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DOMESTIC CARE WORK AND SLAVERY:  
A HUMAN RIGHTS-BASED APPROACH

*Supervisor:* Prof. COSTANZA MARGIOTTA BROGLIO MASSUCCI

*Candidate:* ALICE SINIGAGLIA

*Number* 2040629

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*'How does it feel to be in that moment when you realise that  
the thing you are doing is no longer acceptable?'*

*Austin Choi-Fitzpatrick, Rights Lab and San Diego University*

**To my family,  
to its past, current, and future generations**



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## ACRONYMS

Civil Society Organisations	CSOs
Convention on the Rights of Persons with Disabilities	CRPD
Domestic Workers Convention	DWC
European Court of Human Rights	ECHR
Human rights-based approach	HRBA
International Covenant on Civil and Political Rights	ICCPR
International Covenant on Economic, Social and Cultural Rights	ICESCR
International Convention on the Elimination of All Forms of Racial Discrimination	CERD
International Convention for the Protection of All Persons from Enforced Disappearance	CED
International Domestic Workers Federation	IDWF
International Trade Union Confederation	ITUC
Labour Organisation	ILO
National Domestic Workers Alliance	NDWA
Non Governmental Organisations	ONGs
Occupational safety and health	OSH
Office for the High Commissioner for Human Rights	OHCHR
Organisation for Economic Co-operation and Development	OECD
United Nations	UN
Universal Declaration of Human Rights	UDHR
UN Convention on the Elimination of All Forms of Discrimination against Women	CEDAW
UN Convention for the Protection of the Rights of all Migrant Workers and members of their families	ICRMW
UN Convention on the Rights of the Child	CRC
UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	CAT
World Health Organisation	WHO





## INTRODUCTION

*“Care work is an essential feature of human beings and Gods”*

*Plato*

Care work is at the heart of humanity and our societies. We need care to survive in infancy, when we suffer an accident or illness, whether the impact is short, chronic or long-term, to support families and households, and to ensure the best possible quality of life as we age, including at the close of life (ILO, 2022). Care is necessary for the existence and reproduction of societies and the workforce and for the overall well-being of every individual (ILO, 2018). Moreover, economies depend on care work to survive and thrive (ILO, 2018).

In the past two decades demand for care work has been sharply increasing across the globe, because of socio-economic and environmental changes, such as demographic change, the increased participation of women in the labour market, and climate change. Today, domestic workers make up a large portion of the workforce, especially in developing countries, and their number has been increasing – even in the industrialised world (ILO, 2018).

Regardless their increasing weight and their intrinsic importance for our societies, domestic work is undervalued, and domestic care workers often remain underpaid or even exploited and abused. In particular, globalisation is bringing about the rise of a “new global domestic order” (nuovo ordine domestico mondiale), where the increasing demand for care work is addressed through the employment of migrant women coming from poor countries (Casalini, B., 2009). The raise of the cases of domestic servitude and slavery, a phenomenon which was expected to disappear in our contemporary societies, as well as the close relationship between women’s migration and (under)paid domestic work, are the signs of a crisis of the human and cultural resources to ensure care provision in our communities (ibidem).

Indeed, if we look at today’s relationship between domestic care workers and their employers, we still find elements of that traditional relationship of submission and isolation, linked to the master–servant relationship and other forms of servitude. Moreover, carers are still unprotected or not fully protected by the scope of labour law.

This baseline challenge has been exacerbated by political decisions to pursue austere economic policies from the wake of the 2008 financial crisis on. Moreover, Covid-19 has exposed the depth of the vulnerabilities created by these conditions, with some authors arguing that a combination of limited planning attention from governments (compared to acute medical settings), pre-existing economic fragility, and a “deep rooted devaluation of care work” has contributed to the large proportion of Covid-19-related deaths that have occurred (CUSP, 2021) during the pandemic period.

To date, regulatory policies have focused on domestic care workers’ role in protecting service-users’ human rights, not on the risks to care-workers themselves (University of Nottingham Rights Lab, 2022). However, the increased need for care, as well as the rise of this “new global domestic order” is calling into question the way societies think about care, and the way we look at domestic care workers. Given the high risk of labour exploitation and modern slavery in the care sector, it is urgent to take concrete steps to ensure domestic care workers enjoy the same labour and human rights of any other workers. Indeed, while the rights of carers are technically protected by International Human Rights treaties and other international labour rights instruments, their rights are still widely overlooked and unprotected. Indeed, only timid international and national efforts have been taken to promote the economic and social empowerment of domestic workers, to better protect them from exploitation and abuse and reduce the informality that characterises many, if not most, of the employment relationships in this sector (Gallotti, 2009).

To contribute to more decent working conditions for domestic care workers, this thesis aims to explore the current situation of domestic care workers, what makes them vulnerable to slavery, and what are the legal instruments and the relevant processes that can allow care workers fully enjoy their rights.

The starting point is that modern slavery does not occur in a vacuum (Australian Human Rights Commission, 2021). There are specific patterns leading to exploitation that, once identified and understood, can be changed. To identify these patterns, the thesis will consider the full spectrum of human rights risks that domestic care workers are facing to understand the labour practices that make slavery still a reality in the care sector. The thesis will also look at how the global history of slavery, colonialism and other forms of servitude are still affecting this sector and its recognition. The ultimate goal is to provide an overview of the legal, cultural, and day-to day barriers that still make carers vulnerable to marginalisation, disempowerment and exploitation.

## METHODOLOGY

The thesis aims to offer fresh perspectives and insights to the existing literature on the situation of domestic care workers. In particular, it aims to answer to three research questions. Firstly, what is the current situation of domestic care workers across the globe? Secondly, what makes carers vulnerable to slavery? Thirdly, how can we make decent work a reality for domestic care workers?

To answer these questions, the thesis is structured in four main chapters. The first one aims to provide a general reply to the first research question. It describes what is currently driving the demand of domestic care work, and what are the current main characteristics of domestic care work and care workers. The second chapter wants to reply to the second research question by analysing domestic care workers' risks to slavery from a human rights perspective. This human rights-based approach to care work will be further explained in the following page of the thesis. The third chapter starts addressing the third research questions by looking at the current international legal framework protecting care workers. Finally, the fourth chapter looks at key processes that can help advance the legal protection of this category of workers, thus making their working conditions as decent as any other workers.

The data of the thesis has been gathered through a desk research. Since domestic care workers generally live in isolation and may be undocumented workers, getting a comprehensive picture of the situation of domestic care workers has been challenging. However, the thesis built on the following sources of information: public statistics and reports by the International Labour Organisation (ILO), the United Nations (UN), and other international institutions; publications of unions and domestic care workers' organisations, as well as Civil Society Organisations (CSOs) voicing the needs of domestic care workers; relevant websites on modern slavery.



## A HUMAN RIGHTS-BASED APPROACH (HRBA) TO CARE WORK

*“Che le cose siano così, non vuol dire che debbano andare così”<sup>1</sup>*

*Giovanni Falcone*

The starting point of this thesis is that the patterns leading domestic care workers towards new forms of slavery are not irreversible, neither inevitable. They are the result of unequal, unfair, and discriminatory laws, practices, and institutional arrangements, as well as a certain way of considering and looking at care and care workers.

To challenge the current situation, the thesis adopts a human rights-based approach (HRBA) to care workers, which identifies carers' rights under international law, as well as the obligations of duty-bearers towards them. Compared to a needs-based approach (see Figure 1), the HRBA has two main advantages. Firstly, it values and supports the participation of domestic care workers as equal partners in all the matters and processes that concern them, thus challenging their low social status and marginalisation in the political discourse. Secondly, slavery in the domestic care sector may look different today, but it still incorporates human rights issues that continue to plague our societies since centuries. Looking at the sector through the human rights lenses can allow to look at the root causes of certain patterns who lead to slavery.

A HRBA involves empowering individuals to shape the way forward and to claim their rights (AGE Platform Europe, 2020), thus becoming not only rights-holders, but also self-advocates and change makers. It allows carers to be included, listened, understood, and considered.

The benefit of the HRBA is that it allows for early identification and response in contexts where human rights violations may be taking place, thereby decreasing the opportunities for severe human rights violations like modern slavery to flourish (Australian Human Rights Commission, 2021). A HRBA to combatting modern slavery can draw not only on the legal articulation of the phenomena (which still needs much work), but also bring to bear the many developments in human rights research and practice that have a direct bearing on eliminating slavery (Landman, 2018). It makes visible and challenges the doctrines, laws, practices, institutions and systems that keep care workers from living fairly and freely as equals in societies.

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<sup>1</sup> The fact that things are happening in this way does not mean that things have to happen in this way.

<b><i>Needs vs human rights-based approach</i></b>	
<b>Needs approach</b>	<b>Human rights-based approach</b>
Domestic care workers are vulnerable.	Domestic care workers are rights holders.
Domestic care workers are passive.	Domestic care workers are participants.
Focus on the vulnerability of the individual/group.	Focus on environmental and societal factors that create barriers for the enjoyment of rights.
Domestic care workers deserve attention.	We have obligations towards domestic care workers.
Focus on inputs, not outcomes.	Focus on processes and outcomes.
Targeted policies meet the needs of vulnerable persons/groups (such as care workers).	Universal care-friendly policies ensure full and equal enjoyment of all human rights.

*Figure 1 Comparing a needs approach and a rights-based approach to care for care workers<sup>2</sup>*

***How can a human rights-based approach help end modern slavery?<sup>3</sup>***

1. Much of the academic discourse and theoretical work on slavery has focused on the nature of slaves, how they are conceived “as” property. Common to all these practices is the intentional denial of agency, which links directly to theories of human rights.
2. International human rights law relegates slavery primarily to civil and political rights and does not include it in a broader understanding of economic and social rights. As slavery is an extreme form of labour exploitation embedded in larger socio-economic structures, and one that could be addressed through the progressive realisation of economic and social rights, the omission appears odd.
3. The third-party engagement in slavery practices falls under the state obligation to protect rights, while the provision of public resources to end slavery falls under the state obligation to fulfil rights.
4. Social scientific research has made great advances in the measurement and analysis of human rights; the lessons from which are applicable to the study of modern slavery.

<sup>2</sup> The table is inspired by the rights-based approach to ageing developed by AGE Platform Europe in 2020: [HR-based approach ageing\\_27Nov.pdf \(age-platform.eu\)](#)

<sup>3</sup> The table summarises key points of Landman’s article “Combating Modern Slavery with Human Rights”: [Combating modern slavery with human rights | OpenGlobalRights](#)

5. The main principles found within human rights-based approaches ask us to focus on core human rights attributes and complex inter-relationships relevant to the problem of slavery and suggest including survivors of slavery in the design of research, policy interventions, and care for those that are liberated.

*Figure 2 How can a human rights-based approach help end modern slavery?*

Building on the HRBA to Care (The European Centre for Social Welfare Policy and Research, 2019), the thesis will follow this framework:

Desired outcome: fulfilment of rights	<p><b>Cross-cutting principles</b></p> <p>Universality, Participation, Non-Discrimination, Equality, Accountability</p> <p><b>Human rights</b></p> <p>Freedom from slavery, right to life, liberty, and security; freedom from degrading treatment, right to effective remedy, privacy and family life, social security, work, leisure, health, freedom of movement, thought, expression, and association (<u>Chapter II</u>)</p>
Structural conditions	<p><b>Legislative Framework</b></p> <p>The International Legal Framework (<u>Chapter III</u>)</p>
Enabling processes: monitoring and enforcement	<p><b>Duty Bearers and Bearers of Responsibility</b></p> <p>ILO; Civil society institutions; Trade unions; Rights-holders (<u>Chapter IV</u>)</p>

*Figure 3 A human rights-based approach to domestic care work*





## CHAPTER I: SETTING THE SCENE: DOMESTIC CARE WORKERS IN A CHANGING SOCIETY

*“Anche nel più perfetto dei mondi, dove fossero eliminati gli orrori della guerra, dove nessuno si trovasse a soffrire di fame e tutti disponessero delle risorse necessarie alla vita, sempre ci sarebbe bisogno di cura.”<sup>4</sup>*

*L. Mortari*

The chapter provides an overview of the domestic care sector and domestic care workers at global level. After having defined what we mean by domestic care workers, it adds some facts and figures on the status quo. Finally, it looks at the various factors that are contributing to increase the socio-economic relevance of domestic care jobs.

### 1.1.1. Domestic care workers: a poorly defined professional profile

Domestic care workers are a growing phenomenon in quantitative terms (Gallotti, 2009). They have become significant in several contexts: where more affluent populations have the economic power to outsource care; where care-specific foreign worker programmes facilitate their recruitment and employment by private households; where public policies provide incentives and subsidies to encourage individuals to hire care workers, as in the case of several cash-for-care policies; and where employment relationships and working conditions in private households are, de jure or de facto, partly or completely unregulated (ILO, 2018). However, the definition of this professional profile is still very broadly and poorly defined.

According to the International Labour Organisation (ILO), domestic care workers belong to the category of domestic workers, whose definition was provided for the first time during an ILO meeting of experts in 1951 (Gallotti, 2009). A domestic worker was defined as a “wage earner working in a household, under whatever method and period of remuneration, who may be employed by one or several employers, and who receives no pecuniary gain from this work” (ibidem). Today, the ILO

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<sup>4</sup> Even in the most perfect of the possible worlds, where the war no more exists, where nobody suffers from hunger, where anybody has enough material resources to live, we would need care.

defines domestic workers as “persons who earn a living in domestic work within an employment relationship” (ILO, 2011), without narrowing down their role and responsibilities.

The ILO’s International Standard Classification of Occupations (ILO, 1988) included a detailed list of the several and various tasks that a domestic worker could be performing, which was updated in 2008 (ILO, 2010). Both the initial and the updated lists include care tasks. In line with the literature, these tasks consist of activities and relations involved in meeting the physical, psychological and emotional needs of adults and children, old and young, frail and able-bodied (ILO, 2018).

Care activities can be divided into two categories. First, those that consist of direct, face-to-face, personal care activities (Duffy, 2011), such as feeding a baby, nursing a partner with disabilities, helping an older person to carry out health check-ups. Second, those involving indirect care activities, which do not entail face-to-face personal care, such as cleaning, cooking, doing the laundry and other household maintenance tasks, that provide the preconditions for personal caregiving (Razavi, 2007).

As some scholars have pointed out, domestic work cannot be defined in terms of the tasks it could encompass, but rather in terms of the role that the domestic worker plays in each social context, which is defined by general attitudes, perceptions, and even stereotypes. This context is mainly determined by gender, class [and ethnicity] relationships prevailing in a given society (Gallotti, 2009), which will be further considered throughout the thesis.

### 1.1.2. The domestic care sector: main features

The domestic care sector includes paid and unpaid care work<sup>5</sup>. Unpaid care work is care of persons for “no explicit monetary reward” (Razavi, 2007). The largest amount of unpaid care work in nearly all societies takes place within households, but individuals also perform unpaid care for people outside their families, such as friends, neighbours and community members, and within a variety of institutions (public, market, non-profit, community) on an unpaid or voluntary basis (King-Dejardin, 2019). Paid care work is care work performed in exchange for payment or remuneration in cash or in kind, and may be performed within a range of institutional settings, such as private households (as in the case of domestic workers), and public or private hospitals, clinics, nursing homes, schools and other care establishments (*ibidem*).

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<sup>5</sup> The thesis will focus on paid care work only.

The line between paid and unpaid care work is blurred in many countries. Many care occupations are viewed as an extension of unpaid care work within homes and communities (ILO, 2022), thus compromising the social status and recognition of the sector. The existence of a large informal market for paid domestic work, which provides cheap alternatives to care work for households, also serves to maintain poor working conditions among domestic workers and undermines the working conditions of care workers generally (ibidem). Indeed, domestic work has been identified as one of five sectors having the greatest risk of undeclared work, especially among those who provide live-in care (Caritas Europa, 2023).

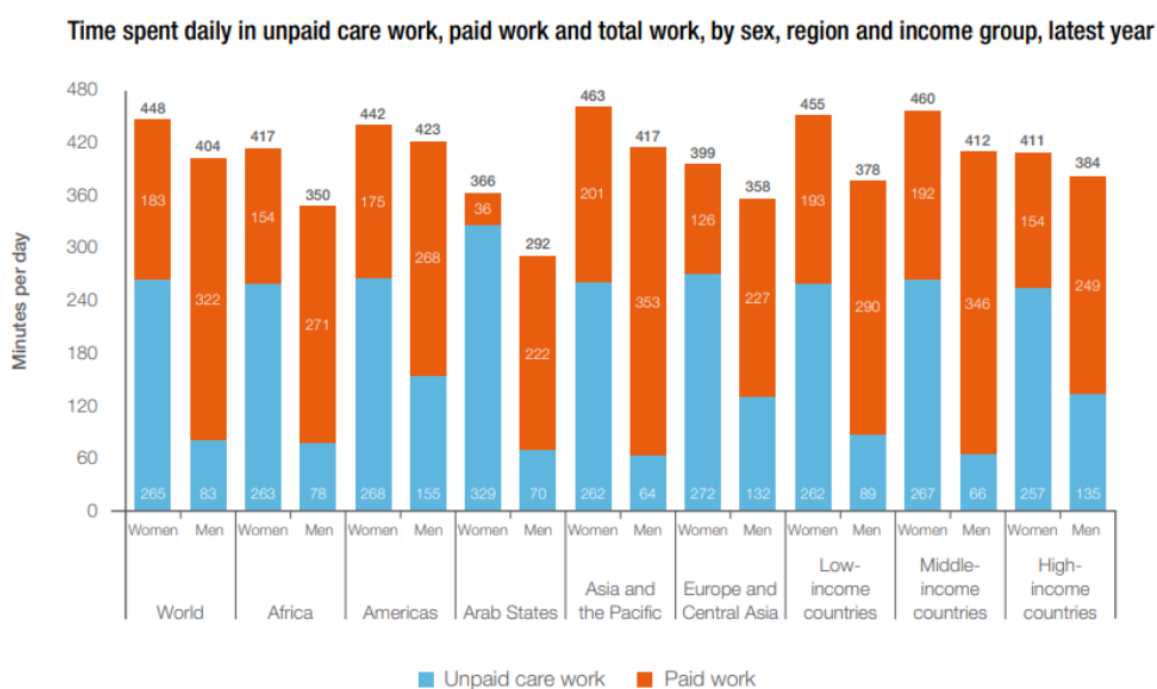


Figure 4 Time spent daily in unpaid care work, paid work and total work (ILO, 2018)

According to Gallotti (Gallotti, 2009), there are two elements that determine the widespread low level of protection guaranteed to the paid workers of this sector. One is the private character of the workplace, which implies a coincidence between the public sphere normally related to employment relationships and the private nature of family and household dynamics. The other element is the juridical status of the employer, who is normally defined as a private employer, not an enterprise, who would otherwise receive pecuniary gains from the employee's work.

Moreover, according to ILO, the undervaluation of this work is also due to its relational character, which weakens care workers' bargaining power, thus contributing to their lower pay. Because care

work is relational, many care workers cannot threaten to withdraw their services: they may not be able to leave care recipients unattended if their replacement has not arrived, for example, or go on strike when providing essential services. The fact that care is relational in nature also means that the demand for paid care work in terms of need does not vary with prices. What will vary according to price and income are the skills, wages and conditions under which paid care work is provided, and whether care demands will be satisfied (ILO, 2018).

Temporary migration schemes for domestic workers also reiterate the perception that they are not invited to work in the labour market but to work “for a family”. This reinforces the impression that domestic work is something other than regular employment, and it thus diverts attention from the real constraints that are placed on domestic workers’ access to the personal freedoms and civil liberties that other workers may take for granted (ILO, 2010).

Finally, paid domestic care work remains virtually invisible as a form of employment in many countries. Domestic work does not take place in a factory or an office, but in the home. The employees are not male breadwinners, but overwhelmingly women. They do not work alongside other co-workers, but in isolation behind closed doors. Domestic work typically entails the otherwise unpaid labour traditionally performed in the household by women. This explains why domestic work is undervalued in monetary terms and is often informal and undocumented. As a result, the domestic employment relationship is not specifically addressed in many legislative enactments, thus rendering domestic workers vulnerable to unequal, unfair and often abusive treatment (ILO, 2010).

Underpinning all of this is a deep-rooted undervaluing and lack of recognition of the vital importance of care work. It is considered lowly work, ‘women’s work’, requiring no formal skills, and devalued further still by the fact that racialised women and women with migrant backgrounds tend to be disproportionately represented in the sector. But anyone who has given or received care knows it requires the very highest level of skills. It requires attention to detail, stamina, good judgement, excellent problem-solving, and most important of all, empathy. It is “the work that makes all other work possible” and should be recognised as essential, not only to our personal well-being, but to our societies and economies (International Trade Union Confederation, 2010).

Due to a lack of data, especially on the informal domestic care workers<sup>6</sup>, it is difficult to estimate the number of paid domestic care workers. However, the ILO assesses that the global care workforce

<sup>6</sup> Making an accurate analysis of the situation of domestic care workers is made harder by the lack of available data, that are hard to collect across the globe. The main reasons for the lack of accurate and comparable data include the high

numbers 381 million workers (249 million women and 132 million men), that represent 11.5 % of total global employment, or 19.3 % of global female employment and 6.6 % of global male employment (ILO, 2018). Domestic workers amount to at least 2.1 % of total global employment: there are 70 million domestic workers employed by households across the world; of these, 49 million are women and 21 million are men (ibidem).

**Domestic workers (employed by households) as a proportion of total, male and female employment, by region and sex, and degree of feminization by region**

	Domestic workers	Domestic workers Men	Domestic workers Women	Women – % of total employed as domestic workers
<i>World</i>	2.1	1.0	3.8	70.2
<b>Africa</b>	2.6	0.9	4.8	80.3
<b>Americas</b>	3.6	0.5	7.7	92.1
<b>Arab States</b>	5.8	3.1	21.2	54.1
<b>Asia and the Pacific</b>	1.9	1.3	2.9	56.8
<b>Europe and Central Asia</b>	0.7	0.1	1.4	88.7

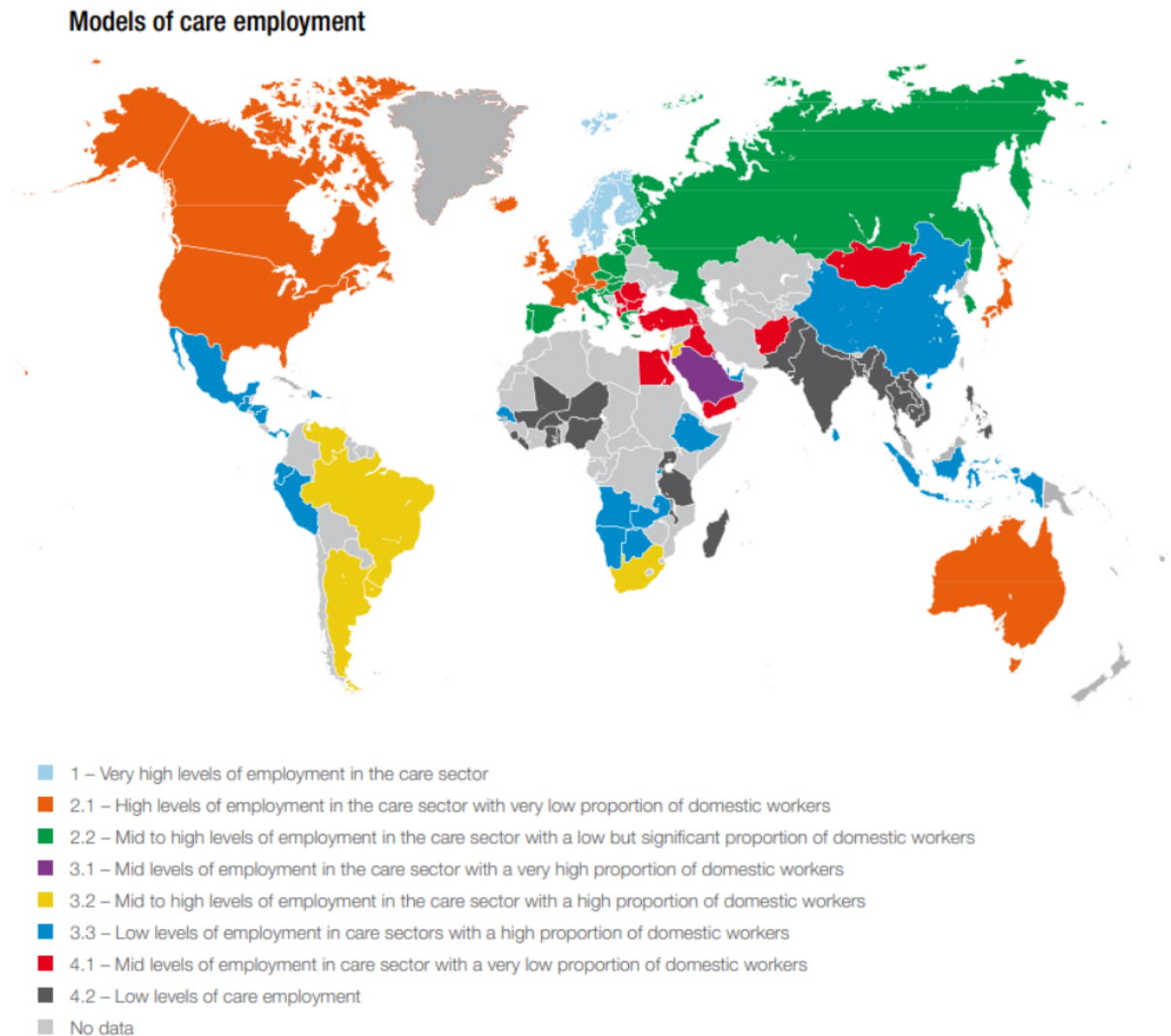
*Figure 5 Domestic workers employed by households as a proportion of total (ILO, 2018)*

The proportion of domestic care workers varies from country to country. It depends on the local model of care employment. According to a cluster analysis of the care workforce in 99 countries by ILO (see Figure 6), we can identify eight distinctive models of care employment (ILO, 2018): countries with a care sector with very high levels of employment (1); countries with high levels of employment in the care sector with very low proportion of domestic workers (2.1); countries with mid to high levels of employment in the care sector with a low but significant proportion of domestic workers (2.2); countries with mid levels of employment in the care sector with a very high proportion of domestic workers (3.1); countries with mid to high levels of employment in the care sector with a high proportion of domestic workers (3.2); countries with low levels of employment in the care sector with a high proportion of domestic workers (3.3); countries with mid levels of employment in the care sector with a very low proportion of domestic workers (4.1); and countries with low levels of care employment (4.2).

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incidence of undeclared domestic work and the consequent underreporting, the varying definitions of domestic work in statistical surveys, and the fact that national statistics often do not count domestic workers as a distinct category (ILO, 2010).

Some countries from the same region and with the same level of development are grouped together, but models of care employment cut across regions and income levels, showing that paths to care employment are diverse (ibidem).



*Figure 6 Models of care employment (ILO, 2018)*

Figure 7 shows how these models of care employment are defined according to the five dimensions: care workers in education; care workers in health and social work; domestic workers (employed by households); care workers in non-care sectors; and non-care workers in care sector. The bigger the area contained within the lines, the greater the level of total care employment: cluster 1 is the biggest (very high levels of employment in care sectors), with the care workforce representing 27.7 % of total employment and cluster 4.2 the smallest (low levels of care employment), representing 4.7 % of total employment. Figure 9 shows the two main sources of variation between these clusters: first, the proportion of employment in health and social work, driven by the coverage of health care and

long-term care services; and, second, the proportion of employment in domestic work, which in many cases comprises a disproportionate number of migrant domestic workers. Variations in education employment are less marked. They result from the combined effect of levels of coverage in primary education, which are close to universal, and similar (and low) levels of early childhood education coverage. For instance, the care workforce represents 27.7 % of total employment in countries grouped in cluster 1 (Very high levels of employment in care sectors), whereas for countries in cluster 4.2 (Low levels of care employment), their care workforce accounts for only 4.7 % of total employment. This bird’s-eye view of the cluster analysis in figure 9 already indicates the importance of education, health and care policies in explaining the extent of employment in care sectors, and the compensatory role that domestic work may play in their absence (ibidem).

### Care workers as a proportion of total employment, by region and sex

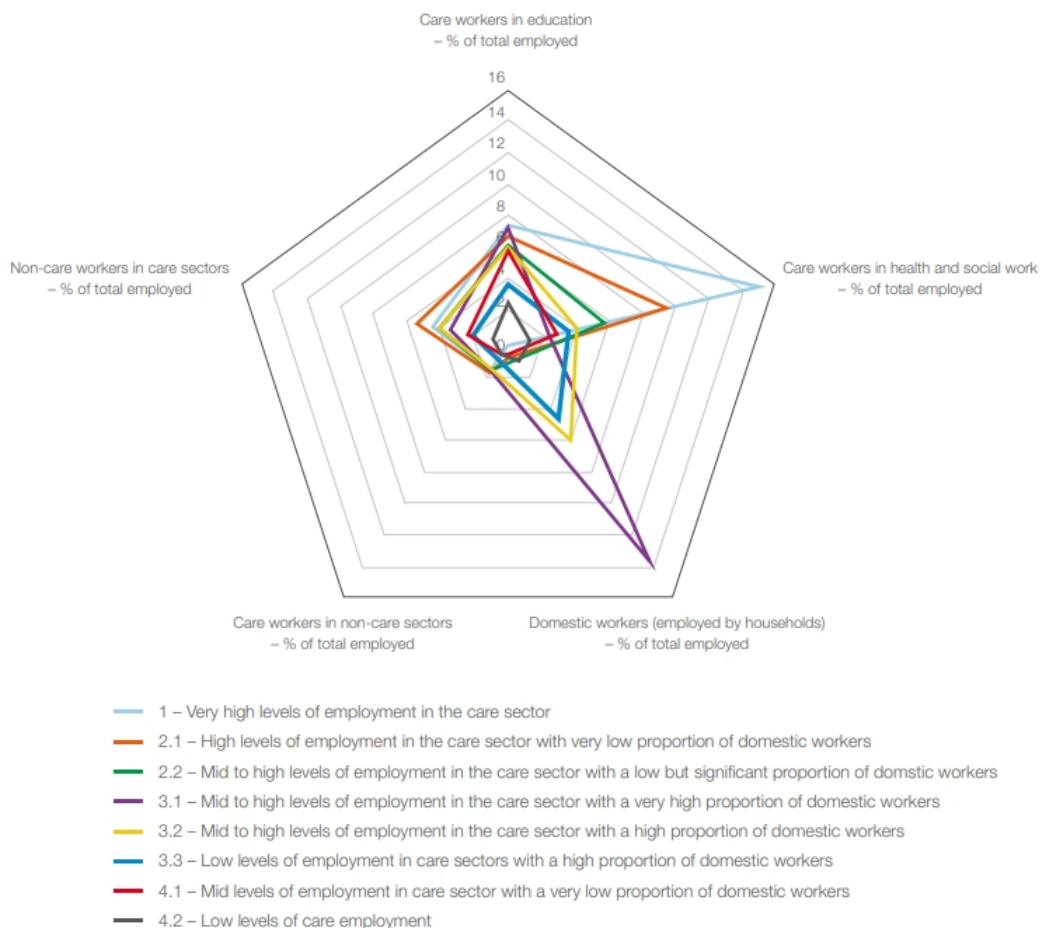


Figure 7 Care workers as a proportion of total employment, by region and sex (ILO, 2018)

#### 1.1.3. Selected common characteristics of domestic care workers

Care work is “a particularly gendered activity” (Lutz, 2005). Women make up 70 percent of the 70 million global household employees, according to the ILO (UN, 2018). In Europe and Central

Asia, for example, 79 % of all care workers in care sectors, and 89 % of domestic workers are women, and in the Americas the equivalent proportions are 76 and 92 %, respectively (ILO, 2018).

A sizeable portion of domestic care workers, 11 million, are migrants. (UN, 2018). Indeed, in recent decades, demand for domestic work has been the main reason for the mass migration of women from the southern hemisphere to cities in the North (ILO, 2010)<sup>7</sup>. Many women, driven by poverty, find themselves forced to accept working and living conditions that violate their fundamental human rights (OHCHR, *The unspoken servitude of women domestic workers*, 2018). Live-in employment might be a preferred solution for newly arrived migrants both in regular and irregular situations as it might provide a readily available solution to accommodation problems (Gallotti, 2009).

Most migrant domestic workers are from the global South, working in high income countries. The Arab States, North America and Northern, Southern and Western Europe account for about 52 % of all domestic workers worldwide, with the majority being migrants. In the Arab States, 82.7 % of all domestic workers are migrants and there is a particularly strong link between female migration and domestic work in the region. In Hong Kong, there are approximately 370,000 migrant domestic workers (98.8 % are women) and in Latin America and the Caribbean, 17.2 % of all domestic workers are migrants (UN, *Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, 2018).

These global care chains may be attributed, at least in part, to the lack of attention paid to care policy in industrialized countries, which leaves their nationals with no choice but to find private solutions. Female migration to take up domestic employment abroad creates “transnational” households, a form of global care chain between workers with family responsibilities in the North, who require household service, and temporary migrants from the South, who can provide them – albeit at the cost of leaving their own families behind. Indeed, restrictive migration practices can result in prolonged separation and a care deficit for the children of these transnational families,

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<sup>7</sup> If we look at many European countries, “a different kind of redistribution of domestic work has occurred, namely outsourcing the work to another woman”, mostly of another social and ethnic background. Demand for “low skilled” and low status jobs in this sector are, therefore, very likely to increase as this demand cannot be exported or outsourced to countries where labour is cheaper. It becomes clear that the growing insertion of native born women into the European labour force has been undeniably accompanied by an increased female burden and therefore facilitated by an increasing participation of migrant women as domestic and care workers. In spite of the scarce acknowledgement of this phenomenon, migrant women often de facto replace national women in their traditional care and domestic roles (substituting the decreasing institutional and family support) (Gallotti, 2009).



who may have to be cared for by members of the extended family or poorly paid local domestic workers (ILO, 2010).

Moreover, many marginalised women see domestic work as a way of escaping violence, including domestic violence and forced marriage. Other common push factors for migration include discrimination based on gender, caste, class, age, occupation, language, race, religion or other factors; limited access to landownership; inequality within and between countries; climate change, and an overall lack of choice for women to determine their own lives. That should not discount the agency of women who choose to migrate or those who find “liberation” in the chance to become independent breadwinners and to improve their children’s lives (UN, Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, 2018).

## 1.2 Domestic care work in a changing society

The steadily increasing demand for care can be explained through the analysis of a series of demographic, socio-economic and environmental transformations our societies are facing. In particular, the thesis will focus on the following factors: demographic change; changing living arrangements; a changing labour market and workforce; changing public policies; climate change; and health emergencies such as the recent Covid-19 pandemic.

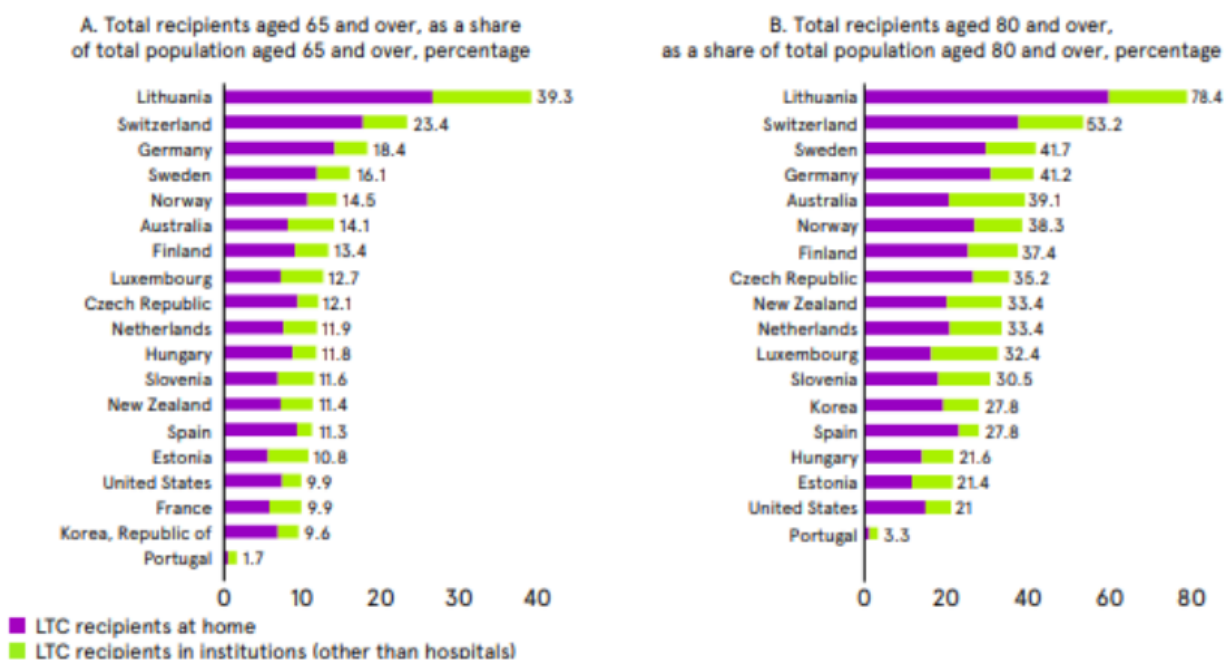
### 1.2.1 Demographic change

Population ageing is a global trend. Globally, babies born in 2022 are expected to reach 72.3 years on average, 25 years longer than those born in 1950 (UN, 2019). In Europe and Northern America, population ageing is already well advanced, while in Eastern and South-Eastern Asia, populations are ageing rapidly (UN, 2023). This process is expected to continue over the next years. The number of persons aged 65 years or older worldwide is expected to double over the next three decades, reaching 1.6 billion in 2050, when older people will account for more than 16% of the global population (UN, 2023).

Rapidly ageing populations have increasingly complex health care as well as care and support needs (Caritas Europa, 2023). As we age, we may start to have limitations that prevent us from carrying out daily routines, such as getting out of bed, taking baths or showers, using the toilet, dressing and

preparing meals (UN, 2023). Common conditions in older age include hearing loss, cataracts and refractive errors, back and neck pain and osteoarthritis, chronic obstructive pulmonary disease, diabetes, depression and dementia (WHO, 2022), thus impacting on the demand for extended services over time. For example, decreased mobility and falls among older persons can result in needs for hip and knee replacements and extended recovery, increasing demand for palliative, rehabilitation and ongoing care services (UN, 2023).

### Long-term care recipients at home and in institutions other than hospitals, selected countries, latest available year



Source: OECD Health Statistics 2021. Available at <https://stats.oecd.org/> (accessed on 9 March 2022).

Note: The numbers next to each bar indicate the share of older persons receiving long-term care in each age group. The share is the sum of those receiving long-term care at home and in institutions other than hospitals. Countries were selected based on data availability.

Figure 8 Long-term care recipients at home and in institutions other than hospitals, selected countries, latest available year (OECD, 2021)

The increasing need for support as people age have different consequences on individuals and societies. At the individual level, while many older persons enjoy relatively good health, others may experience chronic diseases and other health risks. For societies, an upward shift in the population age distribution means that shares of older persons are expected to grow in coming decades (UN, 2023).

Total care and related employment in 2015 and 2030, status quo and high road scenarios

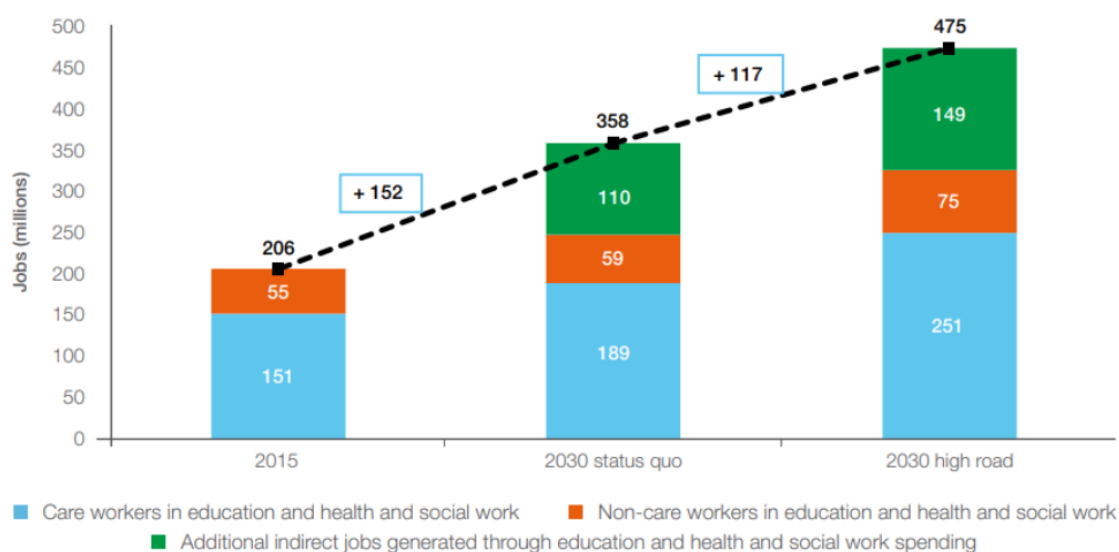


Figure 9 Total care and related employment in 2015 and 2030 (ILO, 2021)

However, the fact that demographic change is bringing about an increased demand for care is not a destiny. Although some of the variations in older people’s health are genetic, most is due to people’s physical and social environments – including their homes, neighbourhoods, and communities, as well as their personal characteristics – such as their sex, ethnicity, or socioeconomic status (WHO, 2022). Older persons are often assumed to be frail and dependent, but this is often a prejudice and a form of discrimination towards them.

Physical and social environments can affect health directly or through barriers or incentives that affect opportunities, decisions and health behaviour. Maintaining healthy behaviours throughout life, particularly eating a balanced diet, engaging in regular physical activity and refraining from tobacco use, all contribute to reducing the risk of non-communicable diseases, improving physical and mental capacity and delaying care dependency. Supportive physical and social environments also enable people to do what is important to them, despite losses in capacity. The availability of safe and accessible public buildings and transport, and places that are easy to walk around, are examples of supportive environments. In developing a public-health response to ageing, it is important not just to consider individual and environmental approaches that ameliorate the losses associated with older age, but also those that may reinforce recovery, adaptation and psychosocial growth (WHO, 2022).

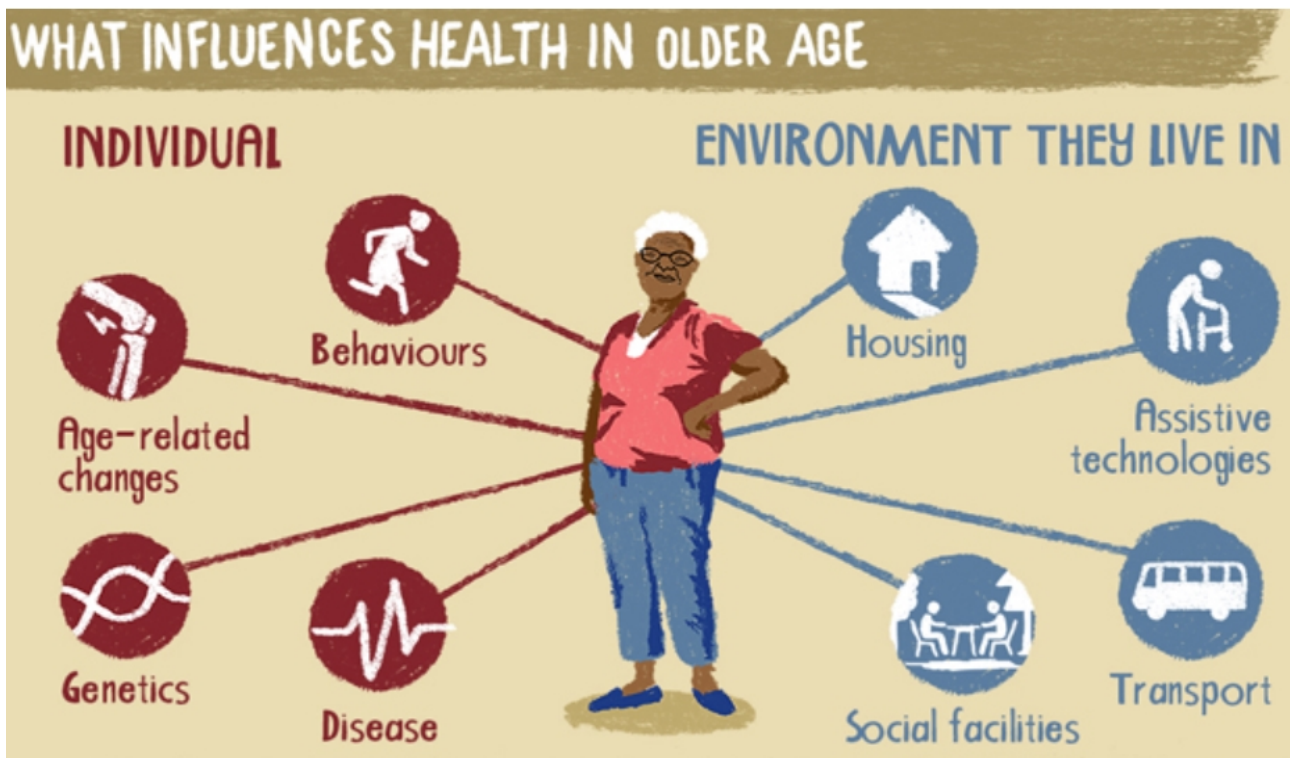


Figure 10 What influences health in old age (WHO, 2022)

### 1.2.2 Changing living arrangements

Traditionally, co-habiting extended families have met the care needs of families. Living arrangements for families and older individuals, across developed and developing countries, have changed in recent decades, however (Caritas Europa, 2023). Intergenerational co-residence has declined dramatically (UN, 2023). Most older persons live either in single-person households or in households consisting of a couple only or a couple and their unmarried children (ibidem). These shifts, combined with ageing in general, have heightened demand for different forms of care (Caritas Europa, 2023). They can be associated with three phenomena: urbanisation; changed family structures; and public policies.

According to the UN (UN, 2023), urbanisation can affect the living arrangements of older persons and the care services they receive. Cities usually offer a wide range of choices for housing and living configurations tailored to individual health, social and infrastructure needs and the economic means of older persons. Available options range from ageing in one's own place to retirement homes, senior homes, residential care homes continuing care homes, and assisted living communities and nursing homes that provide 24/7 care and support. Fewer options exist in rapidly growing cities, especially in developing countries, where poor and disadvantaged older persons often live with extended family in overcrowded homes with minimal financial resources. While some rural areas can be places of great

natural beauty and offer a wide range of recreational activities for active ageing, finding health-care services can be a challenge for older persons, more so in remote areas. Outpatient and hospital-provided specialty care may not be available. Attracting and retaining formal and informal caregivers may be an ongoing struggle.

Moreover, family ties and structures have changed: households have become smaller and the number of extended families living under one roof has decreased; more families are headed by single parents; women marry later and bear fewer children in an increasing number of countries. In 2018, nuclear families account for the highest share of the world's working-age population, namely 43.5 %, or 2.4 billion people. The same figure for extended families accounts for almost a quarter: 24.3 % or 1.3 billion people (ILO, 2018).

Finally, as in some European countries, social programs typically offer financial assistance or health-care benefits to retired adults (UN, 2023). This can make it more affordable and convenient for older people to stay in their own homes and to live by themselves or only with a spouse. In most developing countries, older persons are most likely to live with a child or extended family and to receive care and support within the family (UN, 2023).

These transformations, coupled with an increase in women's labour force participation, result in an erosion of the availability of unpaid care work and therefore in increased care responsibilities for women, potentially exacerbating tensions with their paid employment. Unless these additional care needs are addressed by adequate care policies, this extra demand for paid care work put an extra burden on care workers (ILO, 2018).

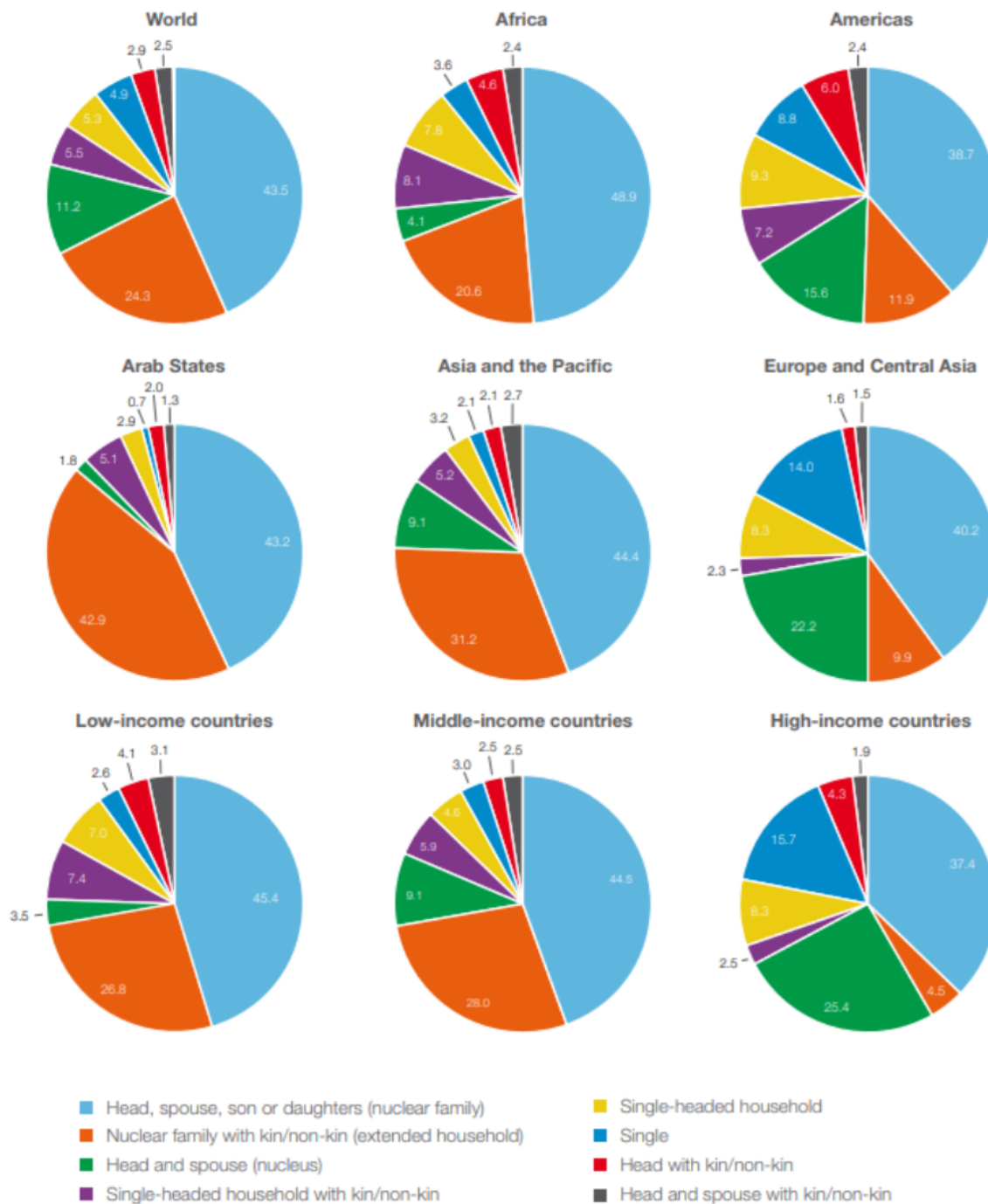


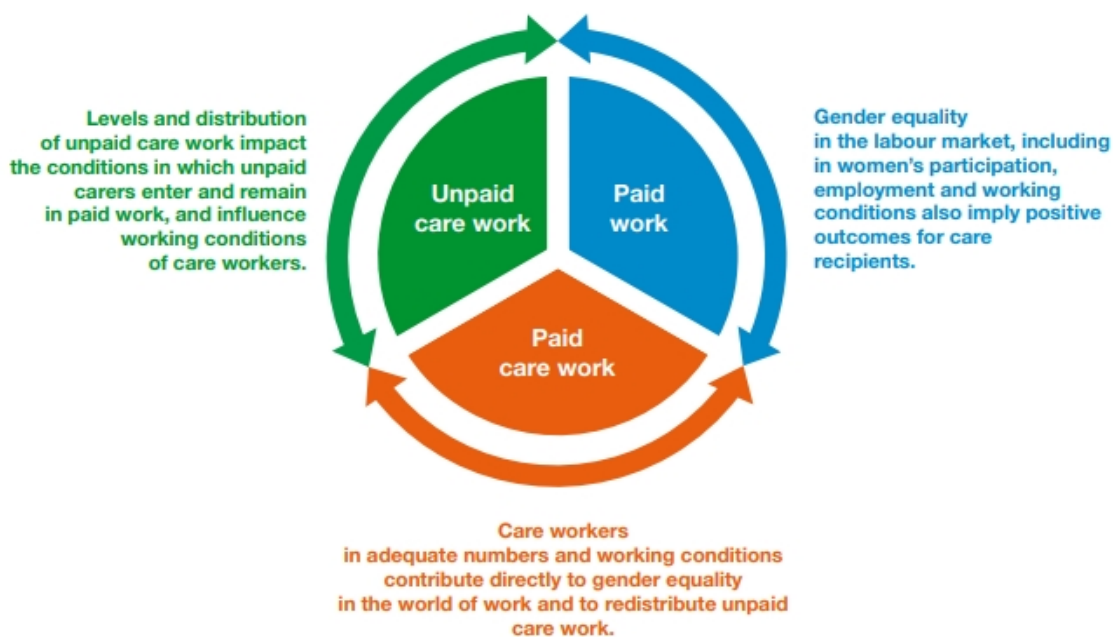
Figure 11 Working age population by household type, latest year (ILO, 2018)

### 1.2.3 A changing labour market and workforce

The current global labour force participation rate is, for women, just under 47%, and, for men, 72% (ILO, The gender gap in employment: What's holding women back?, 2022). The increased participation of women in the global labour market, households increasingly rely on domestic workers (OHCHR, 2018) to compensate the decreased unpaid care work.

Availability of childcare services together with other family friendly policies such as parental leave, flexible working time arrangements and financial allowances clearly impact both the rate of unpaid carers participation in paid work, and the extent to which they recur to domestic workers as a strategy to balance private and professional responsibilities (Gallotti, 2009): this is called the unpaid care work–paid work–paid care work circle, which is represented in the Figure 12 (ILO, 2018).<sup>8</sup>

**The “unpaid care work–paid work–paid care work circle”**



*Figure 12 The "unpaid care work - paid work - paid care work circle (ILO, 2018)*

Unfortunately, women keep on facing greater difficulties than men in reconciling their professional and family responsibilities (Gallotti, 2009). Across all income groups, unpaid care work is the most widely reported reason given for women’s inactivity in middle-income countries, with 46.7 % of women citing it as compared with 6.3 % of men (ILO, 2018). Globally, a majority of women would prefer to work at paid jobs, including those who are not in the workforce (58 %), and that men agree (ILO, 2017). This implies that a large share of this potential labour force could be activated through universal access to care policies, services and infrastructure (ILO, 2018).

<sup>8</sup> Women have tended to delegate domestic responsibilities to other women, whose work continues to be largely considered of a low value and low status. As critics tend to highlight the achievement of many women in terms of gender equality seems to happen with the support, if not at the expenses of other women, mostly belonging to other national, ethnic, linguistic origin (Gallotti, 2009).



Percentage of inactive persons, by sex and main reason for being outside the labour force, latest year

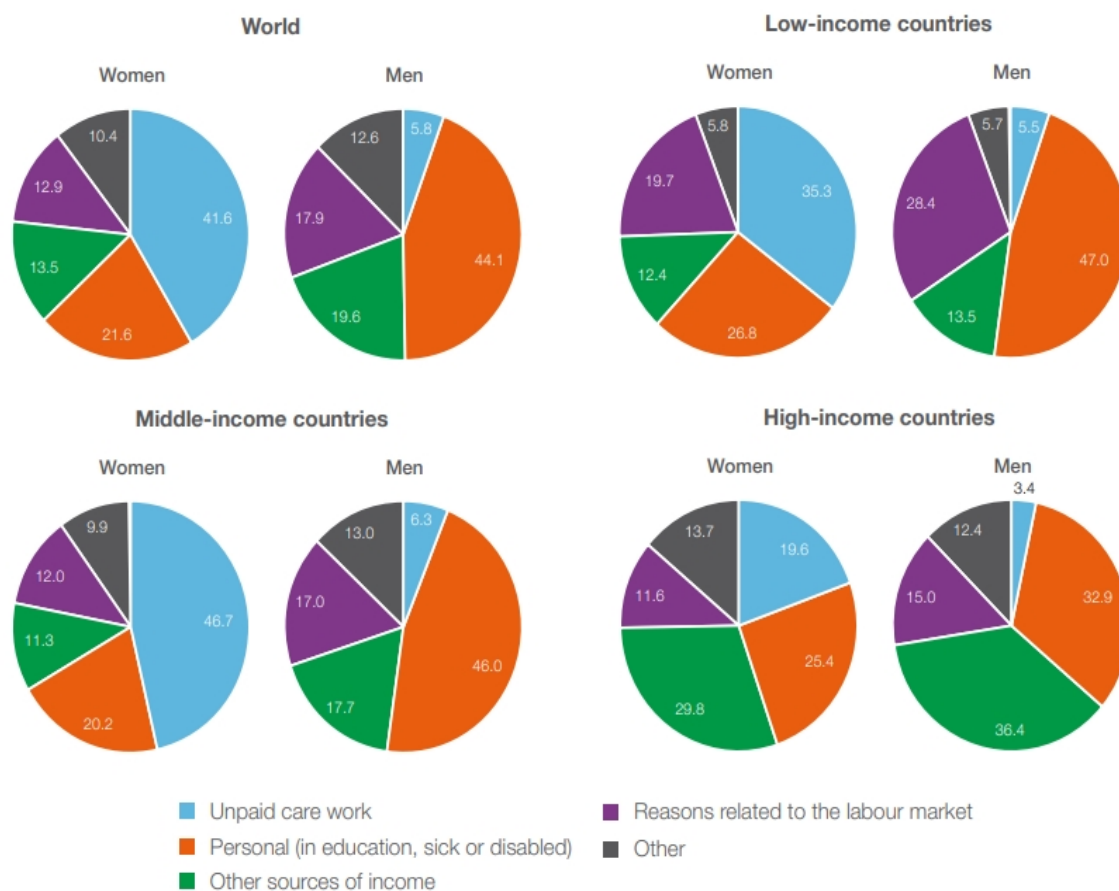
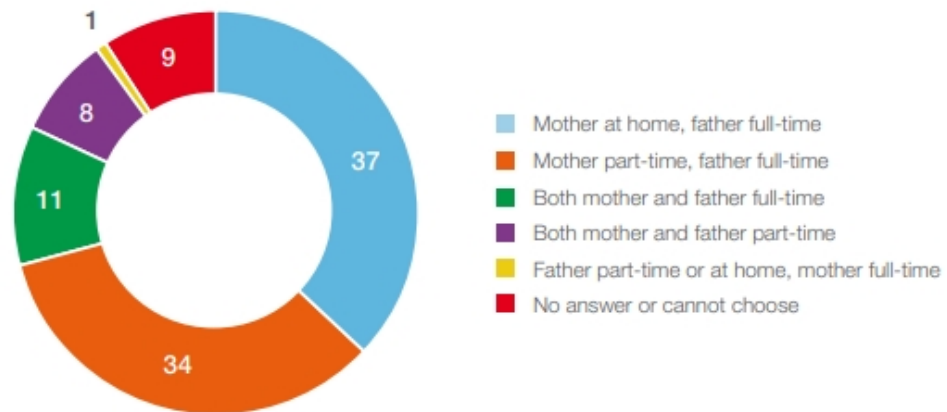


Figure 13 Percentage of inactive persons, by sex and main reason for being outside the labour force (ILO, 2018)

Data from the International Social Survey Programme (ISSP, 2023) shows that not only care policies, but also cultural barriers prevent a more equal distribution of paid and unpaid work between women and men. This survey was carried out between 2011–14 in 41 high- and middle-income countries and had over 61,000 of respondents aged 15+ years. Respondents were asked: “Consider a family with a child under school age. What, in your opinion, is the best way for them to organise their family and work life?” Results show that the traditional “men as breadwinners” model, where the mother does not work for pay and the father works full-time, was preferred by 37% of the total sample. A substantial proportion favoured a modified version of the “men as breadwinners” model (34 %). Alternative arrangements where both work, either full-time (11 %) or part-time (8 %), were chosen less frequently by respondents. Very few respondents thought that mothers should work full-time and fathers part time or not at all (1 % of sample) (ILO, 2018).



### Preferred work–family arrangement (percentages), 2011–14



Note: Age group: 15 and older. 41 countries.

Source: ISSP Research Group, 2016.

Figure 14 Preferred work-life arrangement by 41 high- and middle-income countries (ILO, 2018)

The “men as breadwinners” model was especially favoured in Eastern European countries (52%), Asian countries (between 45 and 55%), as well as in South Africa (51 %); it was least favoured in Northern, Southern and Western Europe (23%) and in Northern America (29%), where a modified “men as breadwinners” model of father part-time or at home, mother in full-time work was favoured by 38 and 32% of respondents, respectively. Preference for the “men as breadwinners” model varies according to an individual’s life circumstances and whether or not they are likely to face challenges in balancing work and family responsibilities. The traditional “men as breadwinners” arrangement is more likely to be preferred by men (39 %) compared with women (35 %); by parents (40 %) compared with childless respondents (31%); by the oldest cohort aged 65+ (42%) more than the younger ones (around 35%); by people in single-earner couples (45%) compared with single earners not partnered (32%) and those in dual-earner couples (28%); by those who had never worked for pay (50%), or who were currently not in paid work (40%) compared with those currently working (32%); and, finally, by those with a primary educational degree or none (54%), compared with those with a secondary (39%) or a tertiary degree (22%) (ibidem).

### 1.2.5 Changing public policies: a new role for the State

If we look at the role of the State in the healthcare sector in the past decades, there are two major trends that are affecting care workers (Razavi, S., & Staab, S., 2011). First, neoliberal critique of the State has heightened political pressures to make the public sector behave more like a profit-making entity, by raising user charges and/or “rationalizing” staff time – mechanisms that were first promoted as part of the “New Public Management” agenda in New Zealand and the United Kingdom in the early 1980s (*ibidem*). In many developing countries, the commercialization of public social services was imposed as a cost-cutting measure within the framework of structural adjustment, often with deleterious outcomes in terms of employment and service quality as well as access (Mackintosh, M.; & Koivusalo, M. , 2005). Second, there is a trend towards “outsourcing” of some of the functions hitherto carried out by the State to non-state entities, whether private firms or non-profit organisations (Razavi, S., & Staab, S., 2011). Indeed, in a number of developing countries, many of the social programmes attending to care needs would not function without the participation of these and other community-based organisations (*ibidem*).

Decades of underinvestment caused by austerity measures, structural adjustment programmes, privatisation and the outsourcing of services has created deep precarity in the world’s health and care infrastructure (ITUC, 2010). Moreover, these trends implied reliance on the unpaid or underpaid work of women who are themselves likely to be among the poor (Razavi, S., & Staab, S., 2011). Estimates vary but UN Women suggests that the economic value of unpaid care work amounts to 9 % of global GDP, equivalent to US\$11 trillion (ITUC, 2010). But there is a limit to care workers’ capacity to absorb the costs (through self-exploitation) without negative implications for their own health and well-being, and for the quality of the care they provide (Razavi, S., & Staab, S., 2011).

Moreover, the privatisation of public services, structural adjustment programmes and cuts to social welfare schemes have led to the migration of people from rural areas to cities within their countries or overseas. Indebted States, aiming to appease the global financial institutions pushing for austerity measures and structural adjustment programmes, have actively promoted the emigration of women in order to increase their remittances, without proper guarantees regarding compliance with human rights and labour standards. Some countries have encouraged the migration of domestic workers as part of a deliberate strategy to alleviate poverty, reduce unemployment and generate access to hard currency (UN, Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, 2018).

#### 1.2.4 Climate change

Climate change and other phenomena, such as desertification, deforestation, natural disasters, persistent drought and extreme weather events add to the current challenge of achieving decent jobs for domestic care workers. Rural women, children, older people and indigenous peoples are particularly affected, and in multiple ways, by climate change, including care-related impacts. Their unpaid care work increases as a result of the additional household drudgery, and deteriorating health of family members requires them to provide more direct care (ILO, 2018).

Climate change exacerbates the distress experienced in rural areas. This situation is particularly applicable to indigenous peoples, 80 % of whom live in Asia and the Pacific, a region vulnerable to climate change. When forced to migrate or to find alternative income-generating activities to their traditional ones, indigenous women are often exposed to social and economic exclusion, exploitation, gender-based violence and human rights violations. They also tend to be concentrated in occupations with poor working conditions, labour rights and social protection, including domestic work. Climate change also impacts the health of the population, and particularly that of children as well as sick and older persons. This creates an additional burden for families, who have to care for their sick relatives, and also affects their education and income-generating opportunities (ibidem).

The links between climate change and care work are evident, but they have not been sufficiently highlighted and climate interventions have tended to ignore that care supports people's work. Mitigation and adaptation strategies often tend to prioritize the biophysical aspects of the environment and technical formulas for achieving their objectives, without taking into account the unpaid care work involved. This can exacerbate women's workloads and deepen pre-existing inequalities. Hence the importance that these interventions incorporate this element and contribute to the transformation of the current distribution of reproductive work between men and women (International Labour Organization & European Commission, 2023).

#### 1.2.6 The post-Covid-19 situation

Covid-19 created the strongest ever global 'stress test' for the care workforce governance (Kuhlmann E. & All, 2020). Existing weaknesses in both paid and unpaid and formal and informal long-term care systems surged to the surface, with devastating impacts (UN, 2023). It exposed deep fragilities which have combined to place unprecedented strain on social care organisations (CUSP, 2021). In

particular, the pandemic highlighted a big paradox. Now, more than ever, we depend on the essential services of the care economy; and yet now, more than ever before, health, education, child care, elder care, domestic work, mental health and disability support services the world over are on their knees (ITUC, 2010).

ILO estimated that, globally, as many as 74 % of domestic workers were significantly affected by lockdown measures and were at high risk of losing their jobs or income, and that 76 % of them were in informal employment. Furthermore, in response to the outbreak, many care workers faced heavy additional workloads, long working hours and a lack of rest periods. Moreover, time constraints, restrictions on the types of care services that can be provided (such as intimate care), higher levels of stress and an increased demand for care services resulted in tension and conflict between care workers and care recipients (ILO, 2020).

According to the last UN Social Report (UN, 2023), because of this emergency, most paid care workers faced both the economic impact of the crisis and the medical and psychological toll of higher exposure to the virus. Throughout the pandemic, care workers remained in close contact with those most susceptible to infection, thus raising their own risks. Due to low wages, some carers took on multiple part-time jobs at different facilities while a lack of sick pay discouraged many from caring for themselves when ill. Such factors have contributed to high rates of burnout, illness and death among care workers, especially migrants (White EM & All, 2021). A survey of migrant health and care workers across 32 countries found that 40 % experienced increased job insecurity, 48 % had inadequate access to personal protective equipment and 27 % were only offered unpaid leave when infected with COVID-19 (Pillinger, J & All, 2021).

According to the University of Nottingham Rights Lab, that focused on live-in carers in London (University of Nottingham Rights Lab, 2022), live-in carers were required to be constantly present and available – apart from a short daily break. Moreover, many live-in carers felt/were pressured to go beyond supporting activities of daily living and carry out a range of domestic tasks, often for the whole family, such as cleaning, cooking and gardening. Difficulties with demanding or overly controlling families or clients could make life very difficult for carers. Finally, an analysis of COVID-19 related deaths by occupation in England and Wales showed that persons working in social care, including care workers, have significantly raised rates of death from COVID-19 compared with the rate among people of the same sex and age in the general population (ILO, 2018).

In sum, responding to a public health emergency such as the recent COVID-19 pandemic put great pressure on the domestic care sector, thus drawing attention to its already overburdened workforce. The urgency presented by COVID-19 created the conditions for increased worker exploitation and affected vulnerable people in distinct ways (KPMG Australia, 2020). Of course, workers with the most precarious labour rights were the first to be impacted (Australian Human Rights Commission, 2021).



## CHAPTER II: RISKS OF HUMAN RIGHTS VIOLATIONS AND ABUSES

*“Now articulated in Sustainable Development Goal 8.7, which pledges to eliminate slavery by 2030, slavery has a much longer, but underdeveloped recognition and representation within the history of human rights.”*

*Landman T.*

### 2.1 Slavery as a human rights violation: the risks in the domestic care sector

Slavery has been with us in various forms since history was written: the Greek, Roman, Egyptian and British empires were built on it as indeed, was nation building in the USA (Craig, G. & Clay, S., 2017). Nowadays, slavery includes trafficking in persons<sup>9</sup>, servitude<sup>10</sup>, forced marriage<sup>11</sup>, forced labour<sup>12</sup>, debt bondage<sup>13</sup>, the worst forms of child labour<sup>14</sup>, and deceptive recruiting for labour or services<sup>15</sup> (Australian Human Rights Commission, 2021).

Slavery is a violation of human rights because it strips human beings of their inherent rights (Mende, 2019). The human rights that are most relevant to slavery, in particular for domestic care workers, are: the right not to be submitted to slavery, servitude, forced labor or bonded labor; the right not to be subjected to degrading treatment; the right to an effective remedy; the right to privacy and family

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<sup>9</sup> According to Art. 3 of the Palermo Protocol, “Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the 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, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

<sup>10</sup> Domestic servitude is the seemingly normal practice of live-in help that is used as cover for the exploitation and control of someone, usually from another country. It is a form of forced labor (End Slavery Now, 2023).

<sup>11</sup> It is a marriage where at least one is married without consent, against their will or is not able to exit the marriage (OHCHR, Forced marriage: a violation of human rights, 2023).

<sup>12</sup> According to the ILO Forced Labour Convention, 1930 (No. 29), forced or compulsory labour is “all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily”.

<sup>13</sup> Bonded labor, also known as debt bondage and peonage, happens when people give themselves into slavery as security against a loan or when they inherit a debt from a relative. It can be made to look like an employment agreement but one where the worker starts with a debt to repay – usually in brutal conditions – only to find that repayment of the loan is impossible. Then, their enslavement becomes permanent” (End Slavery Now, 2023).

<sup>14</sup> The term “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that: is mentally, physically, socially or morally dangerous and harmful to children; and/or interferes with their schooling by depriving them of the opportunity to attend school; obliging them to leave school prematurely; or requiring them to attempt to combine school attendance with excessively long and heavy work (ILO, What is child labour?, 2023).

<sup>15</sup> Deception is the most common form of “recruitment” when it comes to forced labour and slavery (ILO, Deceptive recruitment and coercion, 2016).

life; the right to freedom of movement and residence; the right to freedom of peaceful assembly and association; the right to social security; the right to work; the right to rest and leisure; the right to health; the right to education; and the prohibition of discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status .

Frequently driven by poverty, domestic workers often find themselves forced to accept working and living conditions that violate their human rights (ILO, 2018). Many domestic care workers, in particular migrant carers, are exposed to abuse such as physical and social isolation; restriction of movement; psychological, physical and sexual violence; intimidation and threats; retention of identity documents by their employer; withholding of wages; abusive working and living conditions and excessive overtime (OHCHR, *The unspoken servitude of women domestic workers*, 2018).

A range of social and economic conditions increases the vulnerability of domestic workers to exploitation and multiple types of abuse. Forced labour is very often linked to poverty and discrimination, particularly in the informal economy. Moreover, in cases where domestic workers belong to more than one disadvantaged group, multiple and intersectoral discrimination may compound their vulnerability to forced labour, increasing the risk of domestic servitude or slavery (ILO, 2022).

The following part of the chapter will present recent data showing how domestic care workers are vulnerable to slavery and the violation of the human rights that are enshrined in the core international human rights treaties: the Universal Declaration of Human Rights (UDHR), 1948 (UN General Assembly, 1948); the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), 1965 (UN General Assembly, 1965); the International Covenant on Civil and Political Rights (ICCPR), 1966 (UN General Assembly, 1966); the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966 (UN General Assembly, 1966); the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979 (UN General Assembly, 1979); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984 (UN General Assembly, 1984); the UN Convention on the Rights of the Child (CRC), 1989 (UN General Assembly, 1989); the UN Convention for the Protection of the Rights of all Migrant Workers and members of their families (ICRMW), 1990 (UN General Assembly, 1990); the International Convention for the Protection of All Persons from Enforced Disappearance (CED), 2006 (UN General Assembly, 2006); and the Convention on the Rights of Persons with Disabilities (CRPD), 2006 (UN General Assembly, 2006).



### 2.1.1 Freedom from slavery

The UDHR (UN General Assembly, 1948) explicitly refers to slavery, stating that “no one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms” (Art. 4). Subsequent legally binding international and regional human rights instruments ranging from the 1966 International Covenant on Civil and Political Rights to the 1998 Rome Statute establishing the International Criminal Court contain articles that define slavery practices, articulate it as a crime against humanity, and prohibit it in all its forms (Landman, 2018).

In particular, Art. 8 of the ICCPR (UN General Assembly, 1966) states that:

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
3.
  - (a) No one shall be required to perform forced or compulsory labour;
  - (b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
  - (c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:
    - (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
    - (ii) Any service of a military character and, in countries where conscientious objection is recognised, any national service required by law of conscientious objectors;
    - (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
    - (iv) Any work or service which forms part of normal civil obligations.

In part IV, the ICCPR also outlines the obligations of states to uphold the freedom from slavery. All states are required to submit regular reports to the Committee on how the rights of the Covenant are being implemented. Therefore, the Committee is a possible venue for domestic care workers, as well as any other relevant stakeholders to report abuses and violations of the right to be free from slavery in the care sector.

Yet, domestic work is particularly vulnerable to forms of slavery such as forced labour, trafficking, and bonded labour due to the unique and specific circumstances of their work inside a private household, combined with a lack of legal protection (Anti-Slavery International, 2023). According to the Global Slavery Index, cases of enslaved domestic workers make up 24 % of all forced labour worldwide (3.84 million people of the 16 million people estimated to be in forced labour) (International Trade Union Confederation, 2010). For some domestic workers, the circumstances and conditions of their work amount to forced labour: where employers forbid them from leaving the home, withhold or do not pay their wages, use violence or threats of violence, withhold their passports or identity document, limit their ability to have contact with family or deceive them about their rights in order to compel them to work (ibidem).

When destination States restrict or do not provide regular pathways to migrate for employment, this often encourages migrants to travel through irregular channels with the use of traffickers and smugglers, significantly increasing the risk of contemporary forms of slavery (ILO, Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, 2022). Migrant domestic workers are often subject to abusive practices by employers, such as non-payment of wages, deprivation of liberty, and physical and sexual abuse, which give rise to forced labour conditions (ILO, 2022).

Finally, domestic servitude can also be a form of bonded labor (End Slavery Now, 2023). This form of slavery happens when migrant workers reach a destination country, and they incur a debt for their travel and/or a recruitment fee (Anti-Slavery International, 2023). Though working, if their employer or recruiter adds on additional costs that can never be repaid, like housing or food, then the arrangement has transitioned into a form of slavery (Anti-Slavery International, 2023). This problem is compounded when employers or recruiters neglect legal documentation or confiscate it because migrant domestic workers are often fearful of reporting the abuse for fear of legal consequences (Anti-Slavery International, 2023).

The decision of the European Court of Human Rights in *Siliadin v. France*<sup>16</sup> identified indicators of domestic slavery, including: the vulnerability of the person; limitations on personal freedom; violations of human dignity; excessive hours of work; no payment or disproportionate payment; and the worker's perception of the situation as permanent (*Siliadin v. France*, 2005).

### *2.2.1.1. Debt bondage*

Debt bondage remains one of the most prevalent forms of modern slavery in all regions, despite being banned by international law and by most jurisdictions (UN, Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, 2016). Under debt bondage practices, labourers and their families are forced to work for an employer in order to pay off the debts they have incurred or inherited (ILO, *Giving globalization a human face*, 2012).

Domestic workers, particularly migrant domestic workers, are particularly vulnerable to situations of debt bondage in which they may be compelled to assume a considerable debt to their employer or the agency organising their recruitment and transport (*ibidem*). Workers may have to repay their debts for months or years through direct deductions from their wages (ILO, 2022). The system creates a strong dependency on the employer and increases the risk of abuse and exploitation (UN, Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, 2016). In addition, the workers concerned may be prevented from returning to their home country because employers or recruitment agencies withhold their passports or return air tickets, and they are not allowed to leave before they have worked off their debt (ILO, 2022). Suspected victims described how agents had deducted money from their salaries and withheld their passport or residence permit until they repaid the sum owed (Das, *Revealed: Migrant care workers in Britain charged thousands in illegal recruitment fees*, 2022).

For example, care workers recruited from overseas to look after elderly and persons with disabilities in Britain are being charged thousands of pounds in illegal fees and forced to work in exploitative conditions to pay off their debts. Often, the breakdown of fees or full amount is not fully disclosed

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<sup>16</sup> The case involved a national of Togo who had served as an unpaid domestic servant for years as a minor and whose passport had been confiscated by her employer. The applicant, relying on Article 4 (prohibition of forced labour) of the European Convention on Human Rights, submitted that French criminal law did not afford her sufficient and effective protection against the "servitude" in which she had been held, or at the very least against the "forced and compulsory" labour she had been required to perform, which in practice had made her a domestic slave. The Court, citing the ILO forced labour Conventions, considered that the applicant had been subject to forced labour and held in servitude within the meaning of Article 4, but that it could not be considered that she had been held in slavery in the traditional sense of the concept, as the element of claimed ownership was not shown. As France, at the time, did not have specific criminal provisions on slavery and servitude that would have afforded the victim specific and effective protection, the ECHR found a violation of the applicant's right not to be subject to domestic servitude. (ILO, 2022)

until the worker has reached the UK, by which time they have already paid for flights and relocation (Das, Migrant care workers came to help the UK. Now they're trapped in debt bondage, 2022).

### 2.2.1.2 Migration policies and Visa bondage

Migrant caregivers are more likely to hold short-term temporary visas that limit their rights in the host country (UN, 2023). The use of visa schemes that tie the worker to one employer (e.g. kafala system<sup>17</sup>) make workers even more exposed to forced or compulsory labour, and prevent them from leaving abusive employment situations for fear of losing their right to remain in the destination country (International Trade Union Confederation, 2010). Workers in an irregular situation are particularly at risk due to fear of detection, detention, and deportation (ILO, 2022).

	Join unions or worker committees	Change job or quit without employer's permission	Leave country without employer's permission	Minimum wage	Labor law cover domestic workers	Standard contract for all workers
Bahrain	Yes	After 1 year*	Yes	No	In some cases	No
Jordan	Yes	In some cases	Yes	Yes*	Yes	No
Kuwait	In some cases*	After 3 years *	Yes	Yes	No	No
Lebanon	Yes*	No	Yes	Yes*	No	No
Oman	Yes	After 2 years	Yes	No	No	Yes
Qatar	In some cases*	Yes	In most cases	Yes	No	No
Saudi Arabia	No	After 1 year (2 for domestic workers)	Yes*	No	No	Yes
UAE	Yes	In some cases	Yes	No	In some cases	Yes

Figure 15 What protection do Kafala workers have? (What is the Kafala System?, 2022)

In some countries where the kafala “sponsorship” system is used, migrant domestic workers are unable to change employers, as their visa is tied to a particular household. Domestic workers are only allowed to change visa sponsor without the consent of their employer under exceptional conditions

<sup>17</sup> The kafala system defines the relationship between foreign workers and their local sponsor, or *kafeel*, which is usually their employer. Under this system, the state gives local individuals or companies sponsorship permits to employ foreign laborers (except in Bahrain, where workers are sponsored by a government agency rather than individual employers). The sponsor covers travel expenses and provides housing, often in dorm-like accommodations or, in the case of domestic workers, the sponsor's home. The system usually falls under the jurisdiction of interior ministries, rather than labor ministries, so workers often have no protection under the host country's labor law. This leaves them vulnerable to exploitation and denies them such rights as the ability to enter a labor dispute process or join a union. Furthermore, because workers' employment and residency visas are linked and only sponsors can renew or terminate them, the system endows private citizens—rather than the state—with control over workers' legal statuses, creating a power imbalance that sponsors can exploit. In most situations, workers need their sponsor's permission to transfer jobs, end employment, and enter or exit the host country. Workers have little recourse in the face of exploitation, and many experts argue that the system facilitates modern slavery. (What is the Kafala System?, 2022)

that are difficult to meet in practice. Live-in domestic workers who are dismissed can find themselves from one moment to the next in the street with no income, legal residence status, family support network, return air ticket or the right to seek another job (ILO, 2022).

### *2.2.1.3 Bondage to the employer*

Domestic care workers depend on their employers for accommodation, food, and salary, thus challenging their capacity to end a working relationship voluntarily. The employer may claim to “own” the victim, and it is the exercise of “any or all of the powers attaching to right of ownership” that technically distinguishes slavery from servitude, although in practice the distinction is not very clear and depends on the degree of control and power exercised over the individual (ILO, 2022).

When an individual’s residence in a country is dependent on a particular employer, it drastically limits their ability, in case of a dispute, to insist on fair pay and working conditions, and to challenge contract substitution and violations, which can create the conditions for exploitation. If their employer fires them, the live-in carers have very limited possibilities to stay in the country. As the risks are too high, many stay silent (Caritas Europa, 2023).

### *2.2.2 Freedom from degrading treatment*

Cruel, inhuman or degrading treatment is forbidden by the UDHR, the CAT, and the ICCPR. Art. 2 of the CAT states that “any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights” (UN General Assembly, 1984). However, any of these are likely to occur in new forms of slavery situations.

Violence and harassment against domestic workers is a systematic phenomenon that is deeply embedded in the patterns of society and too often seen as “normal”, “part of our life” or “part of our culture” (IDWF, Annual Report 2020, 2020). In 2017–18, the International Domestic Workers Foundation (IDWF) undertook a survey among thirteen domestic workers’ organisations in twelve Asian countries and found that all organisations had received complaints of violence and harassment by their members, thus highlighting the ubiquity of the phenomenon (IDWF, 2017 Mapping to

Enhance Collective Advocacy, Action and Empowerment of Domestic Workers in Asia: Survey Results, 2017).

According to the same survey, perpetrators were domestic workers' employers, other members of their employers' households, employment intermediaries or members of their own families or households (ILO, 2022). It also found that the most common types of gender-based violence experienced by domestic workers in their workplaces were: economic abuse; psychological abuse; physical abuse; sexual abuse; verbal abuse; and lack of access to appropriate food (ibidem). Other forms of violence include accusations of theft, insufficient provision of food, inhumane accommodation and excessively long work hours with no rest (ILO, 2018). A recent study of labour exploitation among Romanian domestic care workers in Austria reported several examples of inhuman or degrading treatment, including low wages, extensive working hours, insecure self-employment, unpaid work, excessive demands, low food and sanitation standards, and low status and recognition ( Hopfgartner, L., & All, 2022).

In Kuwait, the IDWF maintains that the majority of domestic workers' status as live-in workers make them vulnerable to abuses, including no days off or rest time, excessive working hours, unpaid salaries, sexual harassment, maltreatment, and physical and psychological violence. The IDWF points out that domestic workers in irregular situations are particularly vulnerable to such abuses, as they are not covered by the national domestic worker legislation. It adds that undocumented domestic workers are often those who are abused by their employers and are ultimately forced to escape, as due to their migration status they are not able to file a complaint due to lack of information and available support (ILO, 2022).

In Indonesia, in 2018, Sisters For Change and Jaringan Nasional Advokasi Perkerja Rumah Tangga also reported that one in two domestic workers who had experienced violence had suffered repeated violence over the past twelve months. The impact of violence in the workplace was significant, with 12% of domestic workers being absent from work due to mistreatment or violence, while only 9% of victims had reported cases of criminal violence to the police. Moreover, the perpetrator had not been investigated in 73.4% of the cases reported, not arrested in 72.8% of cases and not prosecuted in 72.8% of cases. (Sisters for Change and JALA PRT , 2018).

### 2.2.3 Right to an effective remedy

The right to an effective remedy refers to the right to be fairly treated before the law, thus making governments accountable to offer a remedy to the individuals whose rights have been violated. This right is enshrined in Article 8 of the UDHR (UN General Assembly, 1948), and Article 2 of the ICCPR (UN General Assembly, 1966). In particular, the UDHR states that “everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law” (UN General Assembly, 1948).

Domestic workers in most countries have access to courts and tribunals in the same way as other workers. In addition, in a number of countries, domestic workers also have access to the conciliation and mediation systems established for workers in general. This gives them the option of settling individual disputes with their employers informally on a voluntary basis before resorting to litigation or other enforcement measures. However, in some countries complaints mechanisms are not available to domestic workers, nor have systems been established for the mediation or conciliation of individual disputes in the sector. This often amounts to denial of justice, as access to the courts requires legal assistance and proceedings may be protracted and costly (ILO, 2022).

The access of domestic workers to dispute resolution mechanisms is limited in most countries. Where domestic workers are excluded from the general labour legislation, this has a direct impact on their ability to seek and obtain redress, as it significantly limits the rights that they can invoke before the courts. In addition, domestic workers often face many practical barriers. Under-reporting is common, largely because domestic workers, and particularly migrant domestic workers, are often unaware of their rights and the remedies available to them. Other obstacles include costs, delays, representation, standing and the burden of proof. Placing the burden of proof on the domestic worker may amount to an insurmountable obstacle, particularly when the information and documentation necessary to establish a *prima facie* case are in the hands of the employer, as often occurs in cases of denial of access to employment or unfair dismissal. Moreover, in the case of live-in domestic workers, attempts to assert their entitlements can jeopardise both their jobs and their accommodation. For migrant domestic workers, such obstacles are often compounded by their fear of jeopardising their migration status. This fear is exacerbated when they are undocumented, undeclared and/or dependent on their employers for their immigration status. In such cases, they may not report abuse out of fear of arrest, detention or deportation (*ibidem*).

Even when workers have labour rights protections, the dependence on their employer – often for housing as well as income - and isolated living and working conditions, make it very difficult for domestic care workers to get access to information, make contact with support organisations, familiarise themselves with administrative and legal procedures, join a trade union, organise and bargain collectively, or revendicate their rights through formal complaint mechanisms. (Caritas Europa, 2023). In some countries, domestic workers who bring a formal complaint against their employer cannot seek alternative employment while the case is before the courts or cannot leave the country for the duration of the litigation (ILO, 2022). Risks of facing immigration enforcement when using labour complaint mechanisms, in particular due to reporting obligations on labour inspectorates and joint inspections, often prevent workers whose status is precarious or undocumented from exercising their labour rights (Caritas Europa, 2023).

Other obstacles that may make it difficult for migrant domestic workers to claim their rights and seek redress in the event of violations include language barriers and lack of knowledge of local dispute resolution procedures. These workers often do not know who to turn to for assistance, or may be reluctant to contact the police or labour authorities for fear of deportation. These barriers, and the lengthy periods that may be needed for cases to be resolved, often result in domestic workers choosing not to file complaints or withdrawing their cases in order to return home more quickly (ILO, 2022).

#### 2.2.4 Right to privacy and family life

According to the Article 12 of the UDHR (UN General Assembly, 1948), "no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

However, when domestic workers agree to work in someone else's private home, they put their right to privacy and security at risk (ILO, 2018). Being required to live in the employer's home increases the dependency on the employer, blurs work and rest time and raises privacy concerns (UN, Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, 2018). Owing to the live-in rule, enforcement of regulations and monitoring of the working conditions of domestic workers are difficult and limited, as any abuse takes place behind closed doors (ibidem).



According to a recent IDWF survey, domestic care workers are frequently victims of violations of privacy (IDWF, 2017 Mapping to Enhance Collective Advocacy, Action and Empowerment of Domestic Workers in Asia: Survey Results, 2017). In Europe, live-in carers, especially those providing 24-hour elderly care, are particularly at risk of extreme working and on-call hours without adequate privacy, rest periods and holidays, as well as a risk of isolation (Caritas Europa, 2023). Moreover, domestic care workers are frequently required to provide a certificate of good health prior to employment or to take a pregnancy test, in violation of their privacy (ILO, 2022).

Moreover, long or intermittent working hours, continuous on-call expectations, and little control over working conditions run against a healthy work-life balance (ILO, 2004). The conciliation between private and professional life is even harder for migrant workers, who often leave their beloved ones in their country of origin and are not able to provide them with daily care. Children of migrant workers have been found to be at higher risk of relational, behavioural and psychological problems despite the better educational and living standard opportunities offered by domestic workers' remittances (Giannelli, CG., & Mangiavacchi, L. , 2010).

#### 2.2.5 Right to freedom of movement and residence

Article 13 of the UDHR asserts that "Everyone has the right to freedom of movement and residence within the borders of each state. Everyone has the right to leave any country, including his own, and to return to his country" (UN General Assembly, 1948). Freedom of movement makes it possible for workers to visit families or friends and prevents them from being confined involuntarily and required to work during their rest periods or leave (ILO, 2022).

Most governments indicate that domestic workers are free to decide whether or not to reside in the household where they work, referring to the principle of contractual freedom between the parties, as established in national legislation. However, that it may be problematic to leave this issue up to the discretion of the parties, given the imbalance of power in the employment relationship. In this respect, in some countries with migrant worker schemes, migrant domestic workers are required to reside in the same dwelling as their employers. Moreover, legislation has been adopted in some countries prohibiting certain categories of domestic workers from living in the household where they work, often due to their particular need for protection. For instance, in a number of countries, young domestic workers above the minimum age for work, but who are under 18 years of age, are prohibited from living in the household where they work (ILO, 2022).

Furthermore, there is a practice that is common in some countries of employers confiscating the documents of live-in migrant domestic workers to prevent them leaving the employment relationship. In a number of countries where the practice is not explicitly prohibited by law, national court decisions have found that employers who confiscate the passports of domestic workers are in violation of basic rights guaranteed in international agreement. However, that a number of workers' organisations indicate that the practice of confiscating the personal documents and contracts of domestic workers, especially of migrant domestic workers, is widespread in some countries (ibidem).

### 2.2.7 Right to freedom of peaceful assembly and association

Article 20 of the Universal Declaration of Human Rights states that “everyone has the right to freedom of peaceful assembly and association, and that no one may be compelled to belong to an association” (UN General Assembly, 1948). It refers to the political right and civil liberty of everyone to gather together and collectively voice, promote, pursue, and defend their shared interests, concerns, and ideas.

However, domestic workers are often excluded from this right. While they have organised in various countries around the world, the legal and practical barriers to forming or joining unions are often significant and difficult to overcome. In particular, migrant domestic workers are frequently excluded from joining or forming unions or filling elected positions within the union. As employers of domestic workers rarely see themselves as employers, they also rarely form representative organisations of employers, although some do exist (ILO, 2018).

Moreover, domestic workers are often physically and culturally isolated, misinformed, or ignorant of their rights and duties, often overworked and with little free time, and too afraid about possible negative legal and social consequences to take any action against abusive working conditions. They are often scattered in different geographical or city areas, with little time to commute and gather with the purpose of exchanging views and experiences. They often have little confidence in themselves and scarce trust in others. Some reports have also noted that, in some cases, the fact that they have professional skills that are not recognised in the host society and have therefore to accept to work as domestic workers, can also make them hesitant to participate and organise as domestic workers as they find it difficult to accept the transition to a low occupational status. Their often-double

irregularity under migration and labour laws and the fact that these workers often regard their experience as temporary make collective action and participation more challenging (Gallotti, 2009).

#### 2.2.8 Right to social security

Article 22 of the UDHR (UN General Assembly, 1948) states that “everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.”

Effective social security systems guarantee income security and access to health protection, thereby contributing to the prevention and reduction of poverty and inequality and the promotion of social inclusion and human dignity. They do so through the provision of benefits, in cash or in kind, which are intended to ensure access to medical care and health services, as well as income security throughout the life cycle, particularly in the event of illness, unemployment, employment injury, maternity, family responsibilities, invalidity or loss of the family breadwinner, as well as during retirement and old age. Social security systems therefore constitute an important investment in the well-being of workers and the community as a whole, while facilitating access to education and vocational training, nutrition and essential goods and services (ILO, 2021).

However, recent estimates show that 90% of domestic workers do not have access to social security. This lack of coverage disproportionately affects women, as more than one third of domestic workers are excluded from maternity protection laws, and pregnancy frequently results in income loss or even termination of employment (ILO, 2018). When clients are hospitalised or pass away suddenly, live-in carers are often asked to leave at short notice with no compensation for lost earning, or are allowed to stay and wait for their flight with no pay, or must take up a new placement without having time to grieve or rest (University of Nottingham Rights Lab, 2022).

Part time workers or workers employed by various employers might be particularly penalised as they often do not fulfill the conditions necessary for the contribution to social security schemes or might find it too onerous or cumbersome to regularise their employment relationship. Migrant domestic workers, even when they are regularised residents in the host country, might be even less protected by social security schemes. The situation is, of course, extreme in the case of irregular migrants, who in many countries do not have any access to welfare schemes nor to health care services. Moreover,

temporary migration schemes might, by law, limit full enjoyment of social security benefits or can set a minimum qualification period to grant these rights. On the other hand, even when foreign workers are equally covered by social security benefits, in practice, they might encounter difficulties to access them due to lack of information on their rights and on the existing procedure to enforce them. Even when regular migrant domestic workers are requested to contribute to social security funds, unemployment and other kinds of social benefits such as, invalidity benefits or compensations for incapacity to work due to sickness or accident, are often not accessible to them, or could be accessible subject only after a qualifying minimum period of residence (Gallotti, 2009).

Another issue of great importance is the old age retirement pension, that most migrant domestic workers lack. Some countries have signed bilateral agreements through which old age pensions can be paid through the countries of origin social security system, upon the return of the migrant during retirement. In other cases, the worker receives a lump sum upon return to the country of origin. But, in most cases, large shares of migrant domestic workers are not covered at all by any kind of benefit because of their irregular residence status (ibidem).

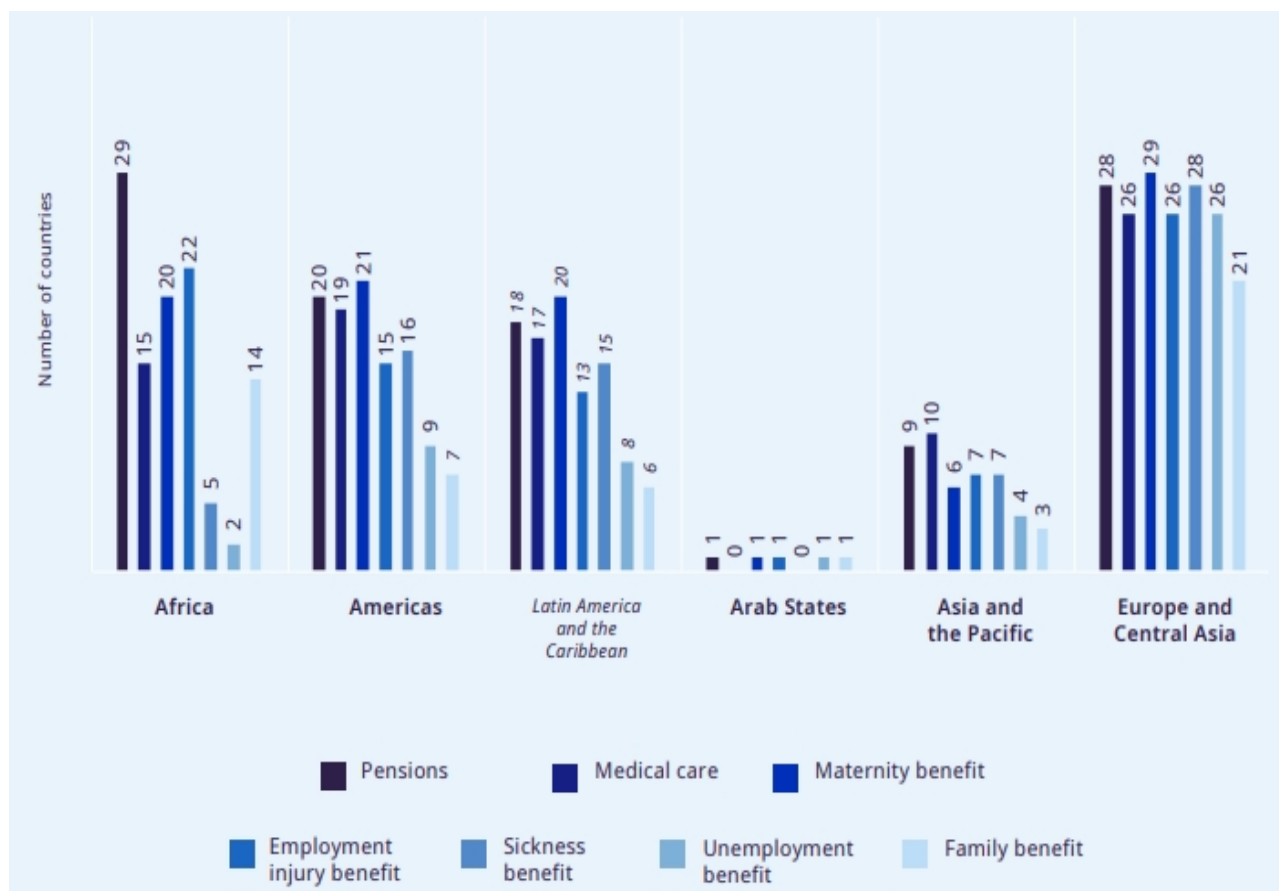


Figure 16 Number and percentage of countries with legal social security coverage for domestic workers (ILO, 2021)

### 2.2.9 Right to work

The right to work is enshrined in the UNHR (UN General Assembly, 1948) and recognised in international human rights law through its inclusion in the ICESCR (UN General Assembly, 1966), where this right is linked to everyone's personal development in their economic, social and cultural dimensions. It has been further developed through the CERD (UN General Assembly, 1965), the CEDAW (UN General Assembly, 1979), and the CRPD (UN General Assembly, 2006), as well as international labour rights instruments that will be presented in the next chapter.

Article 23 of the UDHR (UN General Assembly, 1948) states that “Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interests.”

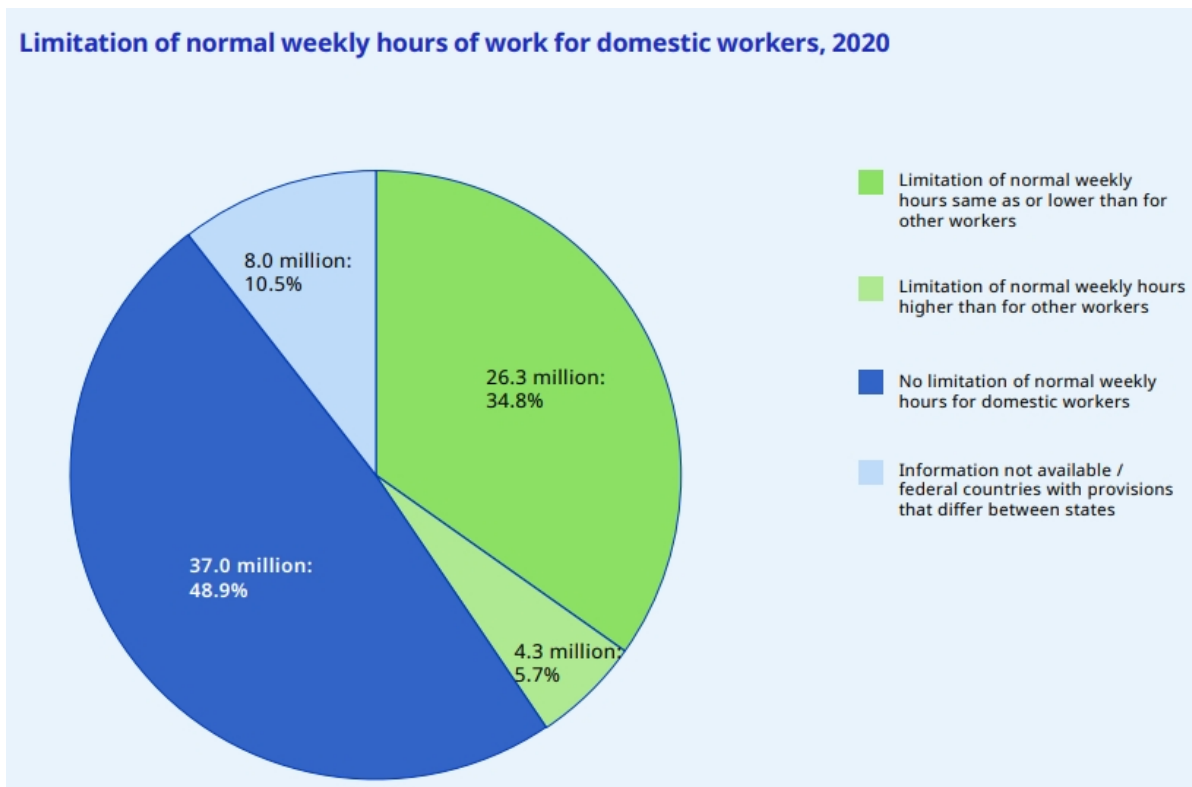
Yet, domestic workers face some of the poorest working conditions across the care economy (and across sectors in general). They are also particularly vulnerable to exploitation. These conditions are the result of a confluence of factors: domestic work is performed behind closed doors, often excluded from labour and social protections and without formal working arrangements. The combination of the privacy of the home, the lack of effective protections and discriminatory social norms leave these workers particularly vulnerable to working long hours for low pay and exposed to abuse and violence at work (ILO, 2018).

Moreover, the working conditions of domestic workers are the result of a set of labour market, migration and care policies (or the lack thereof). In particular, the cost and complexity of various care options shape the choices available to households. When faced with unaffordable alternatives, households may find it more tempting to resort to the cheapest and easiest solutions for care on the market. Jobs in this sector are notoriously unpredictable and casual, with few rights. A recent study found that more than half of all domestic workers in Germany, Italy, Luxembourg, Spain and the United States are in part-time work and face frequent periods of unemployment – rates that are statistically higher among domestic workers than among other care workers, and other industries (ILO, 2018).

A sizeable number of domestic workers globally live in countries in which no statutory minimum wage applies to them and are subject to payments in kind that are not always limited well enough to ensure a sufficient cash wage. Moreover, compliance with wage regulations is often low, and in-kind payment practices remain widespread in many regions (ILO, 2021). ILO estimates suggest that domestic workers typically earn less than half (and sometimes no more than about 20 %) of the average wage in any given country (ILO, 2018).

This wage gap is due to the widespread undervaluation of domestic work, pay discrimination and the limited bargaining power of domestic workers. Evidence also shows important wage differentials between national and migrant domestic workers, and in some instances between migrant domestic workers of different nationalities, that cannot be attributed to differences in education or work experience. Low wages often drive domestic workers to work up to the limits of their physical and emotional capacities just to make ends meet. Particularly for live-in domestic workers, the strain of working 12-hour days or more with little to no daily or weekly rest has dire impacts on their health, and leaves them insufficient time to care for themselves and their families. Moreover, only about half of all domestic workers enjoy minimum wage protection on an equal basis with other workers (ILO, 2018).

Moreover, almost half (48.9%) of all domestic workers have no legal limit on their normal hours of work (see Figure 17). These domestic workers are clustered in 30 countries that afford no such limits. This distribution is the result of the presence of a group of countries with a large number of domestic workers, including Bangladesh, Indonesia and Japan. Conversely, the 34.8% of domestic workers who are entitled to the same limitation of their normal weekly hours as other workers are spread across 54 countries. Finally, there are 4.3 million (5.7%) of domestic workers in 21 countries whose allowable normal weekly hours exceed those of other workers (ILO, 2021).



*Figure 17 Limitation of normal weekly hours of work for domestic workers (ILO, 2021)*

Live-in domestic workers, in particular, face discriminatory limits on their normal weekly hours. For instance, while important amendments were made to extend provisions of the Fair Labor Standards Act to domestic workers in the United States, including the maximum working week of 40 hours, some live-in domestic workers are excluded from overtime pay, effectively permitting longer normal hours of work. In Colombia, live-in domestic workers can work up to ten hours per day, as opposed to live-out domestic workers, whose working time is limited to eight hours per day and 48 hours per week, as for other workers. In Chile, the Labour Code, as amended in 2014, excludes live-in domestic workers from the 45-hour maximum weekly hours applicable to live-out domestic workers and other workers (*ibidem*).

Care workers may also be required to take on tasks beyond their job and training, such as carrying out domestic work for other relatives (cooking, cleaning, etc.) and certain health care treatments (Caritas Europa, 2023).

The pandemic crisis exacerbated the precarious and poor working conditions of domestic care workers. In some cases, employers have stopped paying their live-in domestic workers, due to their own financial circumstances, or a belief that domestic workers did not need their salaries anyway,

since they could not go out (ILO, Impact of the COVID-19 crisis on loss of jobs and hours among domestic workers, 2020). More domestic workers than other employees have lost their jobs or are seeing a dramatic reduction in working hours and correspondingly lower wages (ILO, 2021). Some domestic workers have also been found in the streets, after their employers dismissed them for fear of catching the virus, putting them at risk of trafficking (ILO, Impact of the COVID-19 crisis on loss of jobs and hours among domestic workers, 2020). To date, job losses have been higher among domestic workers in informal employment than those observed for all domestic workers and systematically higher than for other employees (ILO, 2021).

There are several factors contributing to the poor working conditions of domestic care workers. Firstly, domestic work around the world is still mainly informal<sup>18</sup>. Secondly, the isolated nature of home-based personal care work can make care workers' environment unsafe, and conflicts of interests between care recipients, family members and personal care workers can arise regarding the workers' knowledge, attitude and the bounds of their responsibilities. In particular, migrant personal care workers in round-the-clock live-in arrangements are particularly vulnerable to personal and financial exploitation, as they are unable to exit the employment relationship. Their isolation often militates against unionization and organisation, including in workers' cooperatives, although positive examples do exist (Gallotti, 2009).

Since 2010, year of the adoption of the ILO Domestic Workers Convention<sup>19</sup>, more laws and policies cover domestic care workers. Firstly, there has been a decrease of 16.3% points in the proportion of domestic workers who are wholly excluded from the scope of labour laws and regulations. Secondly, there has been an increase in the proportion of domestic workers legally entitled to: (a) limits on their normal weekly hours equal to or more favourable than other workers (7.2% points); (b) weekly rest entitlements of at least the same length as those enjoyed by other workers (21% points); and (c) periods of annual leave the same as or longer than those for other workers (12.6% points). Even if important legal gaps still remain<sup>20</sup>, as of 2020, 48.9 % of all domestic workers are entitled to weekly rest entitlements that are at least equal to those enjoyed by other workers, 34.8% are entitled to the

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<sup>18</sup> According to the ILO (ILO, 2021), about 61.4 million domestic workers, including care workers, are in informal employment, meaning they have no effective access to social or labour protections. The share of informal employment among domestic workers is twice that of other employees (39.7%) and still significantly higher than the overall share of informal employment among non-domestic workers, independent of their employment status (60.1%). Domestic workers in informal employment face some of the worst working conditions. They earn on average 37.6 % of the monthly wages of formal employees.

<sup>19</sup> More information on the Convention is available in the paragraphs 3.2 and 3.3 of the thesis.



same limitation on their normal weekly hours as other workers, and 42.9% have equal rights with respect to periods of paid annual leave. Thirdly, there has been a small increase in the proportion of domestic workers who are entitled to a minimum wage equal to that of other workers (2.9% points) and who have a right to receive their minimum wage fully in cash (7.2% points). As a result, 35% of domestic workers are entitled to a minimum wage rate that is at least equal to that fixed for other workers, and 29% must receive that minimum wage in cash. Improvements in this area have been more limited than in other areas. In one third of the countries reviewed, domestic workers either do not enjoy equal rights with respect to a minimum wage (9.3%) or do not enjoy minimum wage coverage at all (22.2 %), and there are about 41 million domestic workers for whom no statutory minimum wage is applicable (ILO, 2021).

While progress has been made in legal coverage, these legal rights have not yet become a reality for most domestic workers. We still see significant decent work deficits in the areas of working time, wages and social security. Only one in five domestic workers enjoys effective employment-related social security coverage. Domestic workers are less likely to work within the range of normal weekly hours and are more likely to work very short or very long hours compared with their employee counterparts. Working outside what are considered “normal” working hours has implications for the wages and social security benefits of domestic workers, who are some of the lowest earners among all wage employees. Globally, they earn 56.4 % of the average monthly wages of other employees (ibidem).

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<sup>20</sup> According to the ILO (ILO, 2021), about 28 % of countries impose no limits on normal weekly hours of work; 14 % of countries provide no legal right to weekly rest; and 11 % of countries provide no legal right to paid annual leave.

**Extent of inclusion in the scope of national labour laws in 2010 and 2020:  
Number and percentage of countries providing coverage for domestic workers**

	For countries reviewed in 2010				For all countries 2020	
	2010 laws		2020 laws		2020 laws	
	No. countries	%	No. countries	%	No. countries	%
<b>Domestic workers are covered fully or in part by labour laws:</b>	60	80.0	63	84.0	95	88.0
<i>by the general labour laws</i>	27	36.0	21	28.0	27	25.0
<i>in part by the general labour laws and in part by subordinate regulations or specific labour laws</i>	23	30.7	35	46.7	56	51.9
<i>by subordinate regulations or specific labour laws</i>	10	13.3	7	9.3	12	11.1
<b>Domestic workers are excluded from the scope of the country's labour laws</b>	13	17.3	9	12.0	9	8.3
<b>Federal country with provisions that differ between states</b>	2	2.7	3	4.0	4	3.7
<b>Total</b>	<b>75</b>	<b>100.0</b>	<b>75</b>	<b>100.0</b>	<b>108</b>	<b>100.0</b>

Figure 18 Extent of inclusion of domestic workers in the scope of national labour laws in 2010 and 2020 (ILO, 2021)

### 2.2.10 Right to rest and leisure

The right to rest and leisure refers to the economic, social and cultural right to adequate time away from work and other societal responsibilities. Today, it is recognised in the UDHR, the ICESCR, the CRC, and in many regional texts. Article 24 of the UDHR (UN General Assembly, 1948) states that “everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay”.

Despite the long-standing recognition of the right to rest and have reasonable hours of work, domestic workers have long been excluded from both national and international laws regulating working time (ILO, 2021). More than half of all domestic workers have no limitation on their normal weekly hours

of work under national law, and approximately 45% have no entitlement to weekly rest periods, resulting in widespread violations of the right to rest (ILO, 2018). Owing to the specific circumstances of domestic work, they often face challenges relating to unpredictable working hours and rest breaks, which can pose severe problems for their well-being (ILO, 2021).

While more progress still remains to be made, over the last ten years, several countries have revised or adopted laws in this regard, which has resulted in an increase of 21% points among domestic workers who are entitled to weekly rest of at least the same length as that enjoyed by other workers. There has also been a small decrease (2% points) among domestic workers whose weekly rest entitlements are less favourable than those enjoyed by other workers. Had the laws not changed, about 49.6 million (65.6%) of domestic workers would have no entitlements to weekly rest and only 21 million (27.8%) would be entitled to at least the same amount of weekly rest as that enjoyed by other workers (ILO, 2021).

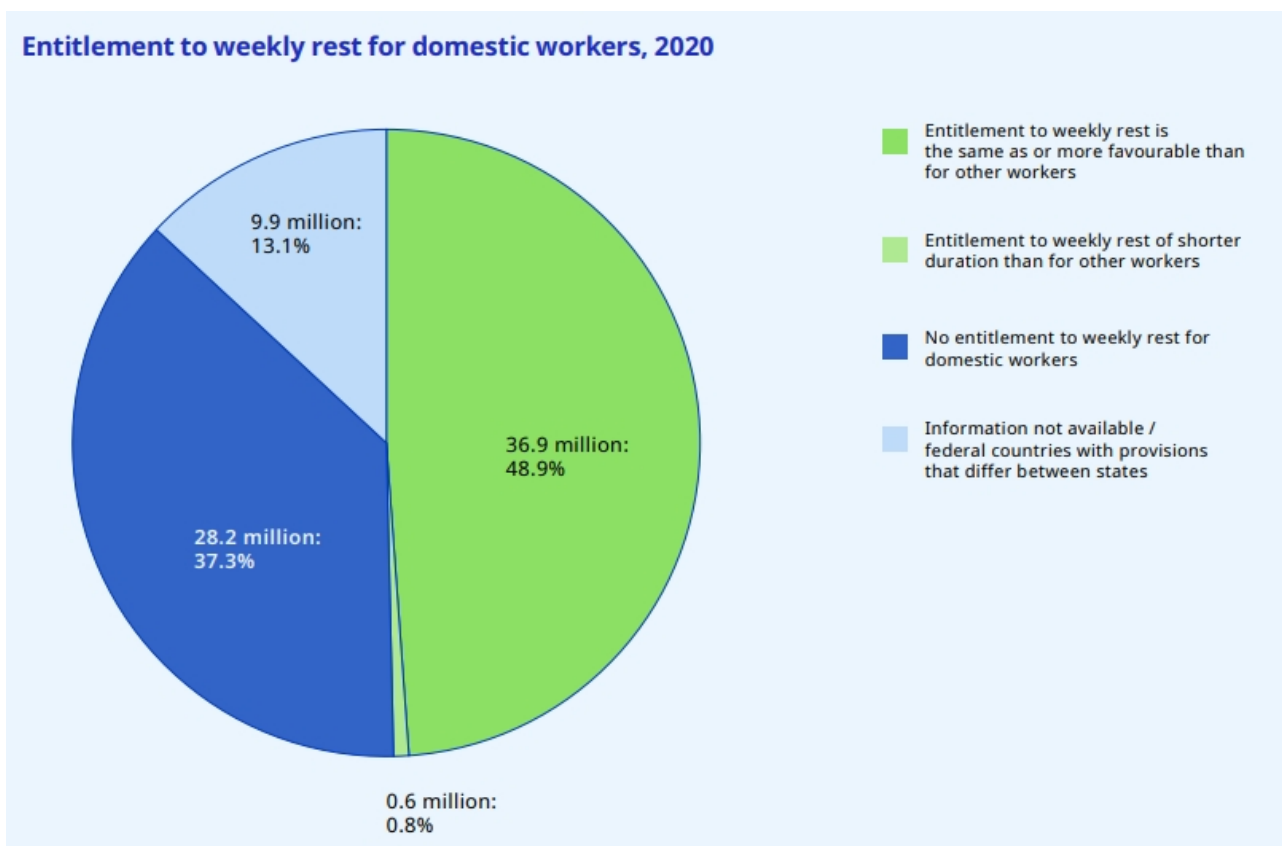


Figure 19 Entitlement to weekly rest for domestic workers (ILO, 2021)

According to a recent ILO review which involved 75 countries across the world, 42.9% of domestic workers, across the vast majority of countries, have equal rights with respect to paid annual leave.

Meanwhile, more than one third (36.4%) of domestic workers are clustered in a relatively small group of countries in which they have no entitlement to paid annual leave. A further 7.4 % have the right to a shorter period of annual leave than other workers (ILO, 2021).

**Paid annual leave for domestic workers, selected countries, 2010 and 2020**

	For countries reviewed in 2010				For all countries 2020	
	2010 laws		2020 laws		2020 laws	
	No. countries	%	No. countries	%	No. countries	%
<b>Annual leave is the same as or longer than for other workers</b>	50	66.7	56	74.7	84	77.8
<b>Annual leave is shorter than for other workers</b>	4	5.3	4	5.3	7	6.5
<b>Domestic workers are excluded from provisions</b>	19	25.3	11	14.7	12	11.1
<b>Information not available / federal countries with provisions that differ between states</b>	2	2.7	4	5.3	5	4.6
<b>Total</b>	<b>75</b>	<b>100.0</b>	<b>75</b>	<b>100.0</b>	<b>108</b>	<b>100.0</b>

*Figure 20 Paid annual leave for domestic workers, selected countries, 2010 and 2020 (ILO, 2021)*

### 2.2.11 Right to health and an adequate standard of living

Article 25 of the UDHR (UN General Assembly, 1948) states that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Motherhood<sup>21</sup> and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”

<sup>21</sup> Please note that fatherhood is not included in this article. Even if mothers need more assistance than fathers when their child/ren is/are just born or are very young, the exclusion of fathers from the treaty is also the result of gender stereotypes that are very slowly disappearing, including in labour law.

The right to health is also enshrined in the ICESCR, and the Convention on the Rights of Persons with Disabilities (ICRPD).

Yet, even if, in many countries, employers are required to provide live-in domestic workers with adequate accommodation, normally defined as a separate private room for the worker's personal use, in a number of countries, the legislation only establishes the obligation of the employer to provide "adequate" accommodation, without setting any specific requirements. In others, there are no provisions in the national legislation regarding domestic workers' accommodation (ILO, 2022).

Moreover, as far as the right to health is concerned, the undervaluation and unappreciation of domestic care work has often spurred various physical and mental health issues among domestic workers. Paid home care work often involves complicated, poorly defined roles and responsibilities within the family (United Nations, 2023). Female care workers, in particular, may experience isolation, harassment and violence (United Nations, 2023). All these factors feed the undesirability of long-term care jobs, high turnover and low morale. The most common form is verbal abuse, insults or threats (ILO, 2018). Caregivers also face various types of emotional pressure associated with being closely involved in the everyday lives of their clients and their families, such as inappropriate behaviours, including sexual harassment and racism/xenophobia, sleep deprivation, constant availability, extra domestic tasks, often for the whole family, such as cleaning, cooking and gardening (University of Nottingham Rights Lab, 2022).

Paid carer stress skyrocketed during the COVID-19 pandemic, especially early on when supplies of personal protective equipment, vaccinations and other protective measures were limited or non-existent (Smith and others, 2020). Given that they perform their work in the homes of others, and frequently in multiple homes, and are in close contact with household members and items through which they may be exposed to infection, they are also front-line workers (ILO, Impact of the COVID-19 crisis on loss of jobs and hours among domestic workers, 2020). There have been cases of live-in domestic workers being required to work longer hours during the pandemic to keep their employers' homes particularly clean, while some have been prohibited from leaving the home at all due to the fear that they might bring the virus back (ibidem).

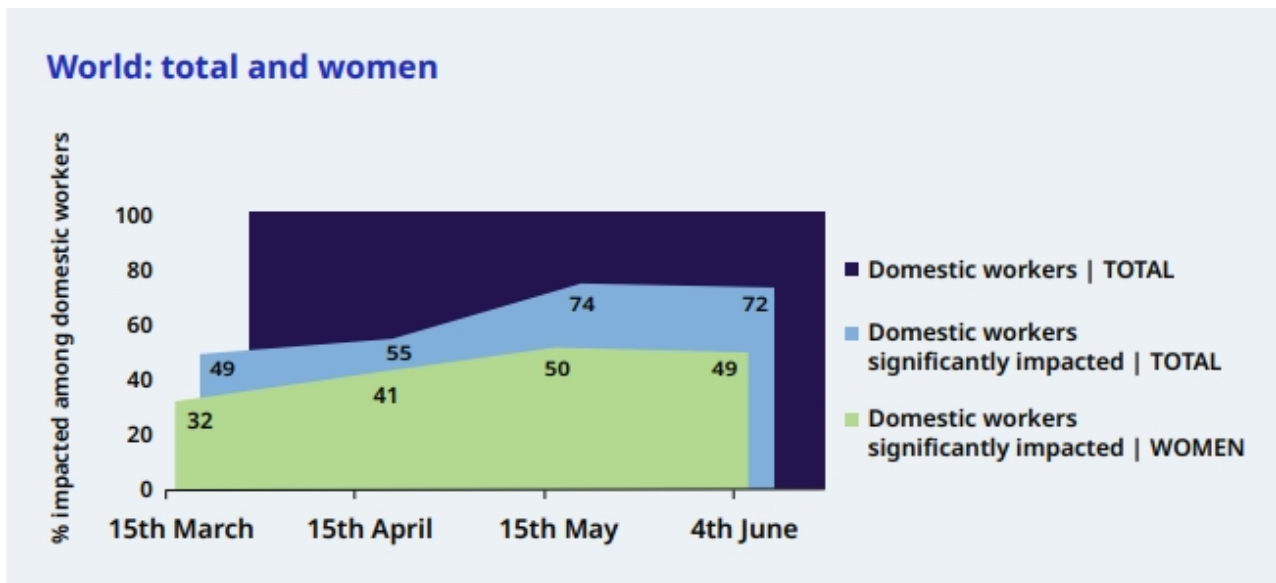


Figure 21 Percentage of domestic care workers impacted by Covid-19 (ILO, 2020)

As far as maternity protection is concerned, domestic workers have historically been excluded from it (ILO, 2018). Without protection, domestic care workers may feel compelled to continue working late into pregnancy, often performing hazardous tasks and putting their unborn child and themselves at great risk. If they are also excluded from social health protection coverage, they face the additional risks of not accessing adequate healthcare during and after pregnancy (ILO, 2021).

Nowadays, there is a strong tendency for countries to provide legal entitlements to maternity leave for domestic workers and to do so on an equal footing with other workers. Of the 108 countries reviewed by ILO in 2021 (ibidem), a total of 20.4% of countries still exclude domestic workers from maternity leave altogether, while another 2.8% provide less favourable leave entitlements

**Maternity leave entitlements for domestic workers, selected countries, 2010 and 2020**

	For countries reviewed in 2010				For all countries 2020	
	2010 laws		2020 laws		2020 laws	
	No. countries	%	No. countries	%	No. countries	%
<b>Maternity leave entitlements are the same as or more favourable than for other workers</b>	56	74.7	56	74.7	80	74.1
<b>Maternity leave entitlements less favourable than for other workers</b>	0	0	0	0	3	2.8
<b>No entitlement to maternity leave for domestic workers</b>	18	24.0	16	21.3	22	20.4
<b>Information not available / federal countries with provisions that differ between states</b>	1	1.3	3	4.0	3	2.8
<b>Total</b>	<b>75</b>	<b>100.0</b>	<b>75</b>	<b>100.0</b>	<b>108</b>	<b>100.0</b>

Figure 22 Maternity leave entitlements for domestic workers (ILO, 2021)

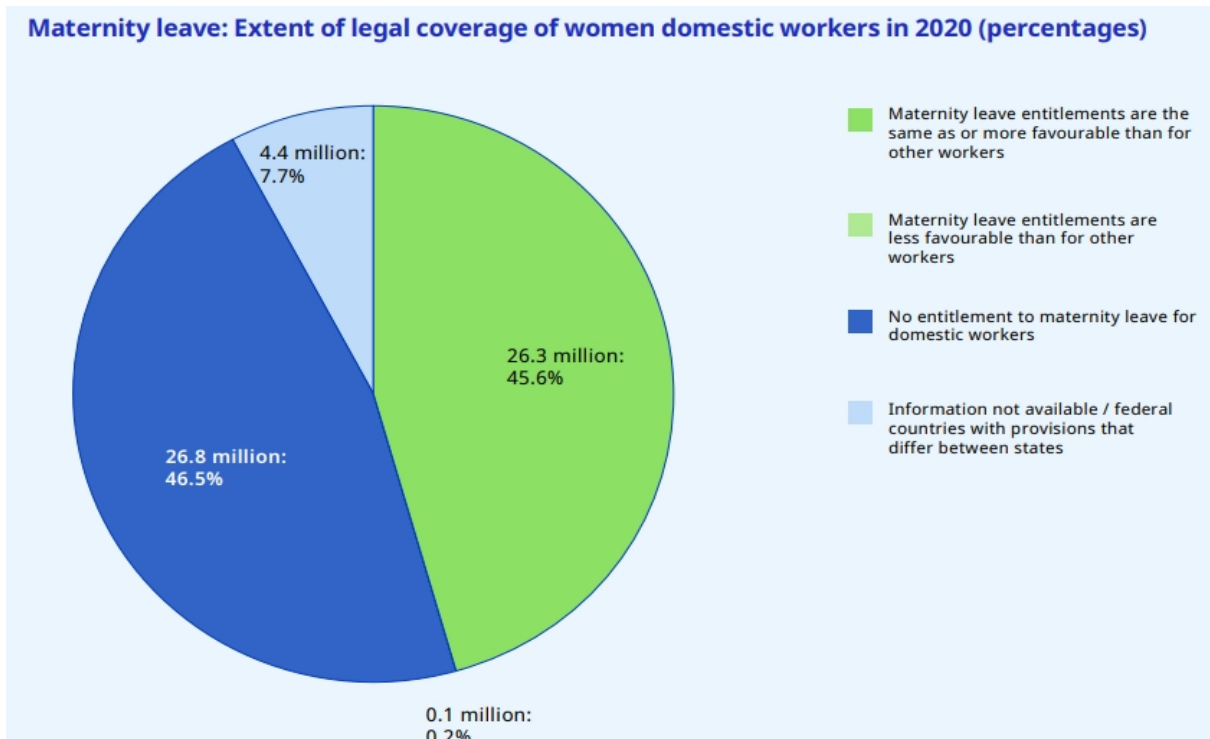


Figure 23 Maternity leave coverage for domestic workers in 2020 (ILO, 2021)

While legal coverage for maternity leave is an important first step towards ensuring maternity protection, the leave is difficult to implement without cash benefits to maintain income security during the leave. Of the countries recently reviewed by ILO (ILO, 2021), 23.1 % exclude domestic workers from provisions on maternity cash benefits altogether. While a large proportion of countries (68.5 %) provide equal rights with respect to maternity cash benefits and a minority (23.1 %) provide no such rights at all (table 6.2), the number of domestic workers is distributed evenly across these two groups. As a result, there are fewer female domestic workers worldwide who have the same rights to maternity cash benefits as other workers (41.2 %) than domestic workers who have no right to maternity cash benefits at all (47.6 %). This apparent contradiction is due in large part to the presence of very large employers of female domestic workers among the 25 countries that exclude domestic workers from maternity benefits. These figures also indicate that countries have tended to either include or exclude domestic workers, rather than establishing differentiated rights (ibidem).

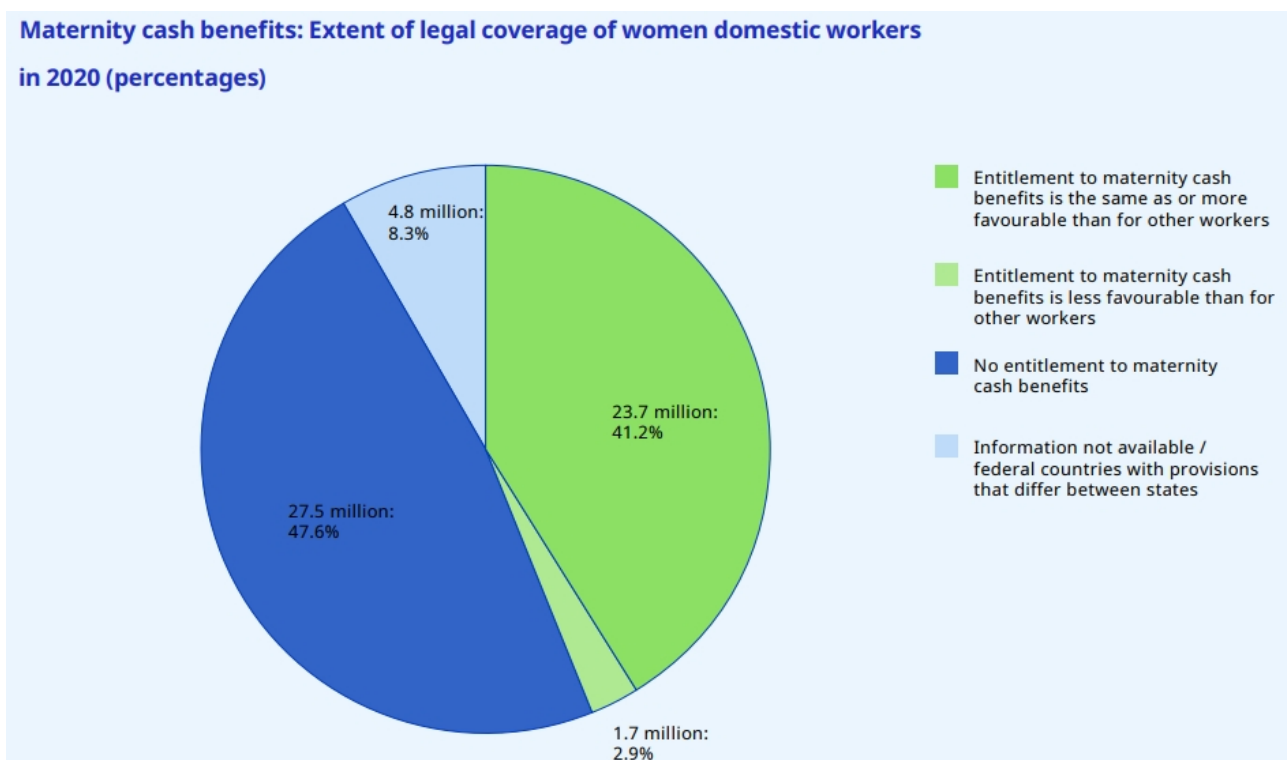


Figure 24 Maternity cash benefits for domestic workers (ILO, 2021)

As far as paternity leave is concerned, several countries reviewed provide paternity leave that would be applicable to male domestic workers. In Europe and Central Asia, where domestic workers appear to be included in the scope of general labour laws, several countries have explicit paternity leave provisions. For instance, in Bulgaria, fathers are entitled to a 15-day period of leave for the birth of a child, as from the date of discharge from the hospital. In the United Kingdom, fathers have a right to



1–2 weeks of statutory paternity leave if they are the biological father or the mother’s husband or partner and if they have worked for their employer for 26 consecutive weeks by the end of the 15th week before the week the baby is due. In other cases, specific provisions with explicit reference to domestic workers have been made to extend paternity leave. For example, in the Seychelles, specific provisions are made granting ten consecutive working days of paid paternity leave (to be taken within four months of the birth) for male domestic workers, which entitlement is applicable whether the worker has a contract of continuous employment or a fixed-term or part-time contract. In Uruguay, Law 19161 of 2013 grants new fathers who are compliant with their social security obligations paid paternity leave of up to ten days (plus three more days paid for by the employer in the case of employees) after childbirth (*ibidem*).

### 2.2.12 Right to education

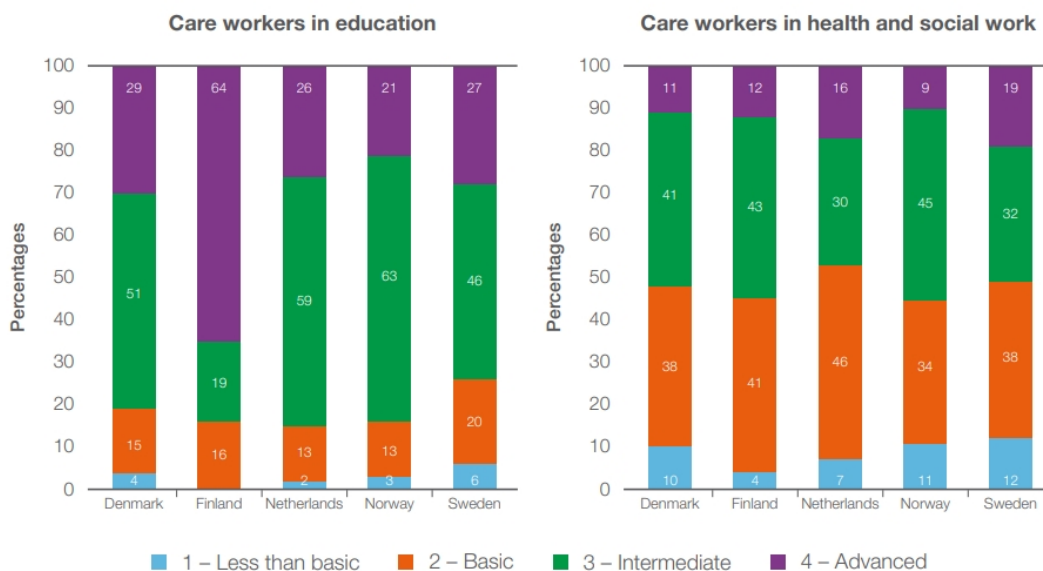
The right to education is enshrined in the UDHR, and the ICESCR, which recognises a right to free, primary education for all, an obligation to develop secondary education accessible to all with the progressive introduction of free secondary education, as well as an obligation to develop equitable access to higher education, ideally by the progressive introduction of free higher education. According to the Art. 26 of the UDHR (UN General Assembly, 1948), “education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.”

The work of domestic care workers require a broad spectrum of professional skills, such as helping older persons with dressing, bathing and eating; assisting with mobility; providing physical and occupational therapeutics; and supporting them with nutrition and food preparation (UN, 2023). Due to the very peculiar element of mutual trust and dependency between the employer and employee, a number of “soft skills” seem to be required, which are often difficult to assess and qualify, such as discretion, sensitiveness, capacity to take independent initiatives as well as the very special ability to deal with family members without challenging the role and authority of the employer in her role of mother/wife/daughter, etc (Gallotti, 2009). If we look at the care of older persons, quality services also call for knowledge in geriatrics, aimed at the unique health needs of older people (UN, 2023).

Nonetheless, many personal care workers have little formal training, and even where certification is required, the majority of personal care workers do not have the relevant qualifications. (ILO, 2018). Since domestic work tends to be regarded as a “naturally female” responsibility, the specific competencies that it requires are generally very poorly delineated and also attributed to the “genetic predisposition” of women for care and household related activities (Gallotti, 2009). In OECD countries, about 70% of formal care workers are personal care workers with no mandatory standard or minimum qualifications; the remaining 30% are nurses with a minimum number of years of training (OECD, 2020).

Nowadays, there is a growing demand for more skilled and experienced people to perform care tasks. Nevertheless, these competencies are greatly undervalued and mostly unrecognised, especially in the case of migrant domestic workers whose qualification and diplomas are very often not recognised by the host society. The de-skilling phenomenon, common among migrant domestic workers, has important repercussions on the host as well as on the origin countries and will be therefore further analyzed in the next chapter (Gallotti, 2009).

**Education level profiles of care workers in education and in health and social work**



Note: Levels of education are identified using the International Standard Classification of Education (ISCED 11). Less than basic: no schooling or early childhood education. Basic: primary and lower secondary education. Intermediate: upper and post-secondary non-tertiary education. Advanced: short-cycle tertiary education, bachelor's, master's and doctoral or equivalent levels of education.

Source: ILO calculations based on labour force and household survey microdata.

*Figure 25 Education level profiles of care workers in education and in health and social work (ILO, 2018)*

### 2.2.13 Freedom from discrimination

The right to freedom from discrimination is internationally recognised as a human right in the UDHR (UN General Assembly, 1948). It is also enshrined in international human rights law through its inclusion in the ICCPR (UN General Assembly, 2006) and the ICESCR (UN General Assembly, 1966). It has also been elaborated upon in the CERD (UN General Assembly, 1965), the CEDAW (UN General Assembly, 1979), and the ICRPD (UN General Assembly, 2006).

Article 2 of the UDHR (UN General Assembly, 1948) states that “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.”

However, care workers providing home-based care have been neglected and overlooked for many years and their work has been undervalued (WHO Regional Office for Europe, 2020). The Preamble to the ILO Domestic Workers Convention explicitly recognises that domestic work “is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and who are particularly vulnerable to discrimination in respect of conditions of employment and of work, and to other abuses of human rights”. They are often exposed to “double or multiple discrimination”<sup>22</sup> for being a migrant and a woman, which makes them a particularly vulnerable group of workers.

Domestic workers tend to universally epitomise the figure of the low-skilled, low-valued, precarious, hidden and unorganised labourer. Overwhelmingly women, migrant and working class, they are also commonly low-caste, black and indigenous. Belonging to society’s most marginalised groups, they are largely excluded from labour protection laws<sup>23</sup> and are significantly impacted by the social shifts brought about by globalization (Marchetti, S. & All, 2021).

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<sup>22</sup> Most child domestic workers are between 12 and 17 but some are as young as five or six. The ILO estimates that domestic service is the single largest source of employment for girls under 16 around the world - around 90%. ITUC (2010) Action Guide: Decent work, decent life for domestic workers. [http://www.itucsi.org/IMG/pdf/ITUC\\_dwd\\_AnglaisWEB.pdf](http://www.itucsi.org/IMG/pdf/ITUC_dwd_AnglaisWEB.pdf)

<sup>23</sup> The exclusion of domestic work from labour protections is one of the manifestations of discriminatory attitudes towards women’s work and it also makes domestic workers more vulnerable to servitude. In European Union member countries, for example, application of labour rights to domestic workers is very limited in both law and practice, in particular for undocumented domestic workers. Consequently, the usual labour standards often do not apply to migrant domestic workers, for example with regard to maximum or standard working hours, as applicable to other sectors (UN, Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, 2018).

Discrimination on various grounds increases the chance of already vulnerable individuals becoming trapped in domestic servitude, reducing their opportunity to escape from the situation either in the short- or long-term (UN, Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, 2018)<sup>24</sup>. In particular, migrant domestic workers in an irregular situation are “invisible” to national authorities and often face language barriers, a lack of knowledge about their rights and often lack a safety net or a social network in the host country. Owing to fear of deportation, domestic workers tend to live in anonymity (ibidem)<sup>25</sup>.

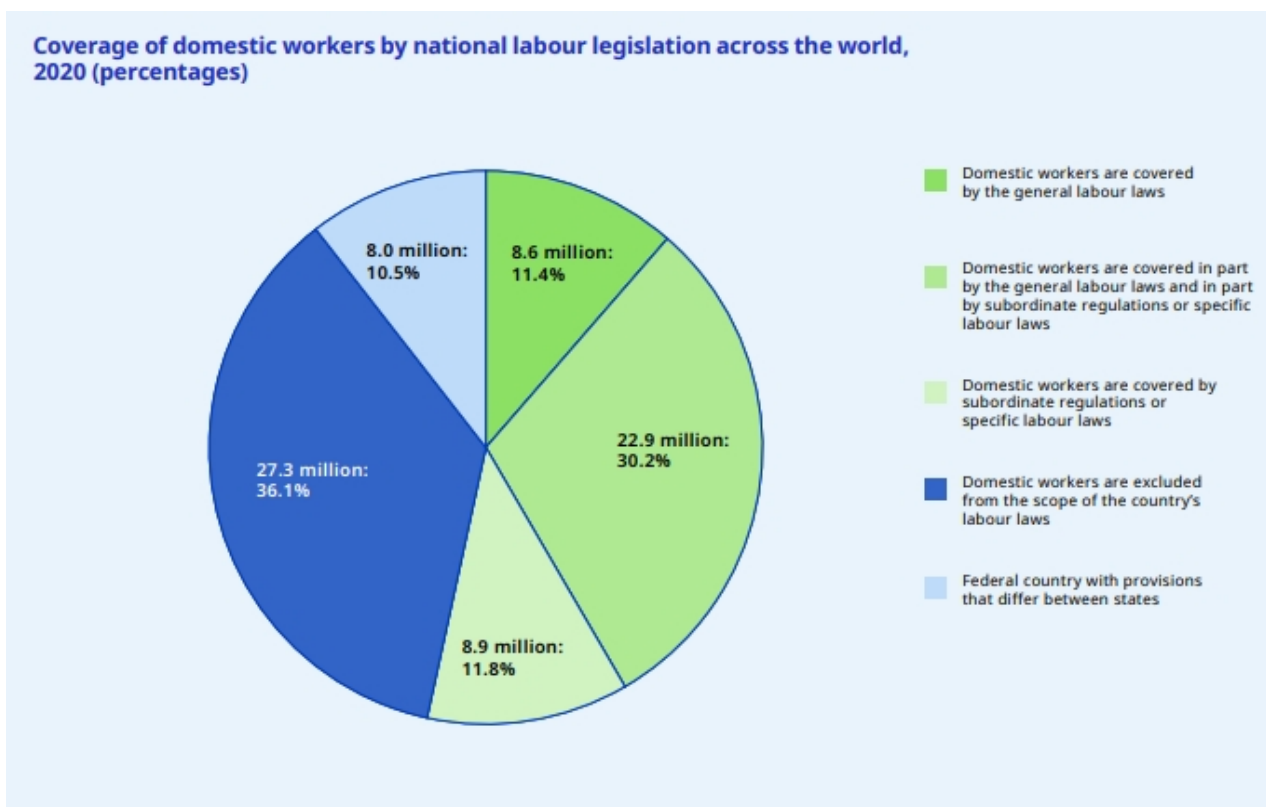


Figure 26 Domestic workers’ coverage by national labour legislation across the world (ILO, 2021)

Cultural values relating to work that involves touching the human body are important contributors to this lack of recognition, as personal care work is associated with “dirty work”, which has low status

<sup>24</sup> Marginalised women often suffer long-standing patterns of discrimination that perpetuate not only domestic work but also the migration cycle. Women migrant domestic workers are discriminated against on the basis of sex, gender, race, ethnicity, national origin and social status, which leads to intersecting disadvantages. Furthermore, discriminatory migration policies limit women’s access to safe and orderly migration pathways, which in turn limits their job opportunities in transit and host countries. On that basis, many migrant women end up in informal employment, particularly in domestic and care work. They often do not have employment contracts, which makes it difficult to protect and claim their rights. In Mexico, for example, 9 out of 10 domestic workers do not have a contract. Informal jobs perpetuate traditional gender norms regarding “women’s work” (UN, Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, 2018).

<sup>25</sup> Generally, labour inspectors need a judicial authorization to inspect a private house, thus making it to oversight over the working and living conditions of domestic care workers. Moreover, many domestic are workers are in an irregular situation so they avoid inspections.

and is poorly paid. At the same time, rhetoric concerning love/virtue and care, which portrays the pursuit of wages (money) as fundamentally opposed to the notion of devotion and altruism (love), plays a significant role in subordinating claims for higher wages. Yet, working conditions and pay of personal workers are not solely determined by cultural norms. These norms interact with the marketisation and outsourcing of care services with the objective of lowering provision costs. Cut-backs in public spending translate into lower fees being paid to private providers, contributing to keeping the wages of personal carers low and working conditions dire. Lack of recognition of personal care workers' contributions to society by family members, managers and the community at large has several impacts on personal care workers' sense of self-worth, employment conditions and wages (ILO, 2018).



## CHAPTER III: STRUCTURAL CONDITIONS TO TACKLE DOMESTIC WORKERS' HUMAN RIGHTS RISKS – THE INTERNATIONAL LEGAL FRAMEWORK

*“Domestic work is work. Domestic workers are, like other workers, entitled to decent work.”*

*ILO*

Chapter III looks at the regulatory system covering domestic care work at international level. This is by no means an exhaustive list, but it aims to give an overview of recent key initiatives on the subject. To introduce the current legal framework, the chapter also briefly describes how the image of domestic care workers has slightly evolved during the centuries and what are the first steps that helped move the policy agenda of this category of workers forward, even if in a shy way.

### 3.1 Introduction

Historically, domestic care work has been characterised by a relationship of submission and isolation, linked to the master–servant relationship and other forms of servitude. Domestic work was considered as part of the family sphere, and therefore as a matter governed exclusively by family law and not labour law (D’Souza, 2010). The situating of this work in the home led to its exclusion from the scope of labour law (ILO, 2010).

During the colonial period, the asymmetrical relation between masters and servants was enhanced by ethnic differences. Most servants were men or boys, and to a lesser extent, women. Since the 19th century, the number of workers in paid domestic service has risen considerably all over the world. At the same time, the number of women engaged in domestic work increased. This transformation was sustained, among other things, by the growing assumption that domesticity was natural to women, the view of the private home as a protected place for women to work in, and the perception by many poor families of domestic work as a means of education for their children (D’Souza, 2010).

Through the centuries, domestic work, including domestic care work, has remained an occupation considered to be low-skilled and of low social status. The prevalence of women coming from

marginalised social and ethnic groups, frequently migrants from a rural area or a foreign country; and generally perceived as attracting workers unsuccessful in obtaining other employment (D'Souza, 2010). In the post-war period it was commonly believed that the modernisation of domestic life, with the growth of technology and more efficient systems to organise the household, would soon make it possible to spontaneously eliminate the traditional figure of the paid domestic worker, seen as a legacy of exploitative, premodern times (Cosser, 1973).

However, it was only in the mid-1990s, when the ILO started its general campaign for the promotion of 'decent work' for flexible, informal and non-standard jobs, that the issue of paid domestic work came up again (Marchetti, S. & All, 2021). Indeed, given the low perception of domestic work, those engaged in it generally lacked the power to ensure that labour rights were respected and that was it included in national accounting and social protection schemes (D'Souza, 2010). For example, if we look at Europe, legislative and social systems are still very much reflecting this approach and the growing insertion of national women into the labour market seems to have simply shifted the burden from national to immigrant women (Gallotti, 2009).

### 3.2 First steps towards an international legal framework for domestic care workers

In 1964, the International Labour Conference recognised the need to guarantee domestic workers decent working and living conditions, and adopted a resolution which, among others, invited the Governing Body to "consider [...] placing on the agenda of an early session of the Conference, the question of condition of employment of domestic workers with a view to the adoption of an international instrument" (ILO, 2010). From research conducted following the adoption of the resolution, it emerged that domestic workers are 'overworked, underpaid and underprotected' (Mantouvalou, 2006). The ILO Study entitled 'Making Domestic Work Visible: The Case for Specific Regulation' also identified the main features of domestic labour, which can be summarised as follows: first, most domestic workers are women, second, most of the times they are migrants and, third, they usually work in private households and have to live with their employer (Blackett, 1998).

Later, in 1996, the ILO adopted the Convention No. 177, which set, for the first time, labour standards for domestic work (Boris, 2019). This Convention was testament to a historical change in the conception of 'work', through its expansion of the notion to protect the increasing numbers of flexible home workers (Prügl, 1999). Both labour rights and feminist movements that had previously tried to draw attention to this category had always been confronted with a general conception of home work



as feminised labour, supplementary to that of male workers in factories, and therefore ‘not real work’ (Cherubini, D. & All, 2018).

Following the adoption of the 1998 Declaration on Fundamental Principles and Rights at Work, the Director General of the ILO issued two Reports: the Global Report 'Stopping Forced Labour, in 2001, and the Report 'A Global Alliance Against Forced Labour', in 2005. The 2001 Report identified domestic labour as one of the main instances of forced labour today, and the 2005 Report the Director General dealt specifically with migrant workers and domestic work (Mantouvalou, 2006).

This last report recognised that domestic workers are especially vulnerable to forced labour because of the unprotected nature of their work and the highly personalised relationship between the worker and the employer. Moreover, domestic work takes place in the private household, which is typically excluded from labour market regulations. Furthermore, migrant domestic workers are in a particularly precarious position because of their insecure legal status in the host country.' Finally, as for women, the Report recognised that this kind of employment is the only option that they have to escape poverty, thus making them vulnerable to abuses. Indeed, employers can take advantage of this situation (ILO, 2005)<sup>26</sup>.

Women workers' struggles over this issue intensified through the 1970s and 1980s, in parallel with the intensification of industrial production in Asia, Latin America and North Africa, where home-based workers were used by multinationals as a cheap and flexible labour force in the production of textiles, food and livestock (Cherubini, D. & All, 2018). These struggles contributed to another important step, which happened more recently. ILO Governing Body, in its 31st session of March 2008, agreed to include “Decent work for domestic workers” (Standard setting) in the agenda of the 99th Session (2010) of the International Labour Conference (Gallotti, 2009), a major step forward that human and labour rights activists have been asking for many decades.

Finally, in 2011, the ILO adopted the Domestic Workers Convention. The Convention was intended to improve the social and cultural representation of domestic workers and their economic conditions, including through an increase in salaries to level up with the minimum standards found in other sectors (Cherubini, D. & All, 2018). It calls on Member States to ensure domestic workers enjoy the

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<sup>26</sup> The situation is further exacerbated by the fact that domestic care workers are most often not unionised (if trade unions representing them exist).

fundamental principles and rights at work, as well as decent work under conditions no less favourable than those enjoyed by workers generally (ILO, 2021). This Convention will be further described under the paragraph 3.3 of this thesis.

Number			
Country	Date	Status	Note
Antigua and Barbuda	28 Jul 2021	In Force	
Argentina	24 Mar 2014	In Force	
Belgium	10 Jun 2015	In Force	
Bolivia (Plurinational State of)	15 Apr 2013	In Force	
Brazil	31 Jan 2018	In Force	
Chile	10 Jun 2015	In Force	
Colombia	09 May 2014	In Force	
Costa Rica	20 Jan 2014	In Force	
Dominican Republic	15 May 2015	In Force	
Ecuador	18 Dec 2013	In Force	
Finland	08 Jan 2015	In Force	
Germany	20 Sep 2013	In Force	
Grenada	12 Nov 2018	In Force	
Guinea	25 Apr 2017	In Force	
Guyana	09 Aug 2013	In Force	
Ireland	28 Aug 2014	In Force	
Italy	22 Jan 2013	In Force	
Jamaica	11 Oct 2016	In Force	
Madagascar	11 Jun 2019	In Force	
Malta	14 May 2021	In Force	
Mauritius	13 Sep 2012	In Force	
Mexico	03 Jul 2020	In Force	
Namibia	09 Dec 2020	In Force	
Nicaragua	10 Jan 2013	In Force	
Norway	08 Jul 2021	In Force	
Panama	11 Jun 2015	In Force	
Paraguay	07 May 2013	In Force	
Peru	26 Nov 2018	In Force	
Philippines	05 Sep 2012	In Force	
Portugal	17 Jul 2015	In Force	
Sierra Leone	25 Aug 2021	In Force	
South Africa	20 Jun 2013	In Force	
Spain	28 Feb 2023	Not in force	The Convention will enter into force for Spain on 29 Feb 2024.
Sweden	04 Apr 2019	In Force	
Switzerland	12 Nov 2014	In Force	
Uruguay	14 Jun 2012	In Force	

Figure 27 Ratification of the 2011 Domestic Workers Convention (ILO, 2023)

As a follow-up of the Convention, the ILO adopted a global strategy to support governments, workers and employers to make decent work a reality for domestic workers. Through this strategy, the ILO has supported some 60 countries to extend protections to domestic workers, ensure compliance with these standards, shift norms, and strength the representation of domestic workers and employers of domestic workers. These country-level experiences on policies such as working time, wages, social security, migration, labour inspections and organising have been documented and compiled at [www.ilo.org/domesticworkers](http://www.ilo.org/domesticworkers) (ILO, Domestic Work - Recognizing the rights of domestic workers, 2018).

### 3.2 International legal tools under international human rights law

As already mentioned in the Chapter II, international human rights treaties include several provisions that are relevant for domestic care workers. In particular:

- The UDHR establishes the overriding principles of equality and non-discrimination applicable to everyone, everywhere and always (Art. 2). It also introduces all the other human rights that are key for domestic care workers, such as the right to work and to health.
- The ICCPR (UN General Assembly, 1966) prohibits slavery and slave trade in all their forms (Art. 8), as well as torture and any forms of cruel, inhuman and degrading treatments. It also includes the right to an effective remedy (Art. 2), to freedom of movement and residence (Art. 12), to privacy and family life (Art. 17), as well as freedom of association (Art. 22).
- The ICESCR (UN General Assembly, 1966) recognises the right of everyone to the enjoyment of equal and satisfactory working conditions, the right to form trade unions and join them (Artt. 6-8), the right to enjoy social security, including social insurance and maternity leave (Artt. 7-10), the right to privacy and family life (Art. 11), the right to health (Art. 12), and the right to education (Artt. 13-14).
- The CEDAW (UN General Assembly, 1979) establishes the obligation of all the State Parties to work for the elimination of discrimination against women in the field of employment (Art. 11). It also includes other relevant rights, such as the right to freedom of association (Art. 7), to social security (Artt. 11 and 14), to health (Artt. 11, 12, and 14), to freedom of movement (Art. 15), and the right to education (Artt. 10 and 14).

- The CERD (UN General Assembly, 1965) includes the right to freedom of movement, to social security, to work, to health, and to education. Moreover, CERD's General Recommendation No. 30 (CEDAW, 2013) recommends removing any obstacle preventing "the enjoyment of economic, social and cultural rights by non-citizens", notably in the area of employment among others, and any discrimination" in relation to working conditions and work requirements".
- The CRC (UN General Assembly, 1989) recognises the right of the child to be protected from economic exploitation and from performing any work (Art. 32). It also includes other relevant rights, such as the right to education and to health (Art. 24), the right to social security (Art. 26), the right to family (Artt. 10, 16, 20, and 22), the right to freedom of association (Art. 15), and the right to rest (Art. 31).
- The ICRMW (UN General Assembly, 1990) recognises that migrant domestic workers are at increased risk of certain forms of exploitation and abuse, largely due to isolation and dependence characteristic of domestic work, and that female workers face additional risks due to their gender, including gender-based violence. It also includes all the human rights that are tackled in the Chapter II of this thesis.
- The CRPD (UN General Assembly, 2006) includes the following relevant rights: freedom from slavery and degrading treatment, right to an effective remedy, right to privacy and family life, freedom of movement and residence, freedom of association, right to work, right to leisure, right to health, right to education, and freedom from discrimination.

### 3.3 International legal tools under international labour law

Domestic work is one of the less regulated sectors under international labour law (ILO, 2010). However, as all other workers, domestic care workers are protected under the eight ILO ‘core Conventions’ covering the fundamental principles and rights at work:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- Right to Organise and Collective Bargaining Convention, 1949 (No 98);
- Forced Labour Convention, 1930 (No. 29);
- Abolition of Forced Labour Convention, 1957 (No 105);
- Minimum Age Convention, 1973 (No. 138);
- Worst Forms of Child Labour Convention, 1999 (No 182);
- Equal Remuneration Convention, 1951 (No 100);
- Discrimination (Employment and Occupation) Convention, 1958 (No 111).

The principles of these Conventions are also covered by the ILO's Declaration on Fundamental Principles and Rights at Work (1998), which is applicable to all categories of workers, irrespective of whether or not the State has ratified the corresponding Conventions (ILO, 2010).

Moreover, the ILO's Conventions and recommendations relating to conditions of work contain all the necessary safeguards to protect domestic workers even though they do not expressly mention them (D'Souza, 2010):

- Protection of Wages Convention, 1949 (No. 95);
- Social Security (Minimum Standards) Convention, 1952 (No. 102);
- Maximum Weight Convention, 1967 (No. 127);
- Reduction of Hours of Work Recommendation, 1962 (No. 116);
- Minimum Wage Fixing Convention, 1970 (No. 131);
- Holiday with Pay Convention (Revised), 1970 (No. 132);
- Paid Educational Leave Convention, 1974 (No. 140);
- Occupational Safety and Health Convention, 1981 (No. 155);
- Occupational Health Services Convention, 1985 (No. 161);

- Night Work Convention, 1990 (No. 171);
- Protection of Worker's Claims (Employer's Insolvency) Convention, 1992 (No. 173),
- Part-Time Work Convention, 1994 (No. 175);
- Maternity Protection Convention, 2000 (No. 183).

Some of the concerns faced by migrant domestic workers are also specifically dealt with by the ILO instruments on labour migration, namely:

- Migration for Employment Convention (Revised), 1949 (No. 97);
- Migrant Workers (Supplementary Provision) Convention, 1975 (No. 143).

Convention No. 97 introduced the principle of equality of treatment between regular migrant workers and national workers with respect to hours of work, rest period and holidays. It broadly aims at protecting regular migrant workers from discrimination and exploitation. Convention No. 143 addresses the issue of control of migration flows, including clandestine migration and illegal employment of migrants. Most importantly, it clearly highlights the obligation to respect the basic human rights of all migrants, irrespective of their legal status in the country of destination (D'Souza, 2010).

Moreover, the Nursing Personnel Convention, 1977 (No. 149) and its accompanying Recommendation (No. 157) establish minimum standards for decent working conditions for nursing personnel and are applicable to all categories of persons providing nursing care and nursing services. The Convention calls for nursing personnel to enjoy conditions at least equivalent to those of other workers in the country concerned and to receive pay that reflects their qualifications, responsibilities, duties and experience (ILO, 2021).

More recently, the ILO Convention on Eliminating Violence and Harassment in the World of Work, 2019 (No. 190) also recognised the right to a world of work free from gender-based violence and harassment, including for care workers, thus making it incumbent providing home or institution-based care on governments to adopt measures to protect workers who are particularly at risk of violence and harassment. These include workers in high-risk jobs in the health sector, including care workers and those working for emergency and social services (ILO, 2021).

However, the most relevant ILO Convention is the Convention No. 189: the Domestic Workers Convention, which dates 2011. Under the Convention, domestic workers are entitled to the same rights as those of other workers, such as social security, a minimum wage, and limits of hours of work. By ratifying the Convention, Member States also commit to protecting domestic care workers from violence and abuse, and to prevent child labor in domestic work. The Convention also helps domestic care workers, activists, and all relevant stakeholders to mobilise support for the ratification and implementation of the Convention by their governments, as well as to benefit from its provisions to advocate for changes in national laws to improve the working conditions of domestic care workers.

#### KEY PROVISIONS OF THE DOMESTIC WORKERS CONVENTION

- Article 3 states that domestic workers shall enjoy their human rights, as well as ILO fundamental principles and rights at work: 1) freedom of association; 2) elimination of forced labor; 3) abolition of child labor; 4) elimination of discrimination;
- Article 4 protects children from abuses in the domestic sector, by including a minimum age and ensuring that domestic work by children does not interfere with their education;
- Article 5 protects workers from abuse, harassment, and violence;
- Article 6 aims to ensure fair terms of employment, decent working conditions, decent living conditions, and respect to privacy for domestic workers;
- Article 7 aims to ensure that workers receive information about terms and conditions of employment, preferably in written contracts;
- Article 8 concerns the freedom of movement protections for migrants. It states that national laws and regulations shall require that migrant domestic workers who are recruited in one country for domestic work in another receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed, addressing the terms and conditions of employment prior to crossing national borders for the purpose of taking up the domestic work to which the offer or contract applies;

- Article 9 concerns the freedom of residence, the prohibition of the confinement of the worker in the household during rest periods or leave, and the insurance that domestic workers can keep their passports/identity documents;
- Article 10 aims to ensure that domestic workers receive an equal treatment with regards to hours of work, overtime pay, and rest periods, taking into account the special characteristics of domestic work;
- Article 11 states that governments shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists;
- Article 12 concerns the regular payment of domestic workers (at least once a month) and limits to “payments in kind”;
- Article 13 includes right to a safe and healthy working environment, which can be applied progressively;
- Article 14 concerns domestic workers’ equal treatment with regard to social security, including maternity protection, that can also be applied progressively;
- Article 15 concerns the oversight of private employment agencies to avoid abusive practices, including investigation of complaints, establishing obligations of agencies, penalties for violations, promoting bilateral or multilateral cooperation agreements, and ensuring recruitment fees are not deducted from domestic workers’ salaries;
- Article 16 concerns domestic workers’ effective access to courts;
- Article 17 tackles the need for effective and accessible complaints mechanisms, measures for labor inspections, and penalties.

*Figure 28 Key Provisions of the Domestic Workers Convention*

The Convention recognises that domestic work continues to be undervalued and invisible work carried out by women and girls, many of whom are migrants or members of disadvantaged communities, despite its increasing contribution to the global economy. It affirmed that domestic



workers cannot be excluded from protections that other workers have, including the freedom of association and the right to collective bargaining. Therefore, we can say that the adoption of the Convention marked the beginning of social justice for domestic workers internationally (Hernandez D. & Chong C., 2017).

Moreover, the Convention incorporates an intersectional approach, appealing simultaneously to issues of gender, race, ethnicity, religious and class-based discrimination at work, and advocating for the protection of the most vulnerable categories of domestic workers, with particular reference to migrant workers (Marchetti, S., 2021). For example, its Preamble states that “domestic work continues to be mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and who are particularly vulnerable to discrimination in respect of conditions of employment and of work, and to other abuses of human rights”. There are also five references to migrants and three references to women.

Finally, what characterises this Convention is its human rights-based approach. Already in its Preamble, the Convention refers to the majority of the core international human rights instruments (UDHR, CERD, ICCPR; ICESCR, CEDAW, CRC, and ICMW). It also makes reference to other instruments, such as the United Nations Convention against Transnational Organised Crime, and in particular its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and its Protocol against the Smuggling of Migrants by Land, Sea and Air. Moreover, its articles cover both civil and social rights that are at risk of violation among domestic care workers, thus taking an integrated approach towards human rights law<sup>27</sup>. Finally, the Convention acknowledges the human rights principles (not only the indivisibility and interdependency ones that have been already mentioned, but also the participation and non-discrimination ones). As for the universality principle, it is the one which is ambiguously tackled through the Art. 2, which states:

- 1. The Convention applies to all domestic workers.

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<sup>27</sup> This integrated approach breaks down traditional divisions between civil and social rights – a position that we find in human rights law where the international community has sometimes opted for an artificial strict separation between categories of human rights (see, for instance, the ICCPR and the ICESCR). It is one of its important contributions, for it rests on the recognition that human rights are not easily separable, either practically or as a matter of principle. There is no hierarchy between them. The right to privacy is no more important than the right to decent working conditions, and there may in fact be an overlap between the two: there can be no decent working conditions for a worker who does not enjoy a certain degree of privacy in the workplace. There is also no privacy for a live-in domestic worker, whose working conditions are appalling, and who is not allowed to have private time or private space. The links between all rights are complex, and the approach of the ILO recognises that (Mantouvalou, V., 2011).

- 2. A Member which ratifies this Convention may, after consulting with the most representative organisations of employers and workers and, where they exist, with organisations representative of domestic workers and those representative of employers of domestic workers, exclude wholly or partly from its scope:
  - (a) categories of workers who are otherwise provided with at least equivalent protection;
  - (b) limited categories of workers in respect of which special problems of a substantial nature arise.
  
- 3. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organisation, indicate any particular category of workers thus excluded and the reasons for such exclusion and, in subsequent reports, specify any measures that may have been taken with a view to extending the application of the Convention to the workers concerned.

It can fairly be assumed that one reason that led to the adoption of Convention 189 was the fact that many jurisdictions exclude domestic workers from protective laws. That this Convention, which has been specifically drafted to protect domestic workers and address their precariousness, allows the exclusion of some of them from its scope is, therefore, troubling. The provision appears to be contrary to the document's purpose and incompatible with the universalist nature of human rights, including labour rights. This is also incompatible with the ILO's sectoral focus, because even though it targets a specific sector, it still excludes workers occupied in the sector (Mantouvalou, V., 2011).

Another limit of the Convention is the very broad definition of 'domestic worker', which puts in the same box very different professional profiles (e.g. workers providing face-to-face personal care, workers who are specialised in cleaning, cooking, or gardening). This is not only a sign that even the Convention does not fully recognise the value and the professional skills of this category of workers, but it also makes it challenging to gather data on the evolution of the working conditions of this category of workers. Indeed, while looking for data on domestic care workers, a researcher, a policy maker, a worker, a citizen, or any other relevant stakeholders find data on domestic workers in general, a fact which limits the capacity to have a clearer overview of the situation of domestic care workers, as well as the ability to propose, design, or implement effective strategies, policies or other initiatives to improve the working conditions of domestic care workers.

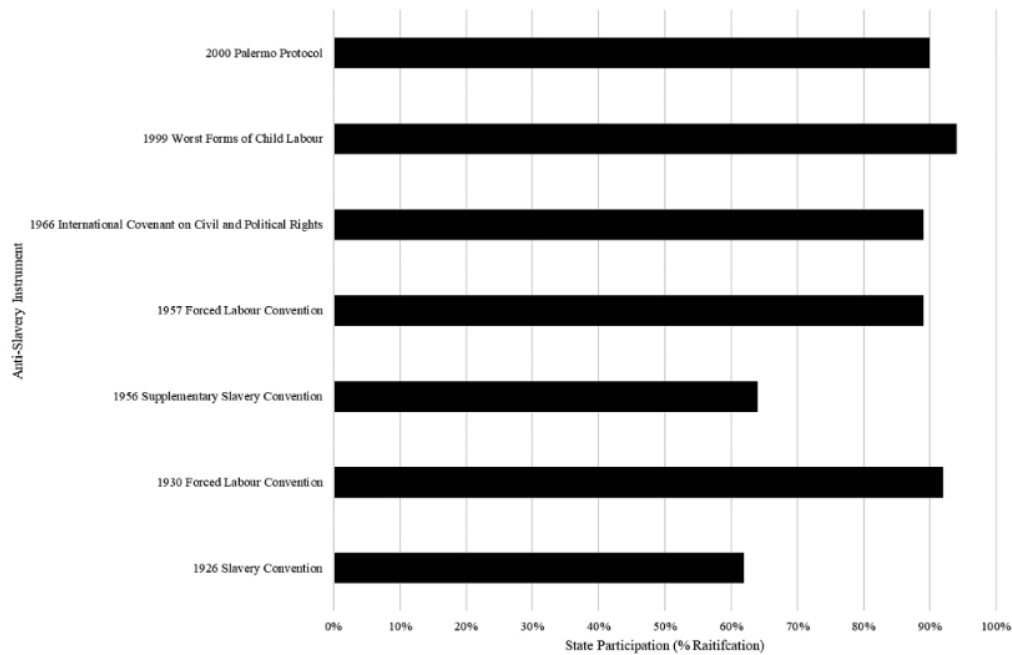
Nonetheless, since the promulgation of the Domestic Workers Convention, the case of paid domestic workers has gradually emerged as a matter of political debate involving growing numbers of international actors, attracted by the emergence of domestic workers' rights as an increasingly significant policy issue at the global level. Actors who had already been involved found new legitimation. As a result, in these years we see a large range of actors become part of this field, from political parties, trade unions and grassroots workers' groups, to humanitarian Non Governmental Organisations (NGOs), religious organisations and international organisations for workers' rights such as the International Trade Union Confederation (ITUC). International bodies such as the ILO, the International Organisation for Migration, the Global Forum on Migration and Development, UN Women, the Commission on the Status of Women, and the European Fundamental Rights Agency are also involved (Marchetti, S., 2021).

### 3.4 Protecting domestic care workers from slavery through core international instruments

If we want to focus on the Conventions that are more relevant for domestic care workers at risk of modern slavery, it is also important to refer to the following core instruments: the 1926 Slavery Convention (League of Nations, 1926); the 1930 Forced Labour Convention (ILO, 1930); the 1956 Supplementary Convention on Slavery (ECOSOC, 1956); the 1957 Forced Labour Convention (ILO, 1957); the 1999 Worst Forms of Child Labour Convention (ILO, 1999).; and the 2000 Palermo Protocol (UN General Assembly, 2000)<sup>28</sup>.

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<sup>28</sup> Another key instrument is the ICCPR, but it has already been analysed under the paragraph 3.2 of this chapter.



**Figure 8.1** States party participation<sup>†</sup> in core international instruments on slavery. *Source:* United Nations Office of the High Commissioner for Human Rights (OHCHR) (2019) ‘Delta 8.7 Consultation: Addressing Tomorrow’s Slavery Today’, p, 5.; Landman (2020: 310). <sup>†</sup>Participation includes only those countries that have signed and ratified the instruments.

*Figure 29 States party participation in core instruments on slavery (OHCHR, 2019)*

### 3.4.1 1926 Slavery Convention

Abolitionism is arguably the first human rights movement and the 1926 Slavery Convention is seen as the “first true international human rights treaty” (Landman, 2018). Even today it is part of the backbone of international law on slavery (European Union, 2018). Created under the auspices of the League of Nations, it was signed on 25 September 1926.

Article 1(1) of the Convention (League of Nations, 1926) provides a definition of slavery and slave trade. In particular, slavery is defined as ‘the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised’. Further developments in international human rights law and international humanitarian law have articulated more fully the definition of slavery (Garrington, 2020). The following articles of the Convention also establish some concrete rules to advance the suppression of slavery and the slave trade.

In particular, Article 2 of the 1926 Slavery Convention requires the States Parties merely to abolish slavery ‘progressively [...] in all its forms’ and to ‘prevent and suppress’ the slave trade. This

distinction clearly shows how the international obligations of ratifying States in the area of slave trade abolition at that time were more solidly founded than those concerning the elimination of slavery. Moreover, Article 3 affirms that States Parties shall prevent the embarkation, disembarkation and transportation of slaves in their territorial waters and on vessels flying their flags. Article 4 includes an additional obligation for States Parties to assist one another in securing the abolition of slavery and the slave trade. Finally, Article 6 requires States Parties to adopt laws and regulations giving effect to the Convention and establishing severe penalties for those who do not respect them (European Union, 2018).

Even if the Convention lacks a monitoring mechanism and clear enforcement measures (*ibidem*), it has been the first treaty taking a clear moral position on slavery. It is therefore a relevant instrument to raise awareness and identify violations and abuses of the domestic care workers' right to live free from slavery and any degrading treatments.

#### 3.4.2. 1930 Forced Labour Convention (No. 29), the 1957 Abolition of Forced Labour Convention (No. 105), and the 2014 Forced Labour Protocol

It has increasingly been recognised both politically and in the ILO's Conventions that forced labour is a form of modern slavery which can be found in every country in the world, including the so-called "developed" ones. Current estimates suggest that tens of millions of people may be in some form of forced labour. Modern slavery is hugely profitable: in 2014, the ILO concluded that "the total illegal profits obtained from the use of forced labour worldwide amount to US\$150.2 billion per year". It is worth repeating however that this is an illegal trade and, as such, data are likely to reflect orders of magnitude rather than precise numbers and that there are certain industrial sectors, of which social care is increasingly likely to be one, where the fragmentation and complexity of organisational arrangements, the dominance by private agency arrangements, difficulties in proper oversight by regulatory bodies, and the vulnerability of many of its workforce (increasingly migrant workers) may make it particularly difficult to identify or enumerate the numbers of those in modern slavery (Craig, G. and Clay, S., 2017).

The Convention Concerning Forced or Compulsory Labour (No.29), known as the Forced Labour Convention, is one of eight ILO fundamental Conventions of the ILO that have already been mentioned at the beginning of this chapter. Adopted in Geneva in 28 June 1930, it provides a broadly accepted definition for forced labour which encompasses all work or service that is exacted from any

person under the menace of any penalty and for which the said person has not offered himself voluntarily (Craig, G. & Clay, S., 2017). It defines forced or compulsory labour as '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' (ILO, 1930), requiring States to punish forced labour as a criminal offence, and the Abolition of Forced Labour Convention of 1957 (No 105) (Mantouvalou, 2006).

Subsequent ILO Conventions have taken the debates on forced labour further and identified groups particularly at risk. For example, the establishment of ILO's "Special Action Programme to Combat Forced Labour" was a response to the 1998 ILO "Declaration on Fundamental Principles and Rights at Work". Later Conventions have particularly identified children and domestic workers as targets for the prevention of forced labour (Craig, G. & Clay, S., 2017).

Furthermore, the ILO Forced Labour Protocol, adopted in 2014, requires Member States to take effective measure to prevent forced labour, protect victims and ensure their access to justice. In particular, countries must ensure the relevant legislation applies to all workers in all sectors. This obligation is particularly relevant for domestic workers as one key issue is that they are not always recognised as workers by the national legislation, hence not benefiting from the same rights and protection (ILO, Recognizing the rights of domestic workers, 2018).

### 3.4.3. 1956 Supplementary Convention on Slavery

Article 1 of the 1956 Supplementary Convention on Slavery (ECOSOC, 1956) contains definitions of the practices similar to slavery. These include: '(a) Debt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards liquidation of the debt or the length and nature of those services are not respectively limited and defined; (b) Serfdom, that is to say, the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status; (c) Any institution or practice whereby: (i) a woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or (ii) the husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or (iii) a woman on the death of her husband is liable to be inherited by another person. (d) Any institution or practice whereby a

child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour’.

According to Article 1 of the Supplementary Convention, States Parties shall adopt measures aimed at abolishing these exploitative practices ‘progressively and as soon as possible’. Article 2 also provides for additional measures aimed at elimination of the institution and practices referred to in Article 1(c) by requiring the States Parties to ‘undertake to prescribe, where appropriate, suitable minimum ages of marriage, to encourage the use of facilities whereby the consent of both parties to a marriage may be freely expressed in the presence of a competent civil or religious authority, and to encourage the registration of marriages’. Moreover, Articles 3 and 4 of the Convention require States Parties to criminalise the transportation or attempt to transport slaves from one country to another, to prevent ships and aircrafts flying their flags to engage in the slave trade, to exchange information and to free slaves who take refuge on board their vessels. The next provision provides for States Parties to punish anyone attempting to mutilate, brand, or mark a slave to indicate his/her status.

As the previous Conventions that have been mentioned in this thesis, the 1956 Supplementary Convention is a legal instrument which can help tackle violations and abuses of the domestic care workers’ right to live free from slavery and any degrading treatments.

#### 3.4.4. 1999 Worst Forms of Child Labour Convention (No 182)

According to ILO (ILO, 2023), 17.2 million children are in paid or unpaid domestic work in the home of a third party or employer. Of these, 11.5 million are in child labour, of which 3.7 million are in hazardous work (21.4% of all child domestic workers), and 5.7 million, mostly adolescents, in permissible work but need to be protected from abuse and provided with decent work.

An international legal instrument to tackle this phenomenon is the 1999 Worst Forms of Child Labour Convention (ILO, 1999). For the purposes of this Convention, the term the worst forms of child labour comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

The treaty commits its Parties to take direct domestic action on eliminating and prohibiting the worst forms of child labour, such as slavery, sexual exploitation, the use of children for illegal activities as well as work which is likely to harm the health or safety of a child. The Committee of Experts is responsible for monitoring and supervising the effective implementation of the Convention. It is supported by the International Programme on the Elimination of Child Labour, which helps country's with effectively implementing the Convention (GSP hub, 2023). These monitoring mechanisms can help report any forms of exploitations of children in the domestic care sectors, as well as to push for changes in the national policies of the Parties that ratified and will ratify the Convention.

#### 3.4.5. The 2000 Palermo Protocol

In 2000, the United Nations introduced a protocol, known as the Palermo Protocol, which defines the nature of trafficking and provides a list of requirements to which those signing up to the protocol have to respond. Article 3 of the Protocol (UN General Assembly, 2000) defines trafficking as: (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the 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, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs; (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used; (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article; (d) "Child" shall mean any person under eighteen years of age



In a context where criminal gangs responsible for organising both trafficking and forced labour move across national borders, it would be surprising indeed – although a matter of speculation at this juncture – if some trafficked women are not offered a range of “opportunities” to comply with the requirements of these gangs: for example, some women may be asked to choose between working in a brothel or working in the care sector. The constraints and potential areas of control and coercion are the same: control over mobility, removal of ID documentation, huge deductions from wages, threats of violence or disclosure to authorities, and threats to family and friends in their home countries (Craig, G. & Clay, S., 2017).

Thanks to the Protocol, the field of study on trafficking in human beings has developed greatly. It has gone through important shifts, one of which being greater attention toward forms of trafficking other than sexual exploitation, notably for forced labor and services. One of the emerging areas that has gained interest and that needs further research is that of human trafficking in domestic work. It is timely to look at trafficking in the context of care and domestic work, not only because this area has been largely understudied, but also because in this context the private realm of interpersonal relations — a domain that has remained largely unexplored in the trafficking field of studies — are of fundamental importance. Given the peculiar nature of domestic work—being performed in private households and being at the junction of labor market and family—looking at trafficking in this context can contribute to advancing further the understanding of human trafficking (Ricard-Guay, A., & Maroukis, T., 2017).

### 3.5 Legislation is not implementation: closing the gap

Unfortunately, the ratification by a country of the above-mentioned international treaties are not a guarantee that domestic care workers’ rights are respected, protected, and fulfilled. Even those countries that have adopted national, regional and local legislation covering domestic care workers can still face challenges in ensuring that domestic care workers enjoy their rights.

In its recent publication (ILO, 2021), the ILO has identified key steps government should take to overcome this situation: legally recognising domestic care workers (1); establishing working time laws in domestic care work (2); fixing an appropriate minimum wage level for the domestic care sector (3); extending the scope of social security laws to domestic care workers (4); covering domestic care workers by occupational safety and health (OSH) policies (5); addressing carers’ domestic

violence risks (6); ensuring carers' access to justice (7); promoting the professionalization of carers' professional profile (8); facilitating and promoting an appropriate representation of domestic care workers (9). By implementing these recommendations, governments will have the opportunity to tackle all the carers' human rights violations and abuses that have been described in the Chapter II (see Figure 30) and, consequently, implement key provisions of the international human rights and labour rights treaties that are relevant for domestic care workers. Please find below more details on the steps that the ILO recommends.

	1	2	3	4	5	6	7	8	9
a	X	X	X						
b	X	X	X			X			
c	X	X	X				X		
d		X							
e	X								
f	X					X			X
g	X			X	X				
h	X				X				
i		X							
l	X	X	X		X	X			
m	X							X	
n	X	X	X	X	X	X	X	X	X

*Figure 30 Domestic care workers' human rights violations that the 2021 ILO recommendations can help tackle<sup>29</sup>*

<sup>29</sup> Legenda: the right to freedom from slavery (a); the right to freedom from degrading treatment (b); the right to an effective remedy (c); the right to privacy and family life (d); the right to freedom of movement and residence (e); the right to freedom to peaceful assembly and association (f); the right to social security (g); the right to work (h); the right to rest and leisure (i); the right to health and an adequate standard of living (l); the right to education (m); and the right to freedom from discrimination (n); legally recognizing domestic care workers (1); establishing working time laws in domestic care work (2); fixing an appropriate minimum wage level for the domestic care sector (3); extending the scope of social security laws to domestic care workers (4); covering domestic care workers by occupational safety and health (OSH) policies (5); addressing carers' domestic violence risks (6); ensuring carers' access to justice (7); promoting the professionalization of carers' professional profile (8); facilitating and promoting an appropriate representation of domestic care workers (9).

## 1. Legally recognising domestic care workers

Despite their wide presence and extensive contribution to household and care work, domestic care workers often lack legal recognition and are virtually invisible as part of the informal economy labour force (ILO, 2021). Therefore, recognising their work as "real" work would discourage exploitation, human trafficking, and other human rights abuses that have been highlighted throughout the thesis. Social dialogue – particularly when it includes the participation of both employers' and workers' organisations, as well as organisations of domestic workers and of their employers, where they exist – has served to achieve such recognition and ensure that levels of protection are adequate (ILO, 2021).

## 2. Establishing working time laws in domestic care work

By virtue of living in the household, domestic care workers and their employers are likely to build close ties, working and living together for many years. However, living in the homes of their employers has also meant that these workers on average work far more hours per day and per week than almost any other category of workers. In some cases, the isolation of domestic workers in the household has meant that they are expected to be available to work around the clock, with very little rest (ILO, Working time of live-in domestic workers, 2013).

Therefore, the ILO calls on governments to establish periods of daily rest, as well as regulate overtime pay and compensatory rest. It also calls on governments to ensure that carers enjoy their right to leave the household during rest periods. According to the ILO, adequate regulation shall also be complemented by public awareness campaigns and tools to facilitate the monitoring and enforcement of working time regulations (ILO, 2021).

To make these measures effective, programmes should also be developed to extensively raise awareness and promote good employment practices in the domestic work sector. In particular, policymakers shall (ILO, Working time of live-in domestic workers, 2013):

- in working time regulation, define normal hours of work, rules regarding standby, rest periods and breaks, and encourage workers and employers to negotiate clear work schedules, including start times and end times;
- limit standby time and overtime hours, and define how these periods are to be remunerated;

- set adequate periods for short breaks during the day, and daily rest to ensure domestic workers have time to get adequate rest;
- set strict conditions under which night work can be performed and sleep/daily rest can be interrupted;
- ensure that domestic workers are allowed to leave the household for their periods of break, daily rest, and weekly rest;
- ensure compensatory rest in case of exceptional work during rest periods, especially at night, is, irrespective of financial compensation;
- require employers to document the domestic worker's work schedule as well as any extra hours worked. Such provision can also provide that these records are accessible to the worker and the authorities charged with supervising compliance with the legislation, such as labour inspectorates.

### 3. Fixing an appropriate minimum wage level for the domestic care sector

ILO estimates suggest that domestic workers typically earn less than half (and sometimes no more than about 20 %) of the average wage in any given country (ILO, 2018). Therefore, it calls on governments to engage with social partners<sup>30</sup> to fix an appropriate minimum wage level that accounts for the specificities of the sector (ILO, 2021). As simulations have demonstrated, achieving full compliance with the minimum wage among domestic care workers would contribute to a reduction in overall wage inequality, will have the visible effect of reducing household inequality and will reduce relative poverty, both among domestic workers' households and overall (ibidem).

### 4. Extending the scope of social security laws to domestic care workers (including maternity leave and cash benefits)

As already mentioned, recent estimates show that 90% of domestic workers do not have access to social security. This lack of coverage disproportionately affects women, as more than one third of domestic workers are excluded from maternity protection laws, and pregnancy frequently results in income loss or even termination of employment (ILO, 2018).

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<sup>30</sup> As already mentioned, unfortunately, this is not always possible, because trade unions representing domestic care workers are not present in all countries yet.

To overcome this situation, the ILO calls on governments to remove administrative barriers, facilitate registration with multiple employers, simplify registration and contribution procedures and facilitate access to benefits. It also recommends to adapt contributory rates to the capacity of household employers and domestic workers alike, while ensuring that the benefits enjoyed by domestic workers are no less favourable than those enjoyed by workers generally. Finally, it calls on governments to adapt inspection mechanisms to promote compliance in the sector, including by establishing the conditions under which labour inspectors may be granted access to household premises as the workplace of domestic workers (ILO, 2021).

## 5. Covering domestic care workers by OSH policies

Even though domestic work is such an important source of employment, even though there are many health and safety risks involved in the work, and even though domestic workers are vulnerable to poverty if they become sick or injured, OHS legislation in many countries does not cover them (EFSI Europe, 2019).

The ILO calls on governments to ensure that domestic workers are covered by OSH laws, either through inclusion of domestic workers within the scope of OSH laws or by adopting special regulations for the sector. Such laws can mandate households or other employers to make domestic workers aware of OSH risks. Enforcement of these laws can be enabled by establishing the conditions under which labour inspectors may be granted access to household premises and by building the capacity of labour inspectorates to carry out awareness-raising and inspections (ILO, 2021).

## 6. Addressing carers' domestic violence risks

Domestic workers provide essential care for our homes and loved ones; yet, they frequently suffer forms of violence and harassment (ILO, Domestic work: Recognizing the rights of domestic workers, 2018). To denormalise violence towards domestic care workers, the ILO calls on governments to take two kinds of actions (ILO, 2021). Firstly, to make sure that these workers are covered by equality and non-discrimination laws, that must cover all forms of violence and harassment to which domestic

workers are exposed. Secondly, public awareness should be raised at national and local level via campaigns, guides, informational materials and hotlines.

#### 7. Ensuring carers' access to justice

Those care workers that are victims of abuses face significant barriers in accessing justice. Some of them are unfamiliar with reporting channels, do not trust governmental authorities, or simply do not have access to the justice system under national laws. Moreover, the significant asymmetry of power between domestic workers and their employers constitutes an obstacle to accessing justice. Furthermore, the burden of proof on the victims increases their difficulty in substantiating coercion and abuse. Finally, very few victims seek compensation for exploitation and as survivors do not always identify as victims. Others continue to endure the abuse because they have to send money to their families back home (OHCHR, 2018).

According to the ILO (ILO, 2021), governments should ensure domestic care workers' access to justice by: (a) strengthening the capacity of institutions to prosecute cases; (b) providing avenues for domestic workers to bring complaints and measures to protect them from reprisals; (c) allowing human rights and other organisations to denounce cases of violence and harassment; and (d) protecting whistle-blowers.

#### 8. Promoting the professionalization of carers' profile

The majority of domestic care workers are migrant women who are often in an irregular situation. In spite of the difficulties to accurately quantify the number of often-unregistered employees in this sector, statistical evidence confirms this statement (Gallotti, 2009).

According to the ILO (ILO, 2021), Member States should adopt coherent and integrated strategies to facilitate the transition to the formal economy by: (a) reducing the financial and transaction costs of formal employment; (b) simplifying procedures for registering and making contributions to social security; (c) increasing the costs of non-compliance; (d) raising awareness.

Concerning the last point, in many countries the awareness raising process has started with the development of standard or model contracts (for example in South Africa, Switzerland, Chile, Spain,

and Hong Kong). Other countries have published guides on the legal obligations in employing domestic workers directed at employers and domestic workers, for example in Colombia, Argentina, Uruguay, British Columbia (Canada), and Singapore. Organisations of workers and employers (when existing) have a key role to play in this respect, raising awareness of their constituents and helping them to learn appropriate behaviours in the domestic employment relationship (ILO, Working time of live-in domestic workers, 2013).

#### 9. Facilitating and promoting an appropriate representation of domestic care workers

The decentralisation and isolation of the workers in homes creates practical barriers to forming trade unions; and low worker to employer ratios make workplace bargaining practically impossible. Moreover, withholding labour is not an effective source of bargaining power for domestic workers: if a domestic worker “strikes”, the employer can simply hire another who is sufficiently eager to escape poverty and willing to endure unfair labour practices (ILO, Domestic work voice and representation through organising, 2015).

The ILO calls on governments to facilitate and promote the creation and development of organisations of domestic care workers and of organisations of their employers. The existence of organisations of employers of domestic workers is a prerequisite for collective bargaining and has also contributed to successful social dialogue beyond collective bargaining (ILO, 2021).





## CHAPTER IV - CHANGING PARADIGM: ENABLING PROCESSES

*“Nel campo dell’esperienza umana ci sono cose essenziali, irrinunciabili. Tuttavia, può accadere che questa essenzialità, pur evidente nella quotidianità, sfugga al lavoro del pensiero. Una fondamentale evidenza è il fenomeno della cura.”<sup>31</sup>*

*Luigina Mortari*

Chapter IV briefly presents key processes that can help ensure that domestic care workers enjoy their human and labour rights. It is by no means an exhaustive list, but hopefully it provides some paths that can be taken. In particular, the chapter focuses on the role of the civil and the social dialogue, as well as the role of care workers themselves in advancing the relevant policy agendas. It also presents the role of the ILO in extending labour and social protection to all domestic care workers, as well as in ensuring the implementation of national strategies, policies, and measures targeting them.

### 4.1 The need for a paradigm shift

Care work generates benefits that extend beyond the person who receives care. It has a positive impact on the society as a whole. Therefore, it can be considered a public good. However, the sector is still strongly infected by the legacies of slavery and of colonial domination (Marchetti S. , *Black Europe? Some Views from Afro-Surinamese Migrants in the Netherlands*, 2014). It can be safely said that there is no other labour movement that questions so fundamentally gender, race, ethnic, class, and legal oppressions than the domestic workers’ movement (Hernandez D. & Chong C., 2017).

According to Marchetti (Marchetti S. , *Migration and Domestic Work*, 2022), racialisation of social differences is still evident in contemporary societies, and it is of the utmost importance in the relationship between employer and employee. This is for example when the former belongs to the privileged urban middle class and the latter is a racialised woman from a rural background living on the outskirts of a major city, or when women from an indigenous background work for households belonging to the ethnically/racially privileged group.

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<sup>31</sup> If we look at our human experience, there are aspects that are essential. However, it may happen that their essentiality, which is so obvious in our daily life, is neglected by our intellectual work. One proof of this is the care phenomenon.

According to Glenn (Glenn, E., 1998), we can observe a ‘racial division of paid reproductive labor’ across continents. In South America, for example, differences between women as employers or employees are strongly infected by colonial legacies and internal migrations (Marchetti S. , Migration and Domestic Work, 2022). This legacy consists in a constant, albeit unmentioned, presence of what she calls the ‘ghost of slavery’ (Sharpe, 2003). If we look at Europe, it must be taken into account that large numbers of migrants arrived from former colonies in the 1960s to the 1980s migrations (Marchetti S. , Migration and Domestic Work, 2022). The employer-employee dualism descends from a pattern inaugurated in the colonial setting, where the normative character of the relationship between native women and bourgeois Europeans was established (ibidem). Representations attached to postcolonial migrant women led to contrasting endings: they eased their entrance into the former colonizers’ society but, at the same time, they relegated them to the lowest strata of that same society<sup>32</sup> (Marchetti S. , Black Europe? Some Views from Afro-Surinamese Migrants in the Netherlands, 2014) . These women have been living a life on the edge of this ambivalence, where being postcolonial migrants was simultaneously their tool of resistance, and the reason for their subordination. Postcoloniality, in this sense, is a double-sided relationship between colonized and colonizers, oscillating between a positive recognition and a strangling tie (ibidem).

Caring for care workers means reversing these trends by extending protection to all care workers, in particular migrant workers, promoting professionalization while avoiding de-skilling, ensuring workers’ representation and collective voice, and avoiding cost-saving strategies in both the private and the public sectors that depress wages or shorten direct care time. The working conditions of care workers should be improved as a matter of equity, and because they are directly linked to the quality of care services. Poor job quality for care workers leads to poor care quality, and this is detrimental

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<sup>32</sup> One of the many examples of how workers and agencies manipulate gendered constructions of caregiving, making it more suitable for specific categories of women (and not for others) comes from the history of paid home care in the Netherlands. These agencies’ managers were literally encouraging Afro-Surinamese women to ‘take advantage of their background’, thus promoting an essentialist image of Surinamese women as particularly gifted in the care of the elderly. In other words, the agencies were emphasising that ‘Surinamese culture’ had something to offer to Dutch society: Surinamese women’s marketable caring skills. In so doing they encouraged the creation of a labour niche based on specific gendered and racialised representations. In this context, the agencies thus performed a mediation, not only at the economic level, but also at the cultural level, in the encounter between demand and supply. In practical terms, the agencies appreciated a form of education that was rather common among Afro-Surinamese women, such as studies related to sanitation, infancy, or housekeeping. Secondly, they promoted representations emphasising ‘respect’ for elderly people as a racialised characteristic of Surinamese society which is a common essentialist belief. These attitudes also correspond to the narratives about the competition between Afro-Surinamese and Dutch caregivers regarding their respective caring abilities, based on different characteristics perceived to be typical of both groups. The first narrative refers again to the allegedly more respectful attitude of the Surinamese than the Dutch. A second theme is the question of cleanliness, as Afro-Surinamese care givers often complain about the poor hygiene of their Dutch colleagues. This last point is very interesting as far as it shows Surinamese women’s attempts to dismantle the perceived superiority of their white colleagues and rehabilitate their own background in racialised terms (Marchetti S. , Black Europe? Some Views from Afro-Surinamese Migrants in the Netherlands, 2014).

to the well-being of those who receive care, those who provide care, and also those unpaid carers who have fewer options available (ILO, 2018).

Caring for carers require an urgent paradigm shift, which finally value the precious and essential role that domestic care workers play, in particular in the framework of the current demographic change. We need a shift in the way we think of gender relations, families, the economy, and decent work. We also need to rethink our care, macroeconomic, social protection, labour and migration policies in order to yield positive outcomes both for those in need of care and those who give care, whether for pay or not (ILO, 2018).

Finally, caring for carers requires the engagement of governments, employers, workers and their organisations as well as representatives of unpaid carers and care recipients (ILO, 2018). It also require the mobilisation of other relevant stakeholders, such as trade unions, CSOs, and domestic care workers themselves. Campaigns and mobilisations are already going on with the aim to transform our economies into economies that value care –not wealth– and to make visible that household and care work is the work that makes all the economies function (Hernandez D. & Chong C., 2017).

#### 4.2 The potential of the human rights-based approach and its current limits

Participation, especially of those at risk of and of those experiencing some form of vulnerability, is necessary for policies to become more inclusive and appropriate to address diverse forms of disadvantage (AGE Platform Europe, 2020). A HRBA to care work places human rights standards and principles at the centre of all decision-making processes that concern them. In particular, it has four main benefits (British Institute of Human Rights, 2008):

1. all key stakeholders are empowered and can participate in achieving the realisation of rights;
2. the rights promoted are explicitly linked to national and international human rights law;
3. accountability is clear;
4. the most discriminated against, marginalised or excluded people are prioritised.

A HRBA to care work has the potential to make sure that care workers' human rights are protected in practice, as well as to change the culture behind care policies and other relevant ones. However, even a HRBA to care work pays the fact that the care work has been for a long time excluded from the political discourse. Indeed, even the International Human Rights Framework does not foresee a

right to care. It includes a right to work, to education, to participate in the political life, but not to take care of someone's relatives and friends. Moreover, the right to be cared for is just foreseen in the CRC (UN General Assembly, 1989), which targets persons under the age of 18, as if adults do not need care anymore<sup>33</sup>.

According to the philosopher Mortari (Mortari, 2015), the limits of the reasoning behind the human rights agenda is the idea that human beings are independent and autonomous individuals. This vision neglects the human dependency on others which characterises important phases of our lives. The equality theories are also based on the idea that citizens have rights as individuals, single entities. Moreover, the philosopher Kittay (Kittay, E., 1999) put into question the assumptions of the equality theory stating that “she was the daughter of a mother too”, because “anybody is the son/daughter of a mother”. By doing so, she wanted to stress how we all depend on the relationships with others, and, as a consequence, how we cannot enjoy equality on our own (equality needs to be shared with others).

These reflections show how the key role of care in our societies should be better reflected and included not only, as already said, in our laws and policies (e.g. labour, economic, and care policies), but also in the International Human Rights Framework. Policy makers must lead the shift from a strategy that relies on market based and voluntary care provision of the most informal and exploitative kind, to one that nurtures professional, decently paid and compassionate forms of care (Razavi, S., & Staab, S., 2011), together with CSOs, trade unions, domestic care workers themselves, and any other relevant stakeholders.

#### 4.3 The role of the ILO

Since the beginning of the 21st century, the situation facing domestic care workers has increasingly garnered attention and action has been taken to improve the rights of those working in the sector. Among those making this change happen are international organisations such as the ILO (Marchetti, S. & All, 2021).

Once a country has ratified an ILO Convention<sup>34</sup>, it is obliged to report regularly to the ILO on measures it has taken to implement it. Every two years governments must submit reports detailing

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<sup>33</sup> It is also included in the CRPD, but in the article referring to children with disabilities.

<sup>34</sup> Please check the Chapter III for more details on the ILO Conventions that are more relevant for domestic care workers.

the steps they have taken in law and practice to apply any of the eight fundamental and four priority Conventions they may have ratified; governments are required to submit copies of their reports to employers' and workers' organisations. These organisations may comment on the governments' reports; they may also send comments on the application of Conventions directly to the ILO. Conformity with international norms relating to the human and labour rights of domestic workers helps to uphold equality of treatment and non-discrimination (ILO, *Protecting Migrant Domestic Workers: The international legal framework at a glance*, 2006).

To promote improved and equal working conditions for domestic care workers, the ILO also carries out policy advisory services for national constituents, technical assistance projects at country-level, research and knowledge development, and policy advocacy campaigns. Critical areas addressed include policies and programs regarding working time of domestic workers that safeguards their health and safety, work-family balance and adequate rest; wage protection including minimum wage, and employment practices that shape terms and conditions of employment of domestic workers (ILO, 2023).

Moreover, the ILO has the potential to raise awareness on the role domestic care workers play in our society. They can also help recognise the positive impact that the care work brings to our society as a whole. For example, the ILO (De Henau, 2022) has recently estimated that, globally, investing in universal childcare and long-term care would create 280 million jobs by 2030 and another 19 million by 2035. Moreover, it has shown that an annual spend of 4% of total GDP would create millions of jobs that could be paid for, in part, from tax earnings that would rise because of increased incomes and employment, reducing the cost closer to 3% of GDP. Finally, this recent ILO study has estimated that investing in care would boost the employment rate of women by 78%, and 84% of the jobs would be formal.

The ILO has also the potential to mobilise, across the world, a wide range of stakeholders. A proof is the mobilisation that the 2011 Domestic Workers Convention created<sup>35</sup>. Through the monitoring of the implementation of the Domestic Workers Convention, the ILO also has the opportunity to gather data on the progress made in achieving decent working conditions for domestic care workers<sup>36</sup>, an

<sup>35</sup> More details are provided in the chapter III, which contains a specific subchapter on this Convention.

<sup>36</sup> Unfortunately, the Convention covers all domestic workers, not only the care ones. This is a limit in terms of data collection, because ILO information cannot be used to analyse the situation of care workers only. Therefore, there are still big margins of improvement.

information which is still so much lacking. This information is not only useful for policy makers, but also for all the activists and the researchers who aim at ensuring that carers enjoy their human and labour rights.

#### 4.4 The role of the civil dialogue and social mobilisation

The social isolation in which domestic work is done, and the fact that it is done “behind closed doors”, in private homes, compounded with other forms of legal and social exclusion have long made the conditions of work of domestic workers’ invisible (Hernandez D. & Chong C., 2017). Raising the voice of domestic care workers, as well as raising awareness on their working conditions is a key step to achieve change in the care sector.

CSOs can play a key role in organising and giving voice to domestic care workers in their call for equity and decent livelihoods; and in holding governments and the international community to account when they fail to implement the legislation, policies and funding to which they have committed (SOLIDAR, Realising Decent Work and Social Protection for All: How civil society organisations are creating change, 2011). They can provide them with spaces where they can exchange views, they can carry out studies or gather relevant data on the characteristics of this category of workers, their working sector, and their working conditions.

In North America, for example, the National Domestic Workers Alliance (NDWA) is playing a key role in making the stories of domestic care workers visible. In 2012, for instance, it published the report “Home Economics: The Invisible and Unregulated World of Domestic Work” (NDWA, 2012), a participatory research investigation conducted with the Center for Urban Economic Development of the University of Illinois of Chicago and Data Center. The report is based on the results of the first national survey of domestic workers in the United States, that provides an empirically based and representative picture of domestic work in the country. These reports have been a critical first step for designing program work and campaign demands, to connect with workers and invite them to join our organisations, to build the leadership of members and worker leaders, and to reveal that substandard working conditions are pervasive in the industry (Hernandez D. & Chong C., 2017).

Moreover, CSOs can provide domestic care workers with services. In addition to legal support, information on job contracts, working conditions and professional training, they also provide schooling and literacy programs, education against gender-based violence and for women’s health

and wellbeing, and political and leadership training. The latter are designed to strengthen knowledge and abilities that are key to active participation in the public and political sphere (for example strategies for unionization or public speaking) (Marchetti, S., 2021)<sup>37</sup>.

In Europe, for instance, the Global Network, coordinated by SOLIDAR and the International Federation of Workers' Education Associations, enables workers' movements and CSOs worldwide to demand their human, social and economic rights, including the right of everyone to a basic level of social protection, by: empowering them to develop a strong collective voice and to take action to create policy, legislative, social and practical change; providing evidence to support their demands; and creating links to wider social and labour movements to support their calls for equity and change (SOLIDAR, Realising Decent Work and Social Protection for All: How civil society organisations are creating change, 2011).

Moreover, some organisations have set up plans for improving the economic conditions and bargaining power of their members, through the creation of community saving cooperatives or domestic workers' cooperatives. Depending on the circumstances and opportunities in the field, some of these activities and programmes were created and delivered autonomously from the bottom, while others happened in collaboration with allies (both non-profit organisations and public institutions). These organisations also function as solidarity and mutual support groups that support domestic workers both in their labour relations and in other aspects of their lives. This also addresses the importance of self-representation, self-esteem, and identity. In other words, the function of these groups transcends the field of labour alone and expands towards wider issues related to women's experiences, migration, access to education, political participation, personal and economic autonomy, as well as health, sexuality, and personal and family wellbeing (Marchetti, S., 2021).

Furthermore, CSOs can contribute to the adoption and implementation of the international human rights that are relevant for domestic care workers, such as the ones that are mentioned in the Chapter III. Indeed, CSOs can obtain consultative status with the UN Economic and Social Council. Consultative status with the Economic and Social Council provides non-governmental organisations (NGOs) with access not only to ECOSOC, but also to its many subsidiary bodies, to the various human rights mechanisms of the United Nations, ad-hoc processes on small arms, as well as special events organised by the President of the General Assembly (UN, 2023). Moreover, when

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<sup>37</sup> How domestic care workers are recruited, what rights they have and how their employment can be recognised in their later careers is typically neglected in political discourses. Many care workers have unclear working hours and inadequate social security. (Caritas Europa, 2019).

governments submit their required report about the national implementation of the international human rights treaties they have ratified, CSOs can submit “shadow reports” to provide grass-root data on the status quo. Finally, CSOs can advocate for the ratification of international human rights instruments, as well as for national or local strategies to implement their provisions.

If we look at the ILO legal instruments that have been described in the Chapter III, CSOs can also contribute to their adoption and implementation. Indeed, the ILO engages in cooperation and consultation with CSOs both in its standard setting mechanisms and in the implementation of its development cooperation programmes (ILO, 2023). Each year between 60 and 80 INGOs are invited to participate in the International Labour Conference on issues on which they have a special interest and can make a contribution to the technical discussions (*ibidem*). They contribute to a wide range of issues, such as the promotion of human rights in general, social security, or gender issues. The names of these organisations can be found in the ILO Special List of NGOs (ILO, 2023).

Last but not least, CSOs can also contribute to that paradigm shift which is so much needed to make sure that the care work is recognised and valued as a building block of our societies. In this sense, it is worth mentioning the NDWA campaign “Caring Across Generations” (NDWA, 2023), an awareness raising and mobilisation initiative which represents more than 100 local, state, and national organisations across the USA.

This campaign stands for the vision that care, and not production, is the value of domestic work. It is bringing together domestic workers, alongside children, seniors and people with disability to jointly bring solutions to lack of value of care in this country. According to Jill Shenker, “culture change is one of the campaigns core strategies; it seeks to change how our country understands aging and values care.” With their strategy they are uniting care givers, with people that need care and their families as a strategic alliance to improve the conditions of all of the parties involved. What is powerful about this campaign is that we are all living this situation today or will be tomorrow; it speaks to all of us (Hernandez D. & Chong C., 2017).

CSOs can also contribute to the needed paradigm shift through interventions in the use of language. They can challenge the representation of domestic care work as ‘intimate’ yet ‘dirty’ work. They can also use new terms have the effect of challenging the ambivalent position of the worker within the employing family, such as *kasambahay* (companion in the family) in the Philippines or *colf* (*collaboratrice familiare*, collaborator of the family) in Italy (Marchetti, S., 2021).



To conclude, civil society can play key role in four key areas. Firstly, they can help workers know their rights: they can raise awareness among them so that they can claim and exercise their rights. Secondly, they can gather the voice of several workers: they can bring together unorganised and isolated workers and support them in gaining official recognition as interlocutors so that they can fully participate in pushing for the development and implementation of a basic level of social protection. Thirdly, they can advocate for and support legislative changes. Finally, they can monitor the implementation of national laws and international commitments (for example, ratified ILO Conventions) and hold governments to account when they fail to deliver on commitments (SOLIDAR, Realising Decent Work and Social Protection for All: How civil society organisations are creating change, 2011).

However, CSOs face several challenges in effectively voicing the needs of domestic care workers. One of them is the lack of financial and human resources. A second one is the fact that domestic care workers, as already mentioned, are isolated and often unaware of their rights. Moreover, they are often illegal migrants who are too afraid to raise their voice. In order to overcome these difficulties, alliances among them are for sure very beneficials, as well as alliances with other relevant stakeholders, such as trade unions.

#### 4.5 The role of the social dialogue

The existence and representativeness of workers' organisations covering care workers, as well as the coverage of social dialogue mechanisms, including collective bargaining, also plays an important role in determining the pay and working conditions of care workers, as well as the voice they have in other decisions that affect them (ILO, 2018). Unions have the formal role for workers in the ILO, that gives them the ability to participate in the processes at the ILO, negotiating with the governments and employers. (Hernandez D. & Chong C., 2017).

At national level, trade union national centres and their affiliates are also in a unique position to advocate for new laws and policies. By negotiating national legislation and minimum standards, they can win new rights for domestic workers. Like for any other worker, legal provisions regarding annual leave, hours of work and days off are crucial and can make a big difference to the lives of domestic workers. Even when an influential trade union movement and domestic workers' organisations have won important victories, the challenge remains to ensure that the law is enforced and that domestic workers are treated with respect by their employers. This requires strong union organisations (ITUC, 2010).

For example, in India, in 2006, the National Commission for Enterprises in the Unorganised Sector proposed measures to protect the workers in the informal economy through labour regulation and social security coverage. As a result, the Indian parliament passed in 2008 the "Unorganised workers social security bill". This bill finally recognised domestic work as a type of "unorganised employment" and included the domestic workers in its scope of application following a number of advocacy campaigns by organisations of domestic workers (ibidem).

## Unions Campaigning for the adoption of a Strong ILO Convention in 2011

Speak with one voice to tell governments and employers' organisations that trade unions demand a strong ILO Convention on decent work for domestic workers in June 2011. Here is how:

- Build alliances between trade unions and domestic workers' organisations, NGOs, religious groups and other supporters in your country;
- Provide trade union space for meetings and campaigning on domestic workers;
- Write to, meet with and lobby government officials, members of parliament and employers' bodies NOW – explain them why they must support a strong Convention;
- Work with your trade union to make the campaign for domestic workers effective;
- Hold union meetings and conferences to publicise the importance of the ILO Convention to your country;
- Create a wave of public support for a Convention well before your country's delegations leave for the ILO Conference in late May 2011;
- Collect case studies and facts – create stories about domestic workers for newspapers, radio and TV. Make sure that domestic workers have a voice – collect interviews or organise for them to be interviewed by the media, anonymously if necessary;
- Educate union members who employ domestic workers about the pay and working conditions they should have.

*Figure 31 Trade Unions' Contribution to the adoption of the 2011 ILO Convention (Source: ITUC, 2011)*

Through the social dialogue, trade unions can also contribute to change the perception of the care sector, as well as to ensure it is recognised as an essential sector for our societies. As members of tripartite negotiations between government, employers and unions, trade unions can contribute to change the environment in which domestic workers are employed, they can propose new items in the healthcare and social policy agendas, and they can challenge the mindset behind the policies that have an impact on domestic care workers.

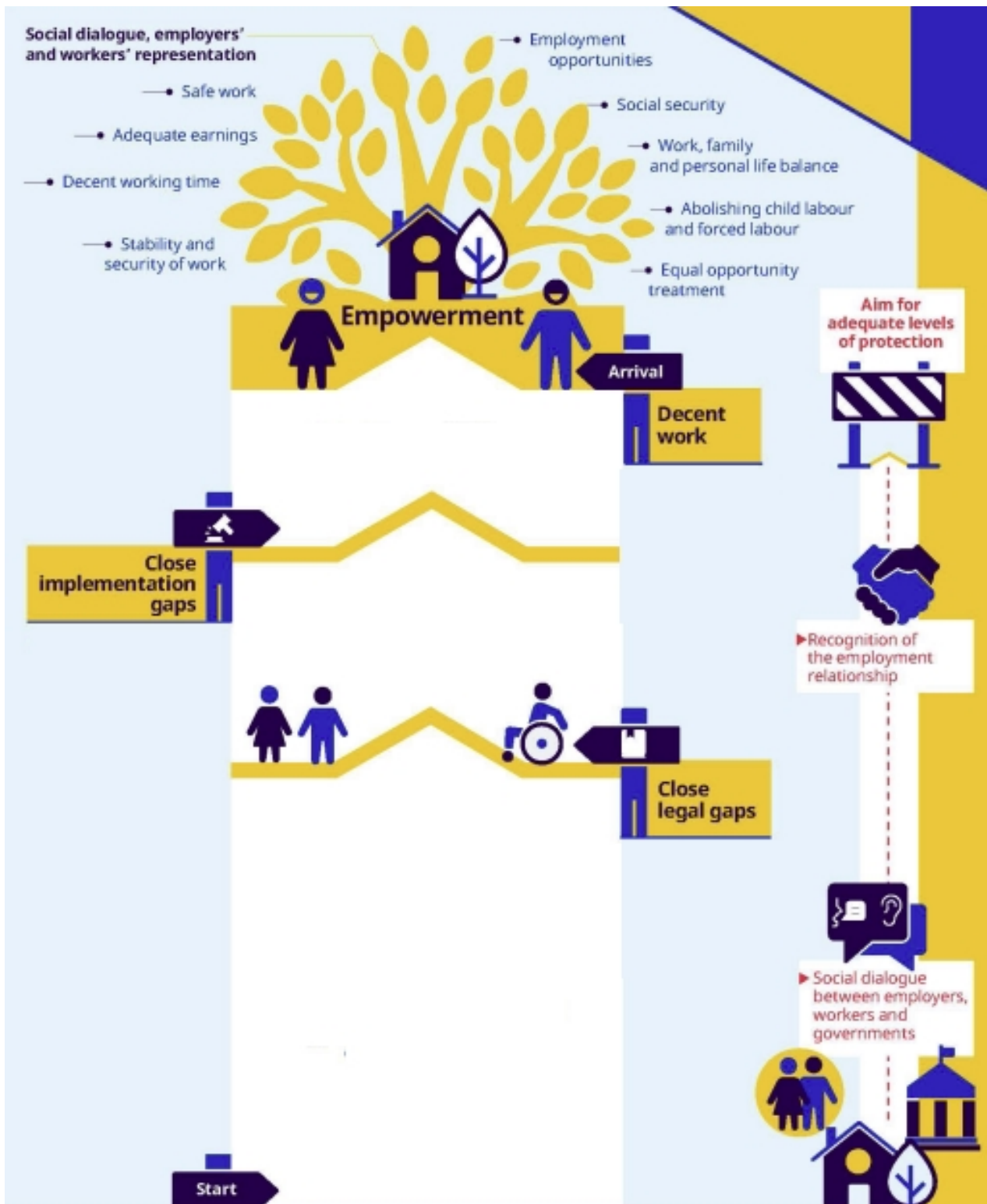


Figure 32 The role of social dialogue in ensuring domestic care workers' rights (ILO, 2021)

Moreover, trade unions can provide domestic care workers with several services: legal advice; counselling; and training. A domestic worker seeking legal redress against her employer is often fighting a losing battle, but trade unions can offer invaluable support in terms of legal assistance. This type of support is much appreciated by undocumented workers who are in a particularly

vulnerable situation. Unions can also assist domestic workers' associations with the mechanisms for filing complaints to the ILO (ITUC, 2010).

For example, Indonesia Prosperity Trade Union and Association of Nationalist Overseas Filipino Workers are workers' organisations from Indonesia and the Philippines, respectively. They are mostly comprised of domestic workers. They provide counselling, shelter and capacity building for their members. They also assist distressed members and provide legal assistance for employment-related issues. Now, these organisations have branches in Malaysia, a popular destination for Indonesian and Filipina domestic workers, allowing them to provide services to migrant domestic workers (ILO & ATUC, 2023).

Moreover, in Mauritania, the General Confederation of Mauritanian Workers cooperates with other civil society groups linked to the issue of trafficking and forced labour involving female domestic workers. The union has been running a wide scale awareness raising campaign with associations grouping migrants from Guinea, Senegal, Mali, Côte d'Ivoire, Gambia, Guinea-Bissau, Burkina Faso and Togo. Open around the clock, the priority of the trade union centre for migrants is to make contact and keep the dialogue with these women open. Aside from information and awareness raising, the trade union centre for migrants also takes cases of abuse against domestic workers or the non-payment of wages to the courts (ITUC, 2010).

While important recent efforts of individuals and organisations, particularly Trade Unions and NGOs, have largely contributed to put the subject high on the international policy agenda, still too little attention is given to the recognition of domestic work as a decent and dignified source of employment, which is in our view at the very origin of exploitation and abuse of many migrant women in Europe (Gallotti, 2009). Domestic workers' organisations face considerable challenges to effectively representing their membership, such as: overwhelming procedures to be officially registered as a recognised union; the labour-intensive process of organising domestic workers one at a time; the low contributory capacity of domestic workers in terms of union dues; and the high levels of membership turnover as domestic workers move into and out of employment (ILO, 2021).

#### 4.6 Domestic care workers as game changers

As the workers themselves progressively mobilise and become more visible, paid domestic work grows in prominence as an issue of global governance, and this has led to an accompanying improvement in labour laws and policies affecting the sector. These increasingly visible mobilisations appear to challenge the boundaries between labour movements, feminist struggles and so-called identity-based activism. They may offer a space of convergence between several issues of social justice that have traditionally been seen as distinct, such as struggles for the rights of workers, women, carers, racialised minorities and migrants (Marchetti, S. & All, 2021).

These developments show how a paradigm shift in the care sector can also start from domestic care workers themselves, who can, for example, decide to organise themselves into a union, organise a public campaign, or advocate for their rights towards policy makers and decision makers. Domestic workers' mobilisations often offer a space where several usually separate social struggles converge, such as those for equal labour rights and class equity, women's rights, recognition for ethnic and racialised minorities, and migrants' (Marchetti & All, 2021). The following paragraph will highlight some initiatives domestic workers, including care workers, have recently taken to improve their working conditions. They are based on the ITUC publication 'Decent Work, Decent Life for Domestic Workers' (ITUC, 2010).

The first one took place in Africa (Mozambique), where domestic workers organised themselves into a union, the "Sindicato Nacional dos Trabalhadores Domésticos" (the National Trade union of Domestic Workers). The entity was legally recognised by the Ministry of Labour in 2008, after two years of mobilisations and campaigns. The union played an important role in raising awareness on domestic workers' rights, as well as in professionalizing the sector. It also helped raise the voice of domestic care workers by working in cooperation with other unions.

In Europe (United, Kingdom), migrant domestic, care, workers, organised themselves through Justice for Domestic Workers, a self-help group which is part of the trade union UNITE. Unite provided domestic workers with some union courses, training and awareness-raising classes that gave them the knowledge to fight for their rights. This education and training helped workers develop and improve their skills so that they could be confident when speaking in public, in the parliament, at government meetings, national and international conferences and mobilisations.

#### 4.7. The role of international partnerships and alliances

The exploitation of domestic workers has come to be seen as a global problem whose governance is a challenge that exceeds national borders. There has been a gradual development of what can be seen as the ‘global governance of paid domestic work’: a multi-layered framework aimed at improving domestic workers’ rights, developed by some of the key actors at the forefront of gender and migration issues in recent years (Marchetti, S., 2021).

In particular, the process which has brought about the 2011 Domestic Workers Convention resembles what some scholars have defined as ‘the making of global agendas’ (Marchetti & All, 2021). In the framework of the Convention, CSOs and trade unions representing domestic care workers joint forces across the globe with other stakeholders, such as anti-racist and ethnic minority associations, humanitarian NGOs, or organisations representing employers’ interests, governmental bodies, state institutions and international organisations Studies have also considered organisations representing (ibidem).

The founding of the IDWF (previously the International Domestic Workers’ Network) in Montevideo in 2013 is a clear sign of a global expansion of the movement thanks to new connections between existing national and regional organisations led by domestic workers (Marchetti, S., 2021). With its allies in the academic and legal field, the international movement has been able to document the working conditions and organising and advocacy models being developed by workers around the world (Hernandez D. & Chong C., 2017).

Being part of an international movement means that domestic organisations around the world support each other’s campaigns, sending letters of support and calling for social media actions. But it’s also an important social network, where they can learn from each other. Another key aspect of the international movement is that domestic workers’ status as immigrants has facilitated transnational connections, as many of them have direct ties to other parts of the world (Hernandez D. & Chong C., 2017). By joining forces across continents, CSOs, trade unions, domestic care workers themselves, together with the ILO and other international institutions, have the potential to further boost the needed cultural, legislative, economic, and administrative changes to make sure that domestic care workers enjoy the same rights of all other workers.





## CONCLUSIONS

*“There is no other labour movement that questions so fundamentally gender, race, ethnic, class, and legal oppressions than the domestic workers movement.”*

*Hernandez D. and Chong C.*

This thesis built on the fact that the domestic care work is one of the least protected sectors, both by law and by practice for a variety of social, economic, historical, and cultural factors, thus leading to many cases of exploitation and human rights violations and abuses among domestic care workers. It also starts from the consideration that the patterns leading domestic care workers towards old and new forms of slavery are not irreversible, neither inevitable. They are the result of unequal, unfair, and discriminatory law, practices, and institutional arrangements, as well as a certain way of considering and looking at care and care workers.

To challenge the current situation, the thesis looked at the phenomenon from a new perspective: a human rights-based approach. Starting from the analysis of the existing data on the status quo of domestic care workers and their sector at global level (Chapter I), the thesis looked at all the risks of human rights' violations and abuses that are currently reported by International organisations, in particular the ILO and the UN, as well as other relevant stakeholders, such as ITUC (Chapter II). Once identified the risks, the thesis also examined what are the more relevant international legal instruments that can help identify, report, and tackle human rights' violations and abuses among domestic care workers (Chapter III). Finally, the document looked at key processes that can help move the domestic care workers' policy agenda forward, by exploring, in particular, the role of the ILO, the civil dialogue, the social dialogue, and other initiatives by domestic care workers themselves.

The thesis confirms that domestic care workers are at a high risk of human rights violations and abuses. More concretely, it reports current violations and abuses of the following human rights: the right to freedom from slavery; the right to freedom from degrading treatment; the right to an effective remedy; the right to privacy and family life; the right to freedom of movement and residence; the right to freedom to peaceful assembly and association; the right to social security; the right to work; the right to rest and leisure; the right to health and an adequate standard of living; the right to education; and the right to freedom from discrimination.

Domestic care workers' vulnerability to slavery depends on several factors. Firstly, the domestic care work has been traditionally carried out by slaves and women (socially excluded groups). For this reason, care work has been for a long time excluded not only from labour law, but also from other important theories and reflections. For example, women (and the work they were carrying out) were largely absent from the economic system Smith laid out in *The Wealth of Nations* (Harkin, 2013)<sup>38</sup>. Even the International Human Rights Framework does not include the right to care and the right to be cared for<sup>39</sup>. As the philosopher Mortari stated in her book *'Filosofia della cura'* (the philosophy of care), the care work is the example of an essential aspect of our human experience which is neglected by our intellectual work. Secondly, there are two elements that determine the widespread low level of protection guaranteed to the paid workers of the care sector (Gallotti, 2009), one is the private character of the workplace, which implies a coincidence between the public sphere normally related to employment relationships and the private nature of family and household dynamics (and the invisibility of this work), the other is the juridical status of the employer, who is normally defined as a private employer, not an enterprise, who would otherwise receive pecuniary gains from the employee's work. Finally, the undervaluation of this work is also due to its relational character, which prevents many workers from threatening to withdraw their services. Indeed, carers may not be able to leave care recipients unattended if their replacement has not arrived, for example, or go on strike when providing essential services (ILO, 2018). Further carers' vulnerability factors can be found in the Figure 33 below.

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<sup>38</sup> Even Xenophon, founding father of economics, considered the care work a family issue which did not need any ethical codes. Indeed, he thought he knew how to manage women and slaves (Raworth, 2017).

<sup>39</sup> The right to be cared for is just foreseen for minors, as if adults do not need to receive care anymore.

	<b>Examples of human rights violations</b>	<b>Carers' vulnerability factors</b>
a	They travel through irregular channels with the use of traffickers to migrate for employment Driven by poverty and debts, they can find themselves forced to accept very low working and living conditions.	A job traditionally carried out by socially excluded groups (slaves and women)  A job historically excluded from the labour law
b	They can be economically, psychologically, physically abused by their employers.	A "behind closed doors job"
c	If excluded from the general labour legislation or if illegal migrants, they may face great challenges in having access to justice.	Private character of the workplace
d	They may lack a private bedroom and free time to visit their families	Juridicial status of the employer (private employer)
e	If migrants, they may depend on their employers for their visa. Their employers withhold their passports/ID care and forbid them from leaving the house.	A poorly define professional profile  Relational character of the job
f	They are physically (and culturally) isolated. Trade unions representing them may be lacking.	Existing discriminations and stereotypes (e.g. racism and sexism)
g	The great majority of domestic care workers does not have access to social security.	
h	They work of the least paid and protected economic sectors.	The social and legal status of several domestic care workers (especially if illegal migrants)
i	More than half of them have no limitation on their normal working hours	
l	They may experience isolation, harassment and violence.	Socio-economic changes pushing the demand for care
m	Many workers have little formal training.	
n	They tend to be seen as low-skilled, low-valued, precarious, hidden, and unorganized workers.	Lack of supportive policies for informal caregivers

*Figure 33 Domestic care workers vulnerability factors and key examples of carers' human rights violations and abuses<sup>40</sup>*

<sup>40</sup> Legenda: the right to freedom from slavery (a); the right to freedom from degradating treatment (b); the right to an effective remedy (c); the right to privacy and family life (d); the right to freedom of movement and residence (e); the right to freedom to peaceful assembly and association (f); the right

There are several international legal instruments that can help tackle these abuses and violations. Some of them, are part of the International Human Rights Legal Framework, while others are ILO instruments. Concerning the second ones, the 2011 Domestic Workers Convention (DWC) also covers all the human rights that are relevant for domestic care workers (see Figure 34).

	UDHR	CERD	ICCPR	ICESCR	CEDAW	CAT	CRC	ICMW	CRPD	DWC
a	X		X					X	X	X
b	X		X			X	X	X	X	X
c	X		X					X	X	X
d	X		X		X		X	X	X	X <sup>41</sup>
e	X	X	X		X			X	X	X
f	X		X		X		X	X	X	X
g	X	X		X	X		X	X		X
h	X	X		X	X			X	X	X
i	X			X			X	X	X	X
l	X			X			X	X	X	X
m	X	X		X	X		X	X	X	X
n	X	X	X	X	X	X	X	X	X	X

Figure 34 The human rights instruments that are relevant to tackle the main domestic care workers' violations and abuses of human rights<sup>42</sup>

Even if the extension of the protection of domestic care workers is still limited, the highlighted international legal instruments are important tools to commit governments to implementing national strategies, laws, and initiatives in support of domestic care workers. Yet, even the countries who have already (partially or totally) ratified the above-mentioned international treaties do not always implement key provisions in support of carers. To overcome these implementation gaps, the ILO has recently called on national governments (ILO, 2021) to: legally recognising domestic care workers;

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to social security (g); the right to work (h); the right to rest and leisure (i); the right to health and an adequate standard of living (l); the right to education (m); and the right to freedom from discrimination (n).

<sup>41</sup> Even if the Convention just covers the right to privacy and not the right to family.

<sup>42</sup> Legenda: the right to freedom from slavery (a); the right to freedom from degrading treatment (b); the right to an effective remedy (c); the right to privacy and family life (d); the right to freedom of movement and residence (e); the right to freedom to peaceful assembly and association (f); the right to social security (g); the right to work (h); the right to rest and leisure (i); the right to health and an adequate standard of living (l); the right to education (m); and the right to freedom from discrimination (n).

establishing working time laws in domestic care work; fixing an appropriate minimum wage level for the domestic care sector; extending the scope of social security laws to domestic care workers; covering domestic care workers by occupational safety and health (OSH) policies; addressing carers' domestic violence risks; ensuring carers' access to justice; promoting the professionalization of carers' professional profile; facilitating and promoting an appropriate representation of domestic care workers.

As highlighted in the last chapter of this thesis, the ILO, CSOs, trade unions, and domestic care workers themselves, while acting locally, nationally, or internationally, can push governments to take action in these directions, as well as to move domestic care workers' agenda forward through other initiatives. For instance, they can raise awareness on the situation of domestic care workers by gathering relevant data and information. They can also report cases of human rights abuses and violations among domestic care workers. Moreover, they can push for the development of an appropriate international legal framework protecting the domestic care sector (one example is the mobilisation for the adoption and the implementation of the 2011 ILO Domestic Workers Convention). Finally, they can challenge the current perception of domestic care work and the still underestimated and undervalued role that is given to the domestic care sector. Finally, they have been proactively promoting a new vision of the care sector, which recognise its essential role for our societies to strive.

<b>ILO</b>	<b>Trade unions</b>	<b>CSOs</b>	<b>Workers themselves</b>
Dialogue with employers and trade unions; adoption of new relevant Conventions; monitoring of Member States' commitments and actions; policy advice; technical assistance; mobilisation actions; data collection.	Participation in the ILO debates and negotiations; negotiations with national governments; alliance building; capacity building; service provision; awareness raising; data collection.	Awareness raising campaigns, advocacy work, mobilisation actions engaging domestic care workers; human rights monitoring; capacity building; service provision; data collection.	Participation in awareness raising campaigns/ mobilisation activities in support of domestic care workers; participation in the activities of existing trade unions/ CSOs formation of a trade unions/ CSOs together with other workers,.

*Figure 35 Key actions the ILO, trade unions, CSOs and domestic care workers themselves can take to make decent work a reality for domestic care workers*

Of course, the thesis also highlights some obstacles that should be removed to unlock the potential of the above-mentioned stakeholders' actions, as well as the effectiveness of policy initiatives in support of domestic care workers that take place at local, national, and international level. Firstly, data on domestic care workers are still very limited. Even the ILO often gather data that concern all domestic workers in general and not domestic care workers in particular. Secondly, domestic care workers are still very much invisible, both because they work 'behind doors' (and the blurred line between domestic care work and home work) and they are often illegal migrants. Thirdly, the current socio-economic context puts pressure to find cheap solutions to the increasing demand for care. Finally, CSOs and trade unions do not always exist in all countries and, when they exist, they do not always have the capacity to reach out, mobilise and appropriately represent domestic care workers.

All the points that have been highlighted in the previous paragraph are also the limits of the thesis itself. It was very hard to have an overall picture of the status quo of the sector because of the limited available data, that often include not only domestic care workers, but all workers who are employed by a household. Moreover, studies, and reports on the subject cover only the care workers that are reached by relevant CSOs, trade unions and/or other stakeholders (when existing), but, as highlighted, they are not the majority. Furthermore, given the current socio-economic context, the political discourse is often focused on how to guarantee the rights of those in need of domestic care only, thus excluding the information on the situation of care providers, including domestic care workers.

Nonetheless, the 2011 ILO Domestic Workers Convention, as well as the rise of global and national/local alliances advocating for domestic care workers' rights have helped a lot moving the situation forward. Moreover, the fact that globalisation is bringing about the rise of a "new global domestic order", where the increasing demand for care work is addressed through the employment of migrant women coming from poor countries (Casalini, B., 2009) also contributes to shed the light on the functioning and the key features of the domestic care sector. If we needed slavery to reach a large scale and to become a global market to start questioning its legitimacy, perhaps we needed this great expansion of the domestic care sector to reflect about how we deal with care responsibilities in our societies.

Indeed, given the current high risk of labour exploitation and modern slavery in the domestic care sector, it is urgent to put into question the legitimacy of the laws and practices impacting on the rights of domestic care workers. We also need further concrete steps to ensure that these workers enjoy the same labour and human rights of any other ones. A wide-spread ratification of the 2011 Domestic

Workers Convention, as well as the strengthening and the development of alliances advocating for carers' rights are important starting points to better protect domestic care workers from exploitation and abuse. They are also key steps to make sure that we all fully recognise that care work is at the heart of humanity and that our societies and economies depend on care to flourish.





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