¹ As a matter of fact, the Court of Cassation has already stated that "the confirmed presence of the worker at the employer's residence is insufficient to establish that work has been performed for the entire duration of their presence".⁶⁶² Consequently, the onus falls on the worker to provide a series of evidence,

⁶⁵⁴ Paraciani R., Rizza R., *When the workplace is the home: labour inspectors' discretionary power in the field of domestic work. An institutional analysis*, in "Journal of Public Policy"; Vol. 41, 2021, pp. 1-16.

⁶⁵⁵ Seiffarth M., *op. cit.*, p. 19.

⁶⁵⁶ Marchetti S., "*Domestic work is work*"?, *op. cit.*, pp. 115-116.

⁶⁵⁷ Faleri C., *Non basta la repressione. A proposito di caporalato e sfruttamento del lavoro in agricoltura*, in "Lavoro e diritto", il Mulino, 2021.

⁶⁵⁸ Paggi M., *op. cit.*, p. 57.

⁶⁵⁹ INPS-ISTAT, *Rapporto annuale sul mercato del lavoro*, 2019, pp. 42 et seqq.

⁶⁶⁰ Paggi M., *op. cit.*, p. 57.

⁶⁶¹ *Ibidem*.

⁶⁶² Corte di Cassazione, Sez. lavoro, 1/10/2013, no.22399.

which, as pointed out in Lawyer Marco Paggi's analysis,⁶⁶³ are difficult to gather. In the absence of any documentation, this evidence is primarily constituted by testimonials.⁶⁶⁴ These testimonials include proof of having worked in a subordinated capacity rather than merely to offset lodging expenses (a common defense argument, indeed, involves being an "au pair" or providing "humanitarian hospitality").⁶⁶⁵ Furthermore, they include evidence of the actual duration of the employment relationship, especially when hiring was formalized later, often during regularization. Additionally, evidence is required regarding the actual number of hours worked, as well as the necessity and quantity of night and/or holiday care services, along with specific caregiving duties if seeking recognition of a higher qualification.⁶⁶⁶

On top of that, the Lawyer Marco Paggi also points out that all these challenges are compounded by the fact that these activities predominantly occur within private households, making it exceedingly difficult to provide concrete proof, particularly in cases where employment arrangements involve cohabitation. Notably, it is especially challenging to ascertain the specifics of when and how much work is performed, as well as the timing of breaks and leisure periods. These activities, indeed, theoretically could occur within the confines of a home.⁶⁶⁷ However, while it is relatively easier to demonstrate actual work engagement, it is not without effort either, also due to the uncertainty of legal proceedings. This is more achievable in cases where there is a proven need for personal assistance, provided there are no other family members residing with the care recipient who might also contribute to caregiving activities.⁶⁶⁸ In situations involving non-cohabitation employment, the proof, usually reliant on testimonials, remains equally daunting. Neighbors or fellow tenants, indeed, rarely step forward to testify about what they regularly observe, such as the worker's arrivals and departures, grocery shopping, pushing a wheelchair, etc. Moreover, it is even rarer for the worker to prove that they were consistently picked up and dropped off at the workplace by individuals who are not family members or abstractly reliable witnesses.⁶⁶⁹ It is also crucial to note that not only is the application of maximum

⁶⁶³ Paggi M., *op. cit.*

⁶⁶⁴ Degani P., *op. cit.*, p. 10.

⁶⁶⁵ Paggi M., *op. cit.*, pp. 57-58.

⁶⁶⁶ *Ivi*, p. 57.

⁶⁶⁷ *Ibidem.*

⁶⁶⁸ *Ibidem.*

⁶⁶⁹ *Ibidem.*

penalties for undeclared work legally excluded in domestic employment,⁶⁷⁰ but inspections within private homes are also legally prohibited.⁶⁷¹ Consequently, official data regarding the limited outcomes of monitoring activities should be understood as the result of challenging negotiations following individual reconciliation hearings, which face the lack of proves.⁶⁷²

Hence, the adoption of video recordings as a means of providing evidence can be understood in light of these challenges. This method has only recently gained recognition as a legally acceptable form of evidence.⁶⁷³ Nevertheless, it is evidently challenging to implement as well, and its significance depends on its actual capability to reconstruct a typical workday and the temporal extent of the employment relationship.⁶⁷⁴ Therefore, from an evidentiary standpoint, these efforts inherently come with limitations.⁶⁷⁵ Instead, it still remains uncertain whether the daily and hourly geolocation tracking of the worker's mobile phone, supported by technical expert validation of its reliability, will be deemed as admissible evidence or, at the very least, a substantial indication.⁶⁷⁶

Considering all these substantial obstacles to providing evidence of work performance, it is also possible to easily comprehend the practical difficulties in demonstrating personal freedom deprivations, conditions of exploitation, as well as oppressive, extortive, or even sexual harassment, which are frequently reported.⁶⁷⁷

To conclude, as for the recent trends in the phenomenon of grey labour, in ACLI-Colf surveys conducted in 2007 and 2013, there was a noticeable shift towards formalization. The data revealed an increase in the number of workers for whom contributions were made for all hours and a decrease in those for whom no contributions were made.⁶⁷⁸ However, there was a concerning trend among live-in workers, as the percentage of those not receiving contributions for all their hours doubled from 18.9% in 2007 to 43.8% in 2013, indicating a widening compliance gap.⁶⁷⁹

⁶⁷⁰ Degani P., *op. cit.*, p. 10.

⁶⁷¹ Presidential Decree no. 520/1955.

⁶⁷² Degani P., *op. cit.*, p. 10.

⁶⁷³ Corte di Cassazione, Sez. V, 5/07/2019, no. 46158.

⁶⁷⁴ Degani P., *op. cit.*, p. 10.

⁶⁷⁵ Paggi M., *op. cit.*, p. 59.

⁶⁷⁶ *Ibidem.*

⁶⁷⁷ *Ivi*, pp. 59-60.

⁶⁷⁸ Seiffarth M., *op. cit.*, p. 19.

⁶⁷⁹ Marchetti S., “*Domestic work is work*”? *op. cit.*, p. 114.

Implementation and compliance gaps represent not only a problem for workers, who are more likely to experience different forms of exploitation, but also for the State. The potential tax revenues from formalizing all informal domestic workers, indeed, could amount to a substantial 3.6 billion Euros annually.⁶⁸⁰ Therefore, the eradication of black and grey labour should be a priority for the State.

To this end, while the national collective labor agreement for domestic work, negotiated by the most representative trade unions, provides a relatively precise framework for hourly work arrangements, particularly in caregiving roles, it is evident that the agreement alone cannot guarantee automatic and widespread compliance with its provisions.⁶⁸¹ Perhaps a different approach to caregiving work is needed, one that commences with a thorough assessment of the actual, specific need for assistance (considering factors such as cohabitation with other family members and the level of disability) before formalizing work hours, rather than the other way round.⁶⁸² In practical terms, especially if contemplating the desirable introduction of substantial tax incentives for regular domestic work (similar to the Belgian model), a corresponding certification of the genuine need for assistance, subject to periodic adjustment, could be matched with contractual formalization. Without such measures, it remains challenging to envision a significant reduction in the prevalent use of "grey work".⁶⁸³

3.2.3.2 Black labour and exploitation: analysis of black work through the *Sanatoria 2020* and the challenges in tackling it

Another major role in fostering exploitation is played by all work that completely escapes policies, laws and regulations, i.e. black labour. To maintain low costs in domestic labor, indeed, in Italy (and beyond), various unlawful practices, such as undeclared work, are utilized as well.⁶⁸⁴

With regard to the definition adopted in the European context, black labour can be described as work that is inherently legal but not disclosed to public authorities.⁶⁸⁵ In essence, it can be characterized as "a portion of work that, irrespective of its complete or

⁶⁸⁰ Osservatorio DOMINA sul lavoro domestico, 2° *Rapporto Annuale sul Lavoro Domestico*, 2020, p. 94.

⁶⁸¹ Paggi M., *op. cit.*, p. 58.

⁶⁸² *Ivi*, pp. 58-59.

⁶⁸³ *Ivi*, p. 59.

⁶⁸⁴ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 293.

⁶⁸⁵ Schiuma D., *Sfruttamento e (in)sicurezza nel lavoro agricolo degli extracomunitari*, in "Lavoro insicuro", Il Mulino, Bologna, 2020, p. 152.

partial formal irregularity, involves salaries and working conditions significantly below the minimum contractual standards".⁶⁸⁶ As a matter of facts, black labour often involves working hours exceeding legally permitted maximums and wages that are frequently just a few euros per hour, well below the levels stipulated by collective agreements. And it is not even always a temporary situation leading to subsequent formal employment; for certain groups of workers, it becomes a permanent condition with no prospects for advancement.⁶⁸⁷

This type of irregular employment is primarily concentrated in sectors like agriculture, construction, and personal services, where it is easier to bypass labor regulations and hire workers who are more vulnerable due to their circumstances, such as migrants, who are more inclined to work off the books. In addition, the readiness of foreign workers to accept these conditions often results in employers – who may not necessarily be acting dishonestly – appreciating the adaptability and flexibility of immigrant workers and, therefore, often preferring them over Italian ones.⁶⁸⁸ Migrants are, therefore, particularly affected by undeclared work, resulting in discrimination, isolation, substandard housing, and poor working conditions, ultimately constituting exploitation. Notably, they often find themselves engaged in what are commonly referred to as "dirty, dangerous, and demeaning" jobs – positions that Italians can typically afford to decline. This creates a parallel labor market to that of Italians, one that is more exposed to irregularities. Several factors contribute to this situation, with the primary factor being the structure of national regulations governing the employment of foreigners outlined in the previously mentioned Immigration Consolidation Act.⁶⁸⁹ Ironically, indeed, as previously highlighted, the legislation, aimed partly at curbing irregular immigration and undeclared work, inadvertently restricts regular immigration. In essence, the existing regulations not only fail to combat undeclared work among foreigners but even facilitate it.⁶⁹⁰ As a matter of facts, initially, migrants' irregular employment status was often the result of lacking residence permits necessary for formal employment.⁶⁹¹ However, nowadays, it is inaccurate to entirely equate undeclared work with the irregular status of

⁶⁸⁶ Pugliese E. (ed.), *Indagine su "il lavoro nero"*, 2007, p. 4.

⁶⁸⁷ *Ibidem*.

⁶⁸⁸ Schiuma D., *op. cit.*, p. 38.

⁶⁸⁹ Legislative Decree no. 286/1998.

⁶⁹⁰ Chiaromonte W., *Le misure sanzionatorie di contrasto al lavoro sommerso e la regolamentazione del lavoro immigrato: due mondi lontanissimi*, in Ferrante V. (ed.), "Economia informale e politiche di trasparenza", Vita e Pensiero, 2017, pp. 108-109.

⁶⁹¹ Reyneri E., *op.cit.*, p. 263.

foreigners. There are, indeed, many cases of foreigners who legally reside in Italy but lack a work permit;⁶⁹² condition of semi-compliance which prevents them from engaging in regulated work.

On top of that, another widespread phenomenon falling under the notion of irregular work is the illicit provision of domestic labor.⁶⁹³ Illicit forms of labor supply vary widely, encompassing everything from the "classic" provision of labor by unauthorized entities posing as labor agencies to more cost-effective arrangements involving the supply of regularly coordinated and continuous domestic collaborators.⁶⁹⁴ Moreover, this also includes the supply of domestic workers formally hired by families⁶⁹⁵ and the transnational supply of domestic labor.⁶⁹⁶

Within this framework, the domestic sector stands out at the top of the unfortunate list when it comes to irregularity rates, with a staggering 52.3%, a stark contrast to the national average of 12.0%.⁶⁹⁷ As a matter of facts, in Italy, there are around 2 million domestic workers, of which less than half operate within the legal framework.⁶⁹⁸ Furthermore, the high level of undeclared work was also proven during the pandemic, when, suddenly, individuals rushed to formalize their domestic work arrangements to secure the essential self-certification needed for commuting to work.⁶⁹⁹ The Italian government responded to this issue in May 2020 by introducing a Decree titled "Emergence of employment relationships",⁷⁰⁰ aimed at addressing undeclared migrant labor and reviving the post-pandemic economy.⁷⁰¹ Data from the Ministry of the Interior reveals that 85% of the total applications received were related to domestic and care workers, with the remaining 15% involving subordinate work, especially in agriculture.⁷⁰² Notably, further scrutiny of the latest regularization data shows that out of the 176,848 requests received (comprising 85% of the total requests submitted),

⁶⁹² Chiaromonte W., *Le misure sanzionatorie di contrasto al lavoro sommerso*, *op. cit.*, p.109.

⁶⁹³ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 293.

⁶⁹⁴ *Ivi*, pp. 293-294.

⁶⁹⁵ *Ivi*, p. 294.

⁶⁹⁶ European Commission, *Annual Report on Intra-EU Labour Mobility 2020*, Publications Office of the European Union, Luxembourg, 2021, p. 139.

⁶⁹⁷ Osservatorio DOMINA sul lavoro domestico, *4° Rapporto Annuale sul Lavoro Domestico*, 2022, p. 16.

⁶⁹⁸ *Ibidem*.

⁶⁹⁹ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 293.

⁷⁰⁰ Legislative Decree no. 34/2020.

⁷⁰¹ Degani P., *op. cit.*, p. 12.

⁷⁰² *Ibidem*.

122,247 were for family workers, 52,729 for personal care assistants for those requiring support, and 1,862 for babysitters responsible for dependent children.⁷⁰³

However, evidence of widespread irregularity among foreign women involved in reproductive work has only partially surfaced. Indeed, despite an estimated 300,000 undocumented individuals working in personal and family services, the most recent regularization measure outlined in Article 103 of Legislative Decree No. 34/2020, as mentioned, saw just 176,848 regularization requests related to domestic work, with approximately one-third of these requests still pending as of 2022.⁷⁰⁴ If all these requests were approved, Italy would witness an increase of over 20% in the number of legally employed domestic workers.⁷⁰⁵ Therefore, the ratio between the estimated number of irregular workers and the volume of regularization requests paints a discouraging picture.⁷⁰⁶ Once again, this underscores the reluctance of employers to engage in regularization efforts, as observed in previous attempts.⁷⁰⁷ Furthermore, a closer examination of the data on regularization requests suggests that a significant portion of recent applications for the regularization of domestic work may be artificially generated, driven by the restriction of regularization opportunities to the domestic, agricultural, and fishing sectors. Many irregular workers employed in various sectors, indeed, have fabricated domestic employment arrangements to access regularization.⁷⁰⁸ As a matter of facts, a gender-based analysis of data related to the 2020 regularization reveals that, with the exception of Ukrainians, a higher proportion of male workers can be observed in Italy.⁷⁰⁹ Notably, in the domestic and care work sector, nearly two-thirds of foreign applicants were men.⁷¹⁰ This is remarkable given that, according to the Italian National Institute of Statistics (ISTAT) figures from 2019, 89% of domestic employees in Italy were women, whereas, the data, sourced from the Ministry of the Interior, indicates that out of 177,000 applications in the domestic sector, over 113,000 (64%) were submitted by men.⁷¹¹ On top of that, the fictitious nature of the requests was also

⁷⁰³ *Ivi*, p. 8.

⁷⁰⁴ Paggi M., *op. cit.*, p. 55.

⁷⁰⁵ *Ibidem*.

⁷⁰⁶ *Ibidem*.

⁷⁰⁷ Colombo A., *La sanatoria per le badanti e le colf del 2009: fallimento o esaurimento di un modello?*, (25 novembre 2009), at <https://www.fieri.it/la-sanatoria-per-le-badanti-e-le-colf-del-2009-fallimento-oesaurimento-di-un-modello/>.

⁷⁰⁸ Paggi M., *op. cit.*, p. 55.

⁷⁰⁹ Degani P., *op. cit.*, pp. 8-9.

⁷¹⁰ *Ibidem*.

⁷¹¹ *Ivi*, p. 8.

showed with the previous regularization initiative. In that case as well – where out of 134,576 applications, 115,969 pertained to domestic work and care – indeed, a significant demand for regularization among foreign workers in reproductive labor was observed.⁷¹² However, in the subsequent years, this sector experienced a noticeable decline in male participation, likely due to migrants relocating after obtaining their residence permits.⁷¹³ As also highlighted by the Political Science Professor Degani Paola, the phenomenon of fictitious requests by men is a common feature of Italy's regularization experiences, primarily because male migrants often possess greater economic resources and individual capital compared to migrant women. Male migrants typically have broader networks of contacts and sponsors, facilitating their regularization, whereas female workers in the domestic and care sector often experience isolation, resulting in less support and greater difficulty in achieving similar outcomes.⁷¹⁴ Additionally, many female migrant domestic and care workers arrive in Italy alone, with clearly defined short or mid-term migratory objectives based on remittances sent to their families in their home countries. This reduces their inclination to seek regularization compared to men working in sectors excluded from regularization or under stricter control by illegal recruiters (i.e., the so-called “*caporali*”).⁷¹⁵ This phenomenon underscores the limitations of the regularization measure, which has compelled thousands to seek employment outside their areas of expertise in order to regularize their status, increasing the “market” of false employment contracts and other related practices.⁷¹⁶ In Italy, indeed, there is a clear contrast between the regularization process's objectives – i.e., reducing illegality and irregular migrant labor – and its limitations – i.e., the administrative obstacles in complying with the law and the financial cost associated with applying for regularization. Thus, this has led to the persistence of different forms of exploitation, including severe exploitation.⁷¹⁷

As also acknowledged in the report from the EU Commission assessing the implementation of Directive 2009/52/EC dated 18 June 2009 by setting forth minimum standards for penalties and measures against employers of illegally residing third-

⁷¹² Ivi, pp. 7-8.

⁷¹³ Ivi, p. 8.

⁷¹⁴ *Ibidem*.

⁷¹⁵ *Ibidem*.

⁷¹⁶ Paggi M., *La sanatoria ai tempi del Coronavirus*, in “Questione Giustizia”, sezione Diritti senza Confini, (28 maggio 2020), at https://www.questionegiustizia.it/articolo/la-sanatoria-ai-tempi-del-coronavirus_28-05-2020.php.

⁷¹⁷ Degani P., *op. cit.*, p. 8.

country nationals, indeed, it is evident that engaging in illegal employment exposes migrants at various risks.⁷¹⁸ Notably, these risks encompass labor exploitation, precarious living and working conditions, and limited or non-existent access to social protection, including the infringement of migrants individual and social rights.⁷¹⁹ Additionally, in certain cases, labor exploitation can be intertwined with serious and organized criminal activities. This can occur through human trafficking for labor exploitation or the exploitation of irregular migrants by smuggling networks utilizing debt bondage, where individuals are compelled to work to repay debts, often in exploitative circumstances.⁷²⁰ On top of that, criminal networks, sometimes less formalized, may also target irregular migrants within the EU, coercing them to work under highly exploitative conditions.⁷²¹

Precarious situations can also affect various groups differently, influenced by factors such as gender, age, nationality, and ethnicity.⁷²² As a matter of facts, many cases of severe labor exploitation involve women employed in the domestic and care sector, often working exceptionally long hours, such as 11 or 12 hours a day, accumulating to 200 hours per month.⁷²³ These conditions can also be likened to the definition of trafficking in human beings outlined in Article 2 of the EU Anti-Trafficking Directive (2011/36/EU).⁷²⁴ Therefore, the widespread prevalence of undeclared work is an issue of particular concern, especially considering the associated circumstances of exploitation and severe exploitation.

On top of that, from an economic perspective at the national level, undeclared work presents significant concerns as well. To illustrate its economic relevance, for instance, it is sufficient to examine the trends related to regularization that followed the “*sanatoria*” implemented in September 2009. As a matter of facts, in 2011, domestic workers collectively contributed 699 million euros to the INPS (Italian National Social Security Institute), constituting 83.9% of the total contributions.⁷²⁵ In essence, in 2011,

⁷¹⁸ European Commission, COM, 2021; 592 final, Brussels, 2021.

⁷¹⁹ Degani P., *op. cit.*, p. 8.

⁷²⁰ Gallagher A., *The International Law of Human Trafficking*, Cambridge University Press, Cambridge, 2010.

⁷²¹ Degani P., *op. cit.*, p. 8.

⁷²² *Ibidem*.

⁷²³ FRA, *Protecting Migrant Workers From Exploitation in the EU: Workers' Perspectives*, European Union Agency for Fundamental Rights, Vienna, 2019.

⁷²⁴ *Ibidem*.

⁷²⁵ Fondazione Leone Moressa, *op. cit.*, p. 6.

each foreign domestic worker, on average, contributed 985 euros per month.⁷²⁶ And this figure rises to 1,000 euros when considering only non-European Union citizens.⁷²⁷ These data, thus, emphasize the importance for both the government and the involved parties to diminish the prevalence of irregular employment arrangements and the extent of the underground economy linked to this sector.

However, despite the long-standing recognition of this issue, in order to prevent to further burden families who are often themselves victims of this illegality, in the domestic sector in Italy, there is a prevailing tolerance towards illegality,⁷²⁸ coupled with many challenges that prevent its contrast.

In cases of illicit labor supply, for instance, the main challenge arises from the lack of substantial sanctions.⁷²⁹ As a matter of facts, the National Labor Inspectorate (INL) clarified through a note that families are not subject to penalties or remedies in situations of irregular and fraudulent labor supply and that this exemption also extends to the rule of joint liability outlined in Article 35 of Legislative Decree no. 81/2015.⁷³⁰

Furthermore, concerning black labour within the domestic sector, legislative responses have not been as robust as in other sectors, such as agriculture or employment via platforms (such as that of the riders).⁷³¹ With the exception of sporadic investigations into labor exploitation, indeed, public authorities typically intervene based on reports from the workers themselves, who, however, often hesitate to report the incidents they experience.⁷³²

Moreover, the limited frequency of inspections is also partly attributed to the practical challenges of conducting them.⁷³³ In fact, the nature of work carried out within the familial context makes it susceptible to undeclared work practices also due the difficulty in detecting violations through surprise inspections, which are more viable in other

⁷²⁶ *Ibidem.*

⁷²⁷ *Ibidem.*

⁷²⁸ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 294.

⁷²⁹ *Ibidem.*

⁷³⁰ Ispettorato Nazionale del Lavoro, nota no. 5617/2017.

⁷³¹ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 294.

⁷³² *Ibidem.*

⁷³³ Group of Experts on action against trafficking in human beings (Greta), *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy. Second Evaluation Round*, Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings, 2019, p. 22.

work settings.⁷³⁴ As previously emphasized, indeed, labor inspectors are constrained in their authority to "visit premises connected to workplaces that are not directly or indirectly linked to the company's operation" unless they have "reasonable suspicion of these premises being used for committing or concealing legal violations".⁷³⁵ Their access rights are consequently restricted by the inviolability of private residences that do not qualify as proper "workplaces," a point also clarified by constitutional jurisprudence in judgment no. 10 of 1971.⁷³⁶ Therefore, even in such cases, the full adherence to ILO Convention no. 189, which mandates states to implement inspection measures encompassing access to family homes,⁷³⁷ appears to be lacking.⁷³⁸

On top of that, all the sectors characterized by the highest prevalence of undeclared work typically also involve significant contractual imbalances between workers and employers.⁷³⁹ In these contexts, hence, the efforts to combat such situations, whether by law enforcement or trade unions, are hampered by the fact that trade unions cannot effectively address all instances of severe exploitation due to the fragmented nature of these situations across the territory, especially considering that many exploited workers are day laborers.⁷⁴⁰

In addition, within the domain of domestic work, sanctions are viewed negatively, not only by the individuals affected (as is typically the case) but also by public opinion.⁷⁴¹ As elaborated upon extensively, indeed, these violations stem from a "Do It Yourself" (DIY) welfare approach, which compels families to independently seek solutions to their care needs. Therefore, when a family lacks the financial means to pursue a legal solution and is thus forced to resort to some form of illegality to achieve further labor cost savings, the imposition of any type of sanction poses the risk of creating additional challenges. Consequently, at times, it is considered more advantageous to tolerate illegality, shifting the burden of the malfunctioning public welfare system onto women, often immigrants.⁷⁴²

⁷³⁴ Osservatorio DOMINA sul lavoro domestico, 2° *Rapporto Annuale sul Lavoro Domestico*, 2020, p. 11.

⁷³⁵ Art. 8 of the Presidential Decree no. 520/1955.

⁷³⁶ Italian Constitutional Court, judgment no. 10 of 1971.

⁷³⁷ Article 17, para. 3 of the Domestic Workers Convention no. 189, 2011.

⁷³⁸ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 294.

⁷³⁹ Schiuma D., *op. cit.*, p. 30.

⁷⁴⁰ *Ivi*, p. 38.

⁷⁴¹ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 294.

⁷⁴² *Ivi*, pp. 294-295.

Furthermore, as previously mentioned, within the Italian system, for numerous financial benefits, especially the care allowance, the legislator refrains from imposing any restrictions on their utilization. Consequently, each recipient can determine how to allocate these funds, a situation that does not promote regular employment.⁷⁴³ In fact, these extensive areas of flexibility not only reinforce the central role of families, transforming them from caregivers into care managers,⁷⁴⁴ but also foster the growth of a substantial unregulated informal market – essentially an "invisible welfare"⁷⁴⁵ network primarily supported by migrant workers.⁷⁴⁶

Nonetheless, despite all these challenges, as highlighted above, at the outset of the COVID-19 pandemic and during the strict lockdowns, there was a surge in registrations of live-in workers and, among other factors, this led to a significant reduction in informality rates in 2020.⁷⁴⁷ The spike in registrations occurred because families were concerned about potential consequences if their domestic workers were discovered to be unregistered, particularly when authorities were scrutinizing documents to enforce movement restrictions.⁷⁴⁸ As a matter of facts, family employers face fines ranging from 1,500 to 12,000 Euros for failing to register an employee with INPS, and penalties for hiring an undeclared worker commence at 3,000 Euros.⁷⁴⁹ However, although this sanction-based mechanism had been reinforced by INPS in 2010,⁷⁵⁰ it had been applied sporadically before the lockdown.⁷⁵¹ Furthermore, as mentioned earlier, labor inspectors encountered limitations regarding access to private households due to the inviolability of private homes⁷⁵² and, when irregularities were detected, inspectors could merely issue warnings or suggest mediation, as family employers were exempt from sanctions.⁷⁵³ Nonetheless, the increased registrations during the lockdown suggest that these sanction-based mechanisms might be more effective when the domestic work

⁷⁴³ Da Roit B., Le Bihan B., *Cash for Long-term Care: Policy Debates, Visions, and Designs on the Move*, in "SPA", no. 4, 2019, p. 533.

⁷⁴⁴ Ambrosini M., *Employers as "care managers"*, *op. cit.*

⁷⁴⁵ Ambrosini M., *Irregular Migration*, *op. cit.*

⁷⁴⁶ De Vita L., Corasaniti A., *op. cit.*, p. 535.

⁷⁴⁷ Seiffarth M., *op. cit.*, p. 17.

⁷⁴⁸ Seiffarth M., *Crisis as Catalyst? Romanian migrant care workers in Italian home-based care arrangements*, in "Sociología", Vol. 53, no. 5, 2021, pp. 502-520.

⁷⁴⁹ INPS, *Fines and penalties for undeclared employment*, Rome, 2017.

⁷⁵⁰ Art 4 of the Law no. 183/2010.

⁷⁵¹ Seiffarth M., *Collective bargaining in domestic work*, *op. cit.*, p. 17.

⁷⁵² Italian Constitutional Court, judgment no. 10 of 1971.

⁷⁵³ Osservatorio DOMINA sul lavoro domestico, *2° Rapporto Annuale sul Lavoro Domestico*, 2020, p. 11.

employment relationship is exposed to the public sphere, transcending the confines of privacy and isolation; but it may not necessitate a global pandemic to generate such scenarios.⁷⁵⁴ If labor inspectorates are reinforced in their capabilities, indeed, they can employ methods tailored to domestic work, such as interviewing workers about their conditions outside the household without physically entering it – a practice observed in Uruguay.⁷⁵⁵ Moreover, concerning home-based eldercare workers, general practitioners or social workers may already have access to private households and could be empowered to report substandard conditions to the authorities or receive training to refer families to social partners who can aid families and/or workers in improving conditions.⁷⁵⁶

It is important to note, however, that in some cases, immigrant women themselves become involved in these irregularities because they prefer immediate payments over contributing to benefits they may not receive upon returning to their home country.⁷⁵⁷ Particularly, certain immigrants with short-term migration plans may not see the advantages of paying taxes and social contributions, making them more inclined to engage in irregular employment, especially when employers are willing to offer higher cash payments.⁷⁵⁸ To address this behavior, immigrants were initially allowed to redeem their pension contributions even after a few years. This provision had the potential to bring several benefits, including eliminating complicity between immigrants and employers.⁷⁵⁹ However, as previously pointed out, this provision was later eliminated by the so-called Bossi-Fini law.⁷⁶⁰

Ultimately, we are confronted with a labor market segment that is almost entirely characterized by exceptionally high and deeply ingrained illegality. Its significance should be deemed substantial not only due to the systematic harm suffered by the majority of employed individuals, who have no practical and effective recourse, but also because it results in substantial tax and pension evasion.⁷⁶¹ However, in practice, we

⁷⁵⁴ Seiffarth M., *Collective bargaining in domestic work*, *op. cit.*, pp. 17-18.

⁷⁵⁵ ILO, *Making decent work a reality for domestic workers: Progress and prospects ten years after the adoption of the Domestic Workers Convention, 2011 (No. 189)*, International Labour Office, Geneva, 2021.

⁷⁵⁶ Seiffarth M., *Collective bargaining in domestic work*, *op. cit.*, p. 18.

⁷⁵⁷ Pittau F., Di Maggio F., *Immigrazione e accesso alle prestazioni pensionistiche*, in “Diversità culturale, identità di tutela. III Rapporto su immigrati e previdenza negli archivi INPS”, 2018, p. 168.

⁷⁵⁸ Reyneri E., *op. cit.*, p. 263.

⁷⁵⁹ *Ibidem.*

⁷⁶⁰ Law no. 189/2002.

⁷⁶¹ Paggi M., *Lo sfruttamento nel lavoro domestico e di cura*, *op. cit.*, p. 65.

must acknowledge that this phenomenon, even when it has criminal implications related to the employment of irregular migrants or meets the criteria for exploitation under Article 603bis of the Italian Penal Code (for regular or EU citizens), is generally perceived and treated – at best – as a form of low-level criminal activity.⁷⁶² This is not because it lacks significance or punitive measures but because it has a limited impact on Italian citizens, except in marginal cases.⁷⁶³

3.2.4 The difficult unionisation of domestic and care workers and exploitation: the gender dimension, the “prisoner of love” dilemma and other challenges

As outlined so far, the domestic and care sectors are characterized by a multitude of issues arising from widespread undeclared employment and highly unfavorable working conditions.⁷⁶⁴ To tackle these challenges effectively, it is imperative to devise strategies that can professionalize the sector as a whole, enhancing working conditions while prioritizing the sector's needs in the policy agenda.⁷⁶⁵ In doing so, in certain European countries like the Netherlands, trade unions have played a pivotal role, particularly in areas such as childcare and overall work-life balance.⁷⁶⁶ Whereas, in other countries like Germany and France, trade unions – although having taken a less active stance – have generally expressed support for initiatives in this sector.⁷⁶⁷ In Italy, instead, trade unions have expanded their range of activities to encompass social protection and welfare systems, but progress in this field remains relatively stagnant.⁷⁶⁸ Thus, it is important to ascertain the interests at stake and identify the entities representing them. Moreover, given that the Italian system also includes employers' organizations exclusively representing domestic and care employers,⁷⁶⁹ it is pertinent to explore how and to what extent their actions align with the Italian familistic model and the discretion exercised by families in managing domestic and care work.⁷⁷⁰ Lastly, it is essential to highlight the challenges in unionization of domestic workers in Italy and the essential role trade

⁷⁶² *Ibidem.*

⁷⁶³ *Ibidem.*

⁷⁶⁴ De Vita L., Corasaniti A., *op. cit.*, p. 537.

⁷⁶⁵ *Ibidem.*

⁷⁶⁶ Kremer M., *How Welfare States Care: Culture, Gender and Parenting in Europe*, Amsterdam University Press, Amsterdam, 2007.

⁷⁶⁷ Da Roit B., Le Bihan B., *Similar and yet so different*, *op. cit.*, 2010, pp. 286-309.

⁷⁶⁸ De Vita L., Corasaniti A., *op. cit.*, p. 537.

⁷⁶⁹ Basten A., *Promote industrial relations in the domestic work sector in Europe*, European Federation of Food, Agriculture and Tourism Trade Unions, 2015.

⁷⁷⁰ De Vita L., Corasaniti A., *op. cit.*, p. 537.

unions would play. The challenge of unionizing female workers in this sector is, indeed, another element that plays a role in maintaining the low cost of domestic labor,⁷⁷¹ thus, fostering exploitation.

In certain cases, interest groups representing homemakers have assumed the role of employer representatives to facilitate collective bargaining, as observed in Germany, Argentina, and Uruguay.⁷⁷² In Italy, employers had established an association for the purpose of engaging in collective bargaining.⁷⁷³ Employers' associations are active and engaged, so it's the workers who are not adequately represented or organized in alternative ways.⁷⁷⁴ This differs from other countries in the Global North where domestic workers are more proactive, such as the USA, UK, and Israel.⁷⁷⁵ In the context of collective bargaining in Italy, indeed, the same organizations have represented domestic workers from the outset.⁷⁷⁶ While this provides continuity and strong collaboration,⁷⁷⁷ it can also lead to a degree of institutional complacency and potentially unconscious biases regarding the position of domestic workers within this unique employment relationship, especially given their frequent status as migrants.⁷⁷⁸

Notably, as for domestic workers trade unions in Italy, Federcolf stands out as the sole trade union exclusively dedicated to representing domestic workers.⁷⁷⁹ Since its beginning, the organization has been committed to the welfare of women workers, addressing issues faced by migrant women and promoting their involvement in the union's activities.⁷⁸⁰ However, this faith-based organization is closely intertwined with API-COLF, the professional side of the organization that serves both families and domestic workers.⁷⁸¹ This institutional connection and the fact that API-COLF provides services to family employers, along with training for domestic workers, somewhat

⁷⁷¹ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 292.

⁷⁷² Hobden C., *Improving working conditions for domestic workers: Organizing, coordinated action and bargaining*, Issue Brief No. 2 - Labour relations and collective bargaining, International Labour Office, Geneva, 2015.

⁷⁷³ Seiffarth M., *Collective bargaining in domestic work*, *op. cit.*, p. 23.

⁷⁷⁴ Marchetti S., Cherubini D., Garofalo G., *op. cit.*

⁷⁷⁵ Albin E., Mantouvalou V., *Active Industrial Citizenship of Domestic Workers: Lessons Learned from Unionizing Attempts in Israel and the United Kingdom*, in "Theoretical Inquiries in Law", Vol. 17, no. 1, 2016.

⁷⁷⁶ Seiffarth M., *Collective bargaining in domestic work*, *op. cit.*, p. 24.

⁷⁷⁷ Ioli A., *op. cit.*, p. 195.

⁷⁷⁸ Seiffarth M., *Collective bargaining in domestic work*, *op. cit.*, p. 24.

⁷⁷⁹ Seiffarth M., *Collective bargaining in domestic work*, *op. cit.*, p. 25.

⁷⁸⁰ Andall J., *Gender, Migration and Domestic Service, The Politics of Black Women in Italy*, Ashgate, 2000, p. 136.

⁷⁸¹ Seiffarth M., *Collective bargaining in domestic work*, *op. cit.*, p. 25.

compromise their ability to adequately advocate for the interests of domestic workers.⁷⁸² Moreover, even the non-clerical or less conservative Christian socialist organization ACLI-Colf, which now primarily consists of migrant members, has at times advocated for Italian women along feminist lines, occasionally at the expense of migrant workers' needs.⁷⁸³

As for traditional general trade unions, instead, the challenge is representing domestic workers when union members are also employers of domestic workers.⁷⁸⁴ Both the CGIL (*Confederazione Generale Italiana del Lavoro*) and CISL (*Confederazione Italiana Sindacati Lavoratori*) federations have quotas for women in leadership positions (50% and 30%, respectively).⁷⁸⁵ According to data shared by Filcams-CGIL (*Federazione Italiana dei Lavoratori del Commercio, Turismo, Servizi*) in 2019, 63% of their 578,045 members were women, with 22% being migrants, primarily from Romania, Morocco, Ukraine, and Moldavia, which aligns with the major nationalities of migrant domestic workers (except Morocco).⁷⁸⁶ All trade union federations acknowledge the specific needs of migrants and offer dedicated service points to assist (undocumented) non-Italians with residence permits, family reunification, and other issues. Some also provide spaces for (migrant) domestic workers to gather and socialize.⁷⁸⁷ It is through these institutionalized channels that workers' representatives became attuned to the concerns of their members, including domestic workers, whether migrant or live-in. Nonetheless, there remains a need to understand why the rates of organized (migrant) domestic workers are low and why they are not represented at the bargaining table.⁷⁸⁸

First of all, the challenge of unionizing female workers in this sector arises mainly from their widespread geographical dispersion and the significant presence of immigrants, who, as previously mentioned, are often reluctant to assert their rights.⁷⁸⁹

Secondly, the peculiar Italian scenario where families are the primary employers of care workers presents a significant hurdle to unionization and union activities.⁷⁹⁰ As a matter

⁷⁸² *Ibidem.*

⁷⁸³ Busi B., *op. cit.*, pp. 11-35.

⁷⁸⁴ Seiffarth M., *Collective bargaining in domestic work, op. cit.*, p. 25.

⁷⁸⁵ *Ibidem.*

⁷⁸⁶ Seiffarth M., *Crisis as Catalyst?, op. cit.*

⁷⁸⁷ Seiffarth M., *Collective bargaining in domestic work, op. cit.*, p. 25.

⁷⁸⁸ *Ibidem.*

⁷⁸⁹ Borelli S., *Le diverse forme dello sfruttamento, op. cit.*, p. 292.

⁷⁹⁰ De Vita L., Corasaniti A., *op. cit.*, p. 540.

of facts, unions lack the means to ensure that employers and employees sign contracts and adhere to contractual provisions, yet they cannot engage in any form of monitoring as it would require access to individual homes.⁷⁹¹

Thirdly, there is specific barrier resulting from the division between the public and private spheres, affecting the realm of union activity. Unions primarily operate in the public sphere, while domestic workers are confined to the private sphere, specifically within private households where they both work and reside, especially in the case of live-in domestic workers.⁷⁹² Migration policies and labor laws further restrict them to the private domain.⁷⁹³ For instance, their exclusion from strict working time regulations can lead to them being confined to the household for twenty-four hours a day, sometimes for an entire week or longer.⁷⁹⁴ This work pattern, particularly for live-in workers, has been recognized as a challenge for unionization since domestic work occurs behind closed doors, and the extensive working hours leave little time for activities traditionally associated with political engagement.⁷⁹⁵

At the same time, union efforts face another dual challenge, with external factors involving cost-cutting practices and internal issues related to the interests within the representative bodies.⁷⁹⁶ On the external front, problems arise due to the proliferation of "pirate" collective contracts. These contracts are formulated by associations or unions that do not genuinely represent the majority of sector participants. "Pirate" contracts tend to offer fewer safeguards and lower minimum wages compared to the National Collective Labour Agreement. And this unfair competition further complicates the enforcement of the minimum standards outlined in the National Collective Labor Agreement.⁷⁹⁷ In addition to these external factors, another challenge pertains to the (internal) functioning of unions. Unions have traditionally focused on the manufacturing sector, and their strategies have evolved within male-dominated workplaces, often organizing workers at a single plant through approaches that address large groups of

⁷⁹¹ *Ibidem.*

⁷⁹² Albin E., Mantouvalou V., *op. cit.*, p. 331.

⁷⁹³ *Ibidem.*

⁷⁹⁴ Anderson B., *Mobilizing Migrants, Making Citizens: Migrant Domestic Workers as Political Agents*, in "Journal of Ethnic & Racial Studies", Vol. 33, 2010.

⁷⁹⁵ Ford M., *Organising the Unorganisable: Unions, NGOs, and Indonesian Migrant Labour*, in "International Migration"; Vol. 42, no. 5, 2004.

⁷⁹⁶ De Vita L., Corasaniti A., *op. cit.*, p. 540.

⁷⁹⁷ *Ibidem.*

workers simultaneously, many of whom are likely citizens.⁷⁹⁸ As a result, unions face unique difficulties in addressing issues within the diverse domestic work sector, which primarily consists of individual workers who work independently in their employers' homes.⁷⁹⁹ Moreover, for the same reason, stereotypes perpetuating the idea that domestic work is not "real" employment have persisted within the unions.⁸⁰⁰ This suggests that unions have played a role in what has been described as the "ignorance of the privileged".⁸⁰¹ As a matter of facts, for a considerable period, the male, white, and native workers in the manufacturing sector, from which union organizations originated, have tended to overlook the privileges they enjoy as members of this social group.⁸⁰² As also pointed out by the Professor Casalini, "the ignorance of the structural injustice underlying privileges serves as the primary justification for the indifferent and neglectful attitude of the privileged towards the social suffering they may contribute to".⁸⁰³ And this disregard has extended to undervaluing the significance of domestic work and caregiving, often relegated to the private sphere and assigned to women.⁸⁰⁴ Moreover, representatives of workers themselves often do not consistently engage in critical self-examination regarding their own roles within the deeply entrenched structures of the sector.⁸⁰⁵ Therefore, these structures persist in viewing domestic workers more as service providers catering to the needs of families, often referred to as "family assistants," rather than recognizing them as laborers with their own social requirements, including the desire to build their own families.⁸⁰⁶ This perspective may be influenced by the central role of the family unit in Catholicism, and by the underlying legacy of migration as a pivotal factor contributing to the lower status of domestic workers in the labor market.⁸⁰⁷ Historically, indeed, the majority of domestic workers in Italy have been migrants, initially as internal migrants from Southern and

⁷⁹⁸ Albin E., Mantouvalou V., *op. cit.*, p. 332.

⁷⁹⁹ *Ibidem.*

⁸⁰⁰ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 292.

⁸⁰¹ Casalini B., *Politizzare la cura. Per andar oltre l'«irresponsabilità dei privilegiati»*, in "MRO", (2020), at <https://www.machina-deriveapprodi.com/post/politicizzare-la-cura>.

⁸⁰² Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 292.

⁸⁰³ Casalini B., *op. cit.*

⁸⁰⁴ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 292.

⁸⁰⁵ Seiffarth M., *Collective bargaining in domestic work*, *op. cit.*, p. 24.

⁸⁰⁶ *Ibidem.*

⁸⁰⁷ *Ibidem.*

rural regions of Italy in the late 1940s and subsequently as primarily international migrants since the 1990s.⁸⁰⁸

On top of that, the gendered nature of domestic work presents another challenge for unionization, strictly related to the latter. This gendered dimension is rooted in the type of work involved, which is centered on providing care and intimacy to others⁸⁰⁹ - activities that deviate from the typical male worker archetype.⁸¹⁰ Moreover, the majority of domestic workers are women.⁸¹¹ This gendered element has implications for unionization, as these workers have less capacity to engage in public activities, democratic assemblies, and strikes due to the dual roles they play at work and home.⁸¹² The demands of their jobs leave them with limited time to engage in public activism, which aligns with the standard union model.⁸¹³ Historically, the women's movement developed outside the union framework, as women were less involved and active within unions, which often did not adequately consider women's interests.⁸¹⁴ From a feminist perspective, unions have sometimes been seen as institutions that perpetuate gender disparities, including job distinctions and wage gaps.⁸¹⁵

In response to this political and union culture, domestic workers worldwide have taken the initiative to establish their own organizations.⁸¹⁶ This phenomenon was notably observed during the discussions leading up to the adoption of Convention No. 189, with the International Domestic Workers' Network (IDWN) playing a prominent role, later evolving into the International Domestic Workers Federation (IDWF).⁸¹⁷ As for Italy, on the other hand, ACLI Colf and Italian unions had a shared goal in 1974 to achieve

⁸⁰⁸ Sarti R., *The globalisation of domestic service - An historical perspective*, in Lutz H. (ed.), "Migration and Domestic Work: A European Perspective on a Global Theme", Routledge, 2008, pp. 77-97.

⁸⁰⁹ Albin E., *From Domestic Servant to Domestic Worker*, in Fudge J., McCrystal S., Sankaran K. (eds.), "Challenging the Legal Boundaries of Work Regulation", 2012, p. 231.

⁸¹⁰ Albin E., Mantouvalou V., *op. cit.*, p. 332.

⁸¹¹ ILO, *Domestic Workers Across the World: Global and Regional Statistics and the Extent of Legal Protection*, 2013, p. 21.

⁸¹² Albin E., Mantouvalou V., *op. cit.*, p. 332.

⁸¹³ ILO, *Pay-Equity, Minimum Wage and Equality at Work: Theoretical Framework and Empirical Evidence*, Declaration/WP/19/2003, 2003.

⁸¹⁴ *Ibidem*.

⁸¹⁵ Webb S., *The Alleged Differences in the Wages Paid to Men and to Women for Similar Work*, in "The Economic Journal", Vol. 1, no. 4, 1891, p. 635.

⁸¹⁶ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 292.

⁸¹⁷ *Ibidem*.

recognition of domestic work as legitimate labor and they succeeded in obtaining the first National Collective Labor Agreement (Ccnl) for the sector.⁸¹⁸

Lastly, another challenge in mobilizing care sector workers is what is known as the "prisoner of love" dilemma.⁸¹⁹ This dilemma stems from the specific ethics of the profession, causing these workers to hesitate when it comes to collective actions seeking improved working conditions.⁸²⁰ The "prisoner of love" dilemma reflects the fact that "care workers often prioritize the well-being of their clients over their own pursuit of better wages and working conditions".⁸²¹ This dilemma also affects the possibility to strike, therefore, raising the question of whether a strike – a tactic historically employed to disrupt capitalist production – can be transformed into a tool that not only highlights the exploitation of reproductive labor but also envisions concrete changes in their organization, thereby paving the way for broader societal transformation.⁸²²

Ultimately, taking all these challenges into account, concrete actions to promote the unionization of domestic workers, especially migrant women, should be undertaken. In light of the informal nature of the care sector and the vulnerability of domestic workers, indeed, the role of networks becomes paramount,⁸²³ not only for the assertion of workers' rights, but also for the empowerment of female workers. As a matter of facts, networks are influential on various levels.⁸²⁴

On one side, social networks can also exacerbate divisions in the market for migrant care and domestic work, establishing unequal internal boundaries and potentially undermining people's autonomy in their labor mobility.⁸²⁵ As a matter of facts, networks can, for instance, intensify the sector's segmentation, particularly when domestic workers act as intermediaries in job placements.⁸²⁶ In such cases, they may favor acquaintances to enhance their status within the community or exchange jobs for financial compensation, a practice more common among Eastern European domestic

⁸¹⁸ Sarti R., *Casalinghe e colf: gerarchie domestiche o comune oppressione? Tentativi di riforma, mancate sinergie e prospettive future*, in Busi B. (ed.), "Separate in casa. Lavoratrici domestiche, femministe e sindacaliste: una mancata alleanza", Ediesse, Roma, 2020, p. 225.

⁸¹⁹ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 293.

⁸²⁰ *Ibidem*.

⁸²¹ Müller T., *She Works Hard for the Money: Tackling Low Pay in Sectors Dominated by Women – Evidence from Health and Social Care*, Etui Working Paper no. 11, 2019, p. 22.

⁸²² Busi B., *op. cit.*, p. 31.

⁸²³ Marchetti S., *Migration and Domestic Work*, *op. cit.*, p. 38.

⁸²⁴ *Ibidem*.

⁸²⁵ *Ivi*, p. 39.

⁸²⁶ Gavanas A., *Migrant domestic workers, social network strategies and informal markets for domestic services in Sweden*, in "Women's Studies International Forum", no. 36, 2012, pp. 54-64.

workers.⁸²⁷ This competition between domestic workers from different national backgrounds often relates to how social network dynamics function, the principles that underlie them, and the influence of economic crises on these networks.⁸²⁸

However, first of all, migrant domestic workers particularly benefit from their networks for labor integration in their new country.⁸²⁹ Initially, indeed, due to the informal nature of job recruitment in domestic and care work, networks significantly impact how individuals enter the sector, disseminating information about job opportunities, work types, and more.⁸³⁰ Employers as well, indeed, prefer using networks to hire individuals who have personal relationships with people they know and trust.⁸³¹ As revealed by Huw Vasey's analysis regarding the impact of networks on the labor integration of migrants, particularly in low-skilled occupations, indeed, the labor mobility of migrant workers is often shaped not solely by their skills but by opportunities within each social context.⁸³² This is influenced by dynamics within the host society as well as within the migrants' networks.⁸³³

Secondly, following the pioneering research of Pierrette Hondagneu-Sotelo, social networks have been identified as a crucial resource for empowering domestic workers.⁸³⁴ As a matter of facts, during their free time, when they interact with friends and colleagues outside the homes of their employers, domestic workers can exchange information about better job prospects, seek advice about mistreatment, and access information about new legal and social services.⁸³⁵ This communication allows them to learn how to negotiate with employers regarding tasks and payment.⁸³⁶ Essentially, they establish an informal social regulatory system for their occupation, especially in the absence of formal bureaucratic government oversight.⁸³⁷ In essence, social networks

⁸²⁷ Mazzacurati C., *Dal blat alla vendita del lavoro. Come sono cambiate colf e badanti ucraine e moldave a Padova*, in Caponio T., Colombo A. (eds.), "Stranieri in Italia. Migrazioni globali, integrazioni locali", il Mulino, 2005.

⁸²⁸ Marchetti S., *Migration and Domestic Work*, *op. cit.*, p. 39.

⁸²⁹ Parreñas R. S., *Servants of globalization: Women, migration and domestic work*, University Press, 2001.

⁸³⁰ Marchetti S., *Migration and Domestic Work*, *op. cit.*, p. 38.

⁸³¹ *Ibidem.*

⁸³² Vasey H., *Trajectories of migration, social networks and emergent landscapes of migrant work*, in "Migration Studies", Vol. 4, no. 1, 2015, pp. 76-96.

⁸³³ *Ibidem.*

⁸³⁴ Hondagneu-Sotelo P., *Regulating the unregulated: Domestic workers' social networks*, in "Social Problem", Vol. 41, no. 50, 1994, pp. 50-64.

⁸³⁵ Marchetti S., *Migration and Domestic Work*, *op. cit.*, p. 39.

⁸³⁶ *Ibidem.*

⁸³⁷ Hondagneu-Sotelo P., *op. cit.*, p. 61.

serve also as a strategy for these workers to compensate for their exclusion from the formal labor market.⁸³⁸

Thirdly, scholars have contended that trade unionism plays a vital role in advancing the recognition of domestic workers as laborers, distinguishing them from the labels of "servants," "slaves," or "family members".⁸³⁹ This recognition is especially crucial within national legal systems that exclude domestic workers from protective labor regulations.⁸⁴⁰

Furthermore, unionization is argued to be the most effective means of facilitating the redistribution of resources.⁸⁴¹ Domestic workers belong to one of the most disadvantaged segments of the labor market, characterized by low wages and a lack of access to certain workplace rights⁸⁴². The International Labour Organization (ILO) has identified the weak bargaining position of domestic workers as a significant factor contributing to their low wages.⁸⁴³ As evidenced by the 2011 Convention on Domestic Workers, the importance of freedom of association and collective bargaining for this workforce was emphasized in one of its initial provisions.⁸⁴⁴ Within a union, indeed, organizing can enhance the economic well-being of domestic workers, as one of the primary goals of unions is to secure equitable working conditions and other goods.⁸⁴⁵ Using Nancy Fraser's terms of recognition and redistribution,⁸⁴⁶ this implies that unionization not only promotes the recognition of domestic workers but also addresses matters of power and wealth redistribution.⁸⁴⁷

In addition, unions offer further assistance to their members. They can deliver various services, such as language courses, legal counsel, and guidance on immigration matters.⁸⁴⁸

⁸³⁸ Marchetti S., *Migration and Domestic Work*, *op. cit.*, p. 39.

⁸³⁹ Mundlak G., Shamir H., *Organising Migrant Care Workers in Israel: Industrial Citizenship and the Trade Union Option*, in "International Labour Review", Vol. 153, 2014.

⁸⁴⁰ Mantouvalou V., *Human Rights for Precarious Workers: The Legislative Precariousness of Domestic Labor*, in "Comparative Labor Law & Policy Journal", Vol. 34, 2012.

⁸⁴¹ Albin E., Mantouvalou V., *op. cit.*, p. 328.

⁸⁴² *Ibidem*.

⁸⁴³ ILO, *Domestic Workers Across the World*, *op. cit.*

⁸⁴⁴ Art. 3 of the ILO, Domestic Workers Convention no. 189, 2011.

⁸⁴⁵ White S., *Trade Unions in a Liberal State*, in Gutmann A. (ed.), "Freedom of Association", 1998.

⁸⁴⁶ Fraser N., *Social Justice in the Age of Identity Politics: Redistribution, Recognition and Participation*, in Fraser N., Honneth A. (eds.), "Redistribution or Recognition? A Political Philosophical Exchange", 2003.

⁸⁴⁷ Albin E., Mantouvalou V., *op. cit.*, p. 328.

⁸⁴⁸ *Ivi*, p. 329.

Lastly, trade unions are favored due to their democratic and participatory nature, being, therefore, the most effective vehicles for fostering participation and providing a voice. Notably, the stronger voice of a trade union associated with the broader labor movement can be highly beneficial for the disadvantaged domestic work sector.⁸⁴⁹

3.3 The weaknesses of law instruments in tackling exploitation in domestic and care work in Italy

From the analysis conducted thus far, it is clear that the exploitation of migrant workers in the domestic and care sector in Italy – especially in cases that do not fall into the category of severe exploitation – faces not only inadequate opposition but is even accepted as it serves the purpose of meeting the care needs of families.

It was only in 2011, indeed, in response to a surge in severe illegal activities, including within the domestic work sector, that the legislator introduced a provision within the penal code to penalize labor exploitation, i.e., Article 603-bis of the penal code.⁸⁵⁰ However, as mentioned previously, this provision doesn't encompass all forms of exploitation but rather establishes a threshold at which exploitation becomes criminally relevant.⁸⁵¹ Consequently, this kind of intervention presents multiple challenges for labor law.⁸⁵²

For instance, upon examining the verdict of the single case of labor exploitation in the domestic context, decided by the Court of Cassation⁸⁵³ – in which the order for pretrial detention of the administrator of a non-profit organization providing foreign caregivers to families was annulled – a significant issue arises regarding the application of Article 603-bis of the penal code to domestic work.⁸⁵⁴ In this context, in fact, the level of exploitation that doesn't qualify as criminally relevant was remarkably high, effectively raising the threshold for legally significant exploitation.⁸⁵⁵ The Court of Cassation defines the indicators for recognizing labor exploitation under Article 603-bis of the penal code as “relating to a situation of evident harm and substantial subjugation of the worker, as evidenced by contractual and remuneration profiles, legal aspects of the

⁸⁴⁹ *Ibidem.*

⁸⁵⁰ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 295.

⁸⁵¹ *Ibidem.*

⁸⁵² Di Martino A., *op. cit.*, pp. 59 et seqq.

⁸⁵³ Corte di Cassazione Penale, Sez. IV, 9/10/2019, no. 49781.

⁸⁵⁴ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 295.

⁸⁵⁵ *Ivi*, pp. 295-296.

employment relationship, or violations of safety and hygiene regulations at work, or exposure to humiliating or degrading working and living conditions".⁸⁵⁶ The judges of the Supreme Court go on to argue that in assessing whether the conditions imposed on the caregivers were overtly detrimental or whether a state of degradation or a breach of labor safety regulations occurred, it should be considered that, in the specific case, the work "was fundamentally domestic".⁸⁵⁷ In essence, this criminal provision exclusively targets the most extreme forms of exploitation, which, in the context of domestic work, need to be limited because the DIY welfare system relies on the prevalence of non-legally relevant exploitation. In other words, the do-it-yourself welfare system can effectively perform its role of meeting care needs only when non-legally relevant exploitation is ensured.⁸⁵⁸

Moreover, the traditional concept of the exploited and the exploiter itself doesn't always adequately capture the dynamics of domestic work. As mentioned repeatedly, indeed, families themselves become victims of the DIY welfare system.⁸⁵⁹ However, the scenario changes when it comes to the provision of domestic labor, where the exploiter can be identified as the supplier who exploits the vulnerable situations of both the family, particularly those with low incomes, and the worker, especially if they are migrant workers.⁸⁶⁰ As a matter of facts, it is not coincidental that the aforementioned case of labor exploitation in the domestic context, the sole one adjudicated by the Court of Cassation, precisely concerned a scenario where domestic workers were supplied without residence permits for work-related reasons.⁸⁶¹

Therefore, the current focus on employing criminal law as a solution to combat labor exploitation may not, in reality, be the most effective approach. As a matter of facts, the application of criminal law in this context generates two interconnected effects.⁸⁶² On the one hand, it creates a public perception, magnified by prominent newspaper headlines and social media posts, that measures are being taken to safeguard workers' rights, thereby legitimizing the Government. On the other hand, it diverts attention from

⁸⁵⁶ Corte di Cassazione Penale, Sez. IV, 9/10/2019, no. 49781.

⁸⁵⁷ *Ibidem*.

⁸⁵⁸ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 296.

⁸⁵⁹ *Ivi*, p. 295.

⁸⁶⁰ *Ibidem*.

⁸⁶¹ Corte di Cassazione Penale, Sez. IV, 9/10/2019, no. 49781.

⁸⁶² Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 295.

the extensive issue of non-criminally relevant labor exploitation, effectively preserving the DIY welfare system.⁸⁶³

The enduring presence of a substantial domain characterized by exploitation and severe exploitation, indeed, suggests that it should not be regarded as an isolated issue but rather as an inherent and systemic feature of contemporary capitalism.⁸⁶⁴ And, as effectively articulated by Quirk, Robinson, and Thibos, "the practices and systems creating the conditions that enable everyday abuses tend to be the same practices and systems that also enable the kinds of extreme abuses associated with human trafficking and modern slavery".⁸⁶⁵ Anti-exploitation policies, by primarily concentrating on individual and sensational cases, though, compromise their capacity to prevent and address the commonplace forms of abuse stemming from the routine functioning of our socio-economic system.⁸⁶⁶ As a matter of facts, the sensationalization of extreme abuses results in the disregard of the everyday, non-dramatic exploitation experienced by domestic workers,⁸⁶⁷ thus avoiding the need to confront the systemic roots of exploitation.⁸⁶⁸

Also at the European level, the definition of severe exploitation adopted by the EU Fundamental Rights Agency (FRA) exclusively encompasses cases of serious exploitation amounting to a criminal offense,⁸⁶⁹ which should still be considered a relatively rare phenomenon on a global scale.⁸⁷⁰ In contrast, structural exploitation is an integral component of global economies and primarily necessitates responses rooted in principles of social justice rather than relying on criminal repression.⁸⁷¹

On the surface, indeed, this "domestic worker solution" may initially appear to be a win-win-win scenario, where many migrant workers secure employment in a high-demand sector, Italian households address their substantial care needs at a relatively low cost, and the Italian State potentially saves significant public resources that would otherwise

⁸⁶³ *Ibidem.*

⁸⁶⁴ Mezzadra S., Neilson B., *op. cit.*

⁸⁶⁵ Quirk J., Robinson C., Thibos C., *Editorial: From Exceptional Cases to Everyday Abuses: Labour Exploitation in the Global Economy*, in "ATR", 2020, p. 10.

⁸⁶⁶ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 296.

⁸⁶⁷ Parry-Davies E., *Modern Heroes, Modern Slaves? Listening to Migrant Domestic Workers' Everyday Temporalities*, in "ATR", 2020, p. 81.

⁸⁶⁸ Cockbain E., *From Conflict to Common Ground: Why Anti-trafficking Can Be Compatible with Challenging the Systemic Drivers of Everyday Abuses*, in "ATR", no.15, 2020, p. 156.

⁸⁶⁹ FRA, *Severe labour exploitation*, *op. cit.*

⁸⁷⁰ Giammarinaro M. G., *Understanding Severe Exploitation*, *op. cit.*, p. 2.

⁸⁷¹ Giammarinaro M. G., *Access to remedy for victims*, *op. cit.*

be allocated to alternative welfare state reforms.⁸⁷² Nevertheless, this "low-cost" approach inevitably entails exceptionally poor working conditions for a considerable number of migrant women and has adverse implications for their socio-economic inclusion.⁸⁷³ Therefore, policies and laws that only tackle severe labour exploitation are clearly not enough to tackle the phenomenon of structural exploitation. Furthermore, this "low-cost" approach itself lacks long-term sustainability and warrants a thorough reevaluation.⁸⁷⁴ As highlighted by the International Labour Organization, indeed, the ongoing trend of an aging population will persist, resulting in an exponential increase in care requirements. Simultaneously, a significant number of migrant workers, including domestic workers, will soon become prospective welfare beneficiaries themselves, failing to meet the established criteria in terms of social contributions. Moreover, the expectation of a continuous influx of a compliant and abundant workforce from abroad for the domestic sector is far from certain. Consequently, there is a pressing need for public institutions to reassume the management and delivery of long-term care services and, more broadly, to formulate social policies that can assist Italian households in addressing their diverse care needs.⁸⁷⁵ Notably, the International Labour Office stated that, on the side of employers, judicious use of fiscal incentives could alleviate the labor cost burden for numerous households employing domestic workers, simultaneously reducing the prevalence of undeclared employment in the sector. Moreover, the provision of tutoring and information services for households eager to employ domestic workers could indirectly contribute to the improvement of working conditions and the safeguarding of the rights of migrant domestic workers.⁸⁷⁶ On the workers' side, instead, the International Labour Office suggested that support should be provided for the self-organization of domestic workers, enabling them to raise awareness and enhance their knowledge of labor and social rights. Moreover, the introduction of new legal pathways for job seekers' admission, carefully balanced with effective monitoring mechanisms, could enhance the efficacy of job-matching systems within the domestic sector and diminish opportunities for irregular migration. On top of that, granting portability of social rights and eliminating regulations that hinder the recovery of paid social

⁸⁷² Castagnone E., Salis E., Premazzi V., *op. cit.*, p. 5.

⁸⁷³ *Ibidem.*

⁸⁷⁴ *Ibidem.*

⁸⁷⁵ *Ibidem.*

⁸⁷⁶ *Ibidem.*

contributions could ultimately reduce the incentives for irregular and undeclared employment.⁸⁷⁷

In summary, the primary challenge in this sector continues to revolve around the widespread failure to recognize care as a collective and public responsibility.⁸⁷⁸ Trade unions and employer associations are engaged in a multitude of activities, but their endeavors are constrained by the fact that it remains the responsibility of individual families, with their distinct economic and relational resources, to manage this type of labor.⁸⁷⁹ The resultant model, thus, remains characterized by asymmetry and inequity, both for those providing care and those receiving it.⁸⁸⁰

Therefore, based on the analysis presented above, it is clear that addressing labor exploitation in domestic work cannot be achieved solely through the application of the equal treatment principle (as mandated by the ILO Convention)⁸⁸¹ or the imposition of criminal penalties (as stipulated by the European Social Charter).⁸⁸² Instead, it requires a fundamental shift away from the do-it-yourself (DIY) welfare model and, to accomplish this, the first essential step is to acknowledge the universal need for care that every individual possesses.⁸⁸³

As stated by Professor Borelli Silvia, indeed, by recognizing the pivotal role of care, it can be established as a fundamental social right that the State must ensure. Notably, in her analysis titled “*Le diverse forme dello sfruttamento nel lavoro domestico di cura*”,⁸⁸⁴ she suggests that initiatives in this direction should commence with the evaluation of care needs by adequately trained public personnel, thus transcending the DIY approach. Once the care requirements are assessed, the subsequent phase should involve planning the array of necessary interventions, which may encompass healthcare, in-home assistance, day care, and innovative forms of assisted living. Institutionalization, with its consequential impacts on the elderly or disabled, should be seen as a last resort. The configuration of these interventions should be customized according to the specific needs of each family and the preferences of the care

⁸⁷⁷ *Ibidem.*

⁸⁷⁸ De Vita L., Corasaniti A., *op. cit.*, p. 546.

⁸⁷⁹ *Ibidem.*

⁸⁸⁰ *Ibidem.*

⁸⁸¹ ILO, Domestic Workers Convention no. 189, 2011.

⁸⁸² Council of Europe, European Social Charter, CETS no. 163, 1999.

⁸⁸³ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 297.

⁸⁸⁴ *Ibidem.*

recipient.⁸⁸⁵ Naturally, a program of this nature demands a certain level of public funding. Nevertheless, this investment would be offset by the creation of a significant number of dignified job opportunities within the sector and a reduction in illegal activities, leading to an increase in tax and contribution revenues.⁸⁸⁶

Ultimately, the State's pivotal role in ensuring the right to care should extend beyond simply planning interventions; it should also encompass the delivery of essential services. This entails a shift away from prioritizing monetary benefits.⁸⁸⁷ As a matter of facts, despite the fact that some argue would empower families to select their preferred care services, a closer examination reveals that for many families, the illusion of choice fades as financial resources diminish or limited services are accessible in their vicinity.⁸⁸⁸ On the contrary, the recent pandemic crisis has underscored that only publicly provided personal care services can guarantee the comprehensive fulfillment of care requirements across the entire nation, even during emergencies.⁸⁸⁹

⁸⁸⁵ *Ibidem.*

⁸⁸⁶ *Ibidem.*

⁸⁸⁷ *Ibidem.*

⁸⁸⁸ Facchi A., Giolo O., *Libera scelta e libera condizione*, Il Mulino, Bologna, 2020, p. 25.

⁸⁸⁹ Borelli S., *Le diverse forme dello sfruttamento*, *op. cit.*, p. 297.

Conclusions

Main findings, implications, and limitations of the study

The purpose of this study has been to shed light on the exploitation of migrant domestic workers and its far-reaching consequences. Notably, this study unveils, on one side, the intricate interplay between factors such as gender discrimination, the capitalist economic system, the exploitation of resources in the global South, and the devaluation of care work that foster the exploitation of migrant domestic workers on a global level, and, on the other, it delves into the specific Italian context, elucidating how the do-it-yourself (DYI) welfare system, immigration policies, labor policies, regulations governing the domestic and care sectors, and the challenges in establishing unions for domestic workers (particularly migrant ones), collectively contribute to rendering the exploitation of domestic and care workers inevitable, to the extent that it becomes not merely incidental but structural and systemic.

Notably, one of the central findings of this analysis underscores the systemic nature of worker exploitation on a global scale. As highlighted in this study, indeed, since its beginning, the development of the capitalist economy has been based on both the international division of labor, characterized by the subjugation and exploitation of colonies, and the manipulation of the sexual division of labor, which has similarly led to the subjugation and exploitation of women. This subordination and exploitation of women, nature, and the colonies have served as prerequisites for maintaining a global division of labor in pursuit of capital accumulation. Moreover, the migration of people itself has been harnessed by the capitalist system to reinforce its own strength, capitalizing on the availability of cheap labor and suppressing local working class demands. This is achieved through a range of mechanisms, including the transformation of Global South countries into an extensive pool of cheap labor, the imposition of double discrimination on immigrants in host countries (both as immigrants and as undocumented workers), and the enforcement of restrictions that keep immigrants in a state of illegality, intensifying their vulnerability. In essence, the most crucial commodity exported from the Global South to the North is labor, and capitalist accumulation is fundamentally the accumulation of workers.

Furthermore, specifically in the context of domestic and care work, the study reveals that during the 1980s and 1990s, European states, Canada, and the United States

resolved the household labor crisis by redistributing reproductive labor onto the shoulders of women in the Global South. As a matter of facts, this shift is exemplified by a significant reduction in the average number of hours spent on household chores between 1965 and 1995, coupled with a notable 53% increase in households employing paid cleaning workers once a month or more among middle-class professionals between 1995 and 1999.⁸⁹⁰ This process has given rise to the concept of "Global Care Chains", which not only deepens divisions between women from the Global South and North but also reinforces the inherent hierarchies within the sexual division of labor. The consequences of this phenomenon have been far-reaching, including remittances from migrant care workers becoming a vital source of funds for the national economies of their countries of origin. Additionally, it has led to the emergence of a new phenomenon, i.e., transnational mothering, where migrant women are compelled to leave their families and send money home for the care of their children and elderly parents, all while grappling with multiple risks associated with their vulnerable social and legal positions. Consequently, from the perspective of the countries of origin of migrant care workers, in the same way that Global South countries face a brain drain, they also suffer from a care drain. This reflects a colonial relationship, characterized by what Arlie Hochschild aptly terms "the new emotional imperialism," where the focus has shifted towards appropriating the social value of emotional labor.

Moreover, the analysis reveals another crucial aspect of the systemic exploitation of domestic and care workers, rooted in the historical feminization and devaluation of domestic and care labor. This devaluation can be traced back to the seventeenth century when economically productive waged labor outside the home began to be recognized as 'work', whereas domestic and care work within the family context were devalued and considered non-marketized 'labors of love'. These responsibilities were relegated to the private sphere and assumed to be primarily the domain of women. The gendered separation between waged work and social reproduction reinforced the notion of the home as a domestic, private, and feminized space, with housewives traditionally providing domestic work for free. Consequently, the home has long been perceived as a place of 'non-work,' and any waged work conducted there, including women's paid work in other people's homes, is not only devalued in discourse but also in monetary terms. This finding underscores the deep-seated gender bias that underpins the exploitation of

⁸⁹⁰ Ehrenreich B., *Maid to Order, op. cit.*, pp. 89-90.

domestic and care workers, highlighting the urgent need for a fundamental reevaluation of the value assigned to these essential labor forms.

As for the Italian context, instead, in addition to the aforementioned global trends that also apply to Italy, the analysis reveals four key categories of factors contributing to the resurgence of exploitation: the regulatory and institutional framework, personal circumstances and backgrounds of workers, work-related conditions, and employers' conduct. Notably, the analysis emphasizes how the Italian model of care per se and the related policies, governing immigration, labor, and domestic and care work, significantly contribute to the perpetuation of exploitation in the sector, especially towards migrant women.

First of all, central to the findings is the impact of public policies adopted by the State to manage the care economy and its distribution. The approach adopted, indeed, has allocated caregiving responsibilities to family members, unpaid work, and the market, perpetuating the commodification and privatization of care. In a capitalist society that values individualism and competitiveness, dependency on care has been pathologized, leading to its transformation into a commodified service. As a matter of facts, Italy primarily addresses long-term care needs through financial benefits, exemplified by cash-for-care schemes. This model, often referred to as "do-it-yourself" (DIY) welfare, shifts the responsibility for care from the state to individual households, enabling capital to secure a low-cost labor force while constraining public spending and, subsequently, the tax burden. This familistic approach to care, which has evolved into a "migrants in the family model of care", serves as a foundational root of exploitation within the domestic and care work sector.

Secondly, due to the needs of care of families and the specific characteristics of the sector the policies and laws adopted to regulate it lead to exploitation by breaching article 14 of the ILO Convention no. 189 on Domestic Work, namely, by establishing distinct working conditions for domestic and care workers compared to those in other sectors. For instance, indeed, live-in care workers are permitted to work longer hours, with a maximum of 10 non-consecutive hours per day and 54 hours per week, in contrast to the 8 daily and 40 weekly hours allowed for live-out domestic workers and employees in other sectors. Moreover, maternity protection laws for domestic workers remain incomplete. And these are just two examples among other disparities analyzed in the study.

Thirdly, the exploitation of foreign women in Italy is also enabled by immigration laws. The complexity of obtaining a residence permit for work purposes makes legal entry into Italy practically impossible for migrants. As a matter of facts, the absence of a functional and feasible system for regulating migration flows, compounded by the necessity for an unrealistic "remote" assumption for regular entry under the current legal framework, leads to a period of irregularity as an intermediate stage toward regularization. Furthermore, this vulnerability of irregular migrants to exploitation is exacerbated by policies that favor skilled migration over unskilled migration, resulting in irregular migration and informal work becoming prevalent within private homes. This has created a new class of domestic care workers who are increasingly isolated, dispersed, and effectively invisible. On top of that, the worsening conditions faced by foreign women in the domestic and care sector in Italy are further exacerbated by recent restrictive immigration and asylum policies aimed at "securing" state borders against migrant arrivals. These findings underscore the notion of an "edge population" within society, characterized by intersecting vulnerabilities, which is exploited to maintain labor market stability and serve the needs of national and global economic systems.

Lastly, from the analysis it emerges that irregular work represents another significant factor contributing to the maintenance of low labor costs and, at the same time, promoting different forms of exploitation. Notably, irregular work encompasses both undeclared work, commonly referred to in Italy as '*lavoro nero*' (black labor), and more sophisticated forms of informal labor, known as '*lavoro grigio*' (grey labor), that, while often resulting in less severe exploitation, are more widespread and operate within the boundaries of legality. And it is in the domestic sector that irregularity rates reach alarming levels, with an astonishing 52.3%, a stark contrast to the national average of 12.0%.⁸⁹¹ The analysis carried out, indeed, shows that in Italy there is a distinct disparity between the intended goals of the regularization process, aimed at reducing illegality and irregular migrant labor, and its practical limitations, including administrative obstacles and the financial costs associated with regularization applications. As a result, various forms of exploitation persist, encompassing not only irregular work but also instances of severe exploitation within the domestic and care sector, calling for comprehensive policy reforms and systemic changes to address these entrenched issues.

⁸⁹¹ Osservatorio DOMINA sul lavoro domestico, 4° *Rapporto Annuale sul Lavoro Domestico*, 2022, p. 16.

However, exploitation is not a fixed, unchanging concept; instead, it exists along a *continuum*, manifesting in various ways and involving escalating degrees of unjust treatment and rights deprivation over time. Various types of labor exploitation can, indeed, be inflicted upon individuals, encompassing severe labor exploitation, such as human trafficking for labor exploitation, both domestically and internationally, forced labor, slavery, servitude, as well as different kinds of breaches of fundamental labor principles and rights. In the domestic and care sector in Italy, the most severe forms of labor exploitation are at best minimally acknowledged, while instances of exploitation of migrant workers that do not meet the criteria for severe exploitation encounter not only insufficient resistance but are, in fact, tolerated as they fulfill the care needs of families. Nonetheless, the pervasive presence of cases of exploitation within these sectors suggests that it is not an isolated issue but an intrinsic and systemic feature of the current economic system and care model. The analysis, hence, calls attention to the limitations of anti-exploitation policies that tend to focus on individual and sensational cases, thus compromising their ability to address the more common, everyday forms of abuse stemming from the routine functioning of the socio-economic system. Therefore, this analysis concentrates on a broader spectrum of exploitation, including job insecurity, continuous monitoring of work performance, the necessity for workers to hold multiple jobs for a decent income, poor working and living conditions, lack of access to education, violations of labor laws and contracts, absence of social protection, wage manipulation, and other undervalued violations of workers' rights. This approach sheds light on the systemic roots of exploitation within the domestic and care work sector.

In conclusion, the study shows how, as a consequence of these policies, also nowadays, in the domestic and care sector in Italy, foreign individuals, particularly foreign women, continue to predominate, facing various forms of exploitation. As a matter of facts, as mentioned in the study, in 2022, a striking 69.5% of registered domestic workers in Italy were of foreign nationality, with women representing a significant 86.4% of the total workforce in this sector.⁸⁹² Moreover, the analysis highlights that individuals from 'visible' minorities – those with distinctive physical appearance – more frequently report experiencing discrimination, and migrant domestic workers are shown to be particularly vulnerable during their initial phase after arrival. Furthermore, within the domestic and

⁸⁹² INPS, *Statistiche in breve: lavoratori domestici*, op. cit., p. 2.

care sector, live-in domestic workers are identified as the most susceptible to exploitation. The concept of 'seclusion', introduced by Ferruccio Gambino in the early 1990s, indeed, often characterizes their working conditions, marked by isolation and the compression of various daily activities within a single space. Moreover, the lack of significant regulation and recognition as legitimate work further excludes domestic care workers from the state's protective measures, rendering them highly susceptible to various forms of exploitation, including racism, sexism, sexual harassment, exposure to harmful chemicals, and demanding working conditions, especially, again, for those residing with their employers. These findings, thus, underscore the urgency of addressing the systemic issues within the domestic and care work sectors to ensure the rights and well-being of these vulnerable workers.

The implications of this analysis are multifaceted and hold significance in the broader context of understanding and addressing exploitation within the context of Italy's domestic and care labor sector. Firstly, by offering an intersectional overview of the interconnected factors that contribute to exploitation, these findings deepen the existing body of knowledge in this field. Notably, the analysis extends its reach to a comprehensive evaluation of the Italian legislative framework, revealing how certain policies perpetuate the vulnerability of migrant workers, making them susceptible to exploitation. Significantly, the analysis provides a comprehensive view of exploitation within the sector, extending beyond the focus on severe labor exploitation, thereby highlighting the systemic and nuanced nature of the issue. Therefore, in a broader societal context, these findings also underscore the urgent need to rethink the current economic system rooted in capitalism, to establish a new ethics of care that recognizes care as a fundamental social right and a universal and foundational value of society and challenge the existence of the autonomous, self-sufficient, rational individual promoted by neo-liberal discourses. Hence, this study also calls for a reevaluation of policies and practices to better protect the rights and well-being of domestic and care workers while advancing social justice and equity in Italy.

Nonetheless, inevitably, however complete and thorough the analysis presented here aims to be, it also encounters some noteworthy limitations. The primary challenge arises from the private nature of domestic and care labor, making data collection a challenging task. The consequent scarcity of data in this domain, indeed, hampers the possibility to conduct a deep and comprehensive analysis, leaving some aspects unexplored. This data deficiency, however, is not merely an analytical constraint; it also plays a significant

role in perpetuating exploitation within the sector. As a matter of facts, the invisibility of domestic and care work within private homes, coupled with the omission of these workers from some labor regulations, contributes to their heightened vulnerability, particularly among migrant domestic workers. Secondly, another limitation lies in the exclusive focus on gender-related vulnerabilities and discrimination affecting women, while, even though they represent a smaller percentage of workers within the sector, it would be illuminating to apply the same analytical approach to men and people with other gender identities and confront the results. Additionally, the analysis offers a broad overview, making it difficult to delve into the distinct experiences of migrant domestic workers on a country-by-country basis. Therefore, within the study there are mainly references to differences between Europeans and non-Europeans, with limited insights into specific countries. Lastly, the aim of the analysis was to provide a general overview of the sector and its regulation, with a focus on the factors that foster the exploitation of migrant domestic and care workers, making an in-depth examination of individual cases impractical and counterproductive. Nonetheless, it is worth noticing that each domestic worker and employing family has their own distinct stories, characteristics, specificities, and needs, therefore each personal experience may vary significantly from the other.

From the point of view of future researches on the subjects, these limitations underscore the need to collect more data regarding domestic and care workers. Moreover, it would be necessary to develop a more substantial literature especially on those cases of exploitation that are not criminally relevant, adopting an inter-relational perspective and exploring in more depth the specific vulnerabilities linked to the different countries of origin of migrant domestic workers, to fully understand and address the complexities and inequalities within this critical sector.

Lastly, in light of the scale of this phenomenon and its evident repercussions highlighted in this study, from a policy standpoint, addressing the exploitation of domestic workers and acknowledging the essential social right to care as a responsibility of the State is not only imperative to uphold human rights, but it also demands immediate attention, as the 'migrants in the family model of care' is ultimately an unsustainable paradigm in the long term.

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