

Chapter 5

Rights



5.1 Migrant Domestic Work and Rights Issues

Transnational migration gives rise to multiple forms of potential exploitation of paid domestic work, being an occupation that is relegated to the informal labour market where migrant women often find themselves in powerless positions in relation to their employers and host society. This is especially so when they are undocumented migrants, as is the case for migrants who do not fulfil the requirements for labour or family migration. As a consequence, in many countries, migrants' employment in private households is strongly deregulated and workers do not have access to social and labour protection (Triandafyllidou & Marchetti, 2017). In several countries, domestic work is not recognized as work, and is therefore excluded from labour protections. Domestic workers are often deprived of monetary payment and compensated with only food and shelter. Also, in countries where domestic work is regulated through labour laws, provisions differ significantly from those in place for other jobs, having lower remuneration and fewer social protections. This lack of a normative framework adds to the vulnerability that is typical of the sector due to the isolation that is characteristic of this kind of work (especially for live-in workers) and the social stigmatization that they face in different parts of the world.

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. This process intensified after the promulgation in 2011 of ILO Convention 189 (C189) *Concerning Decent Work for Domestic Workers*, and the related Recommendation 201. The two documents promote not only the equal treatment of care workers in labour and employment, but also the improvement of their social status.

It is interesting to look at the transformation of the domestic workers' movements for labour rights into a 'global movement' and thus consider the interplay between the international actors – international institutions, governments, regional and national organizations – that have shaped this process. It is important to investigate what has motivated their increasing concern for the situation of domestic workers – a marginalized social group whose interests were seldom considered of any importance before. In fact, the ILO had already passed a resolution in 1948 demanding minimum standards for the sector (see Boris & Fish, 2015; Schwenken et al., 2011). However, attention for the plight of domestic workers gradually faded. In the post-war period it was commonly believed that the increasing modernization of domestic life, with the use of technology and more efficient systems to organize the household, would soon make it possible to spontaneously eliminate the traditional figure of the paid domestic worker, seen as a legacy of pre-modern and exploitative times (see Coser, 1973). There would no longer be any need for political intervention. It was only in the 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.

When in 2008 the ILO decided to put what would later become C189 on the agenda of their next assemblies, this immediately prefigured the possibility of a revolutionary shift. For many, it was incredible to think of a convention for a sector which traditionally suffered from an immense lack of rights, and for a kind of work that was not even recognized as such in most countries. Where it was recognized, it was given a second-rate position, as not 'real' work. After gathering the opinions of experts and activists, the ILO suggested that domestic workers should be treated as other workers in their respective countries. Equality was conceived in terms of salary but also protection in the workplace. Expanded labour rights had to be accompanied by the creation of new forms of association, and when possible, trade unions formed by domestic workers themselves. These legal and socio-political transformations could not happen without a cultural change at the level of these workers' social representation to counter the stigma attached to them. In this way, the convention combined the fight for the specific cause of domestic workers' labour rights with a wider struggle for the human rights of particularly vulnerable subjects, from undocumented migrants, to low-caste and racialized women. It is indeed this capacity of C189 to include previously invisible subjects that makes it a perfect case for a 'new right', meaning the rights recognition for social groups and minorities which were previously not even deemed to figure on the landscape of political subjects in a given context (Bob, 2011).

Since the promulgation of C189, 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 NGOs, religious organizations and international organizations for workers' rights such as the International Trade Union Confederation (ITUC) and the WIEGO network. International bodies such as the ILO, the International Organization for Migration (IOM), the Global Forum on Migration and Development (GFMD), UN Women, the Commission on the Status of Women, and the European Fundamental Rights Agency are also involved (Fish, 2017; Garofalo Geymonat et al., 2017). Finally, 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 organizations led by domestic workers, as in the case of CONLATRAHO¹ in Latin America.

In Europe, the European Parliament voted for the first time on a resolution for the rights of women domestic workers and carers. The proposal was made by the Greek member Kostadinka Kuneva who builds on her long-standing experience as an activist for the rights of cleaners and domestic workers in Greece. This resolution was a historical step towards equal rights for this category of workers in the framework of C189, which has thus far only been ratified by six EU Countries. For the two groups that comprise this category of workers, i.e. women and low-skilled migrants, the resolution represents an opportunity to escape their invisible condition. The European Parliament Resolution 'Women domestic workers and carers in the EU' of 2016 also emphasizes the importance of protecting workers in this sector against abuse and lack of social and legal recognition. More recently, the European Economic and Social Committee has published a report on live-in care workers in selected EU countries (the UK, Germany, Italy and Poland), supporting the request for more protection and labour rights (Rogalewski and Florel 2020).

The historical roots of C189 can be identified in other ILO campaigns for the promotion of decent work in flexible, non-standard and low-skilled informal sectors as well as in the multiple debates on women's and migrants' work that have animated the ILO agenda since the 1990s (Boris & Fish, 2014; Kott & Droux, 2013; Schwenken et al., 2011). Promoting decent work also appeals to human rights principles as is clearly reflected in C189, whose main prescription of equal labour rights for domestic workers is accompanied by a demand for recognition of their dignity as human beings (Garofalo Geymonat et al., 2017; Marchetti, 2018). Moreover, C189 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 (Fish, 2017; Schwenken, 2013).

¹Confederación Latinoamericana y del Caribe de Trabajadoras del Hogar/Confederation of Household Workers in the Caribbean and Latin America.

5.2 Global Rights and Local Struggles

It is important to consider the impact of C189 on campaigns for domestic workers' rights waged in different national contexts. In fact, when one gets closer to the specificities of each country, there are important differences in the behaviour of social movements, states and international organizations in relation to this issue.

State and non-state organizations position themselves around the issue in contrasting ways depending on the national context and the capacity of C189 to mobilize actors in each place. This raises questions such as: how are different local actors reacting to C189 as a global governance measure for domestic workers' rights? What role does the state play in this process? How do such processes relate to wider political and social transformations taking place at the national and regional levels?

At local levels, the literature indicates a diversity of actors and objectives involved in the struggle around the C189 process. Depending on the country, several institutional and non-institutional actors may enter this field, either supporting or countering the aim of improving domestic workers' conditions. Besides domestic workers' grassroots organizations and trade unions, these actors may encompass other civil society organizations, such as general trade unions and workers' organizations (Boris & Nadasen, 2008; Chun & Cranford, 2018), women's and feminist groups, anti-racist and ethnic minority associations (Bernardino-Costa, 2014) and humanitarian NGOs (Chun & Kim, 2018). Studies have also considered organizations representing employers' interests (Chien, 2018), governmental bodies, state institutions and international organizations (Blofield, 2012).

Mobilization around C189 has been considered a paradigmatic example of the scaling up of local and national movements and the formation of the IDWF as transnational collective actor: for instance, studies have described the key role played by the International Domestic Workers' Network and by some regional and national organizations in the drafting of the convention in Geneva in 2011 (Acciari, 2019; Fish, 2017; Schwenken, 2016). Louisa Acciari (2019) suggests that this process is an example of the ability of 'subaltern groups' from the Global South to generalize their demands and produce new rights.

Some scholars have focused on the legal advances brought about by signing the convention into national laws (Albin & Mantouvalou, 2012; Du Toit, 2011; Gallotti & Mertens, 2013; Rosewarne, 2013; Viesel, 2013), while others have looked at the impact of C189 on national or regional social movements and on the political processes related to the campaigns for its ratification and subsequent implementation (Blofield & Jokela, 2018; Cherubini et al., 2020; Marchetti, 2018; Schwenken, 2013).

For many countries, the promulgation of C189 can be considered an 'external event' which has determined what Fligstein and McAdam (2012) would call an 'exogenous change' that has led to the improvement of domestic workers' rights in various countries. This type of change has provoked an important reorganization of the actors involved, the focus of their action, the alliances they establish, and the discursive frameworks that are activated.- This has determined the positive progression towards the achievement of a common goal (i.e. the improvement of domestic

workers' rights). The numerous transformations that have taken place since 2008 (when the ILO put the issue on its agenda) show more generally how a policy process taking place at the international level is reflected on the national one. In other words, we see how the interconnection between 'global' and 'local' struggles can take shape. The actions and discourses used at national level will be different depending on the local political, cultural and socio-economic context. The actors which emerge as the most influential at the local level can create the conditions for an international policy to be transferred, negotiated, modified or strengthened – but also ignored or rejected – in each country. Depending on this, C189 as a tool of global governance of domestic workers' rights has been incorporated, fuelled or resisted by both state and non-state actors, depending on the country.

The way the struggle for domestic workers' rights is perceived at large determines the response to C189 to great extent. An important element to explain these different tendencies is the way the struggle for domestic workers' rights is perceived by society at large. In fact, the effectiveness of the C189 process seems to increase in countries where improving the condition of domestic workers is seen as emblematic of a social justice struggle valid for the entire country (Marchetti et al., 2021). Conversely, in countries where domestic workers are easily associated with 'others' from outside the nation, the campaign remains isolated and issue-specific, and it is difficult for activists to build a large consensus beyond direct stakeholders on domestic workers' issues. In other words, the global rights of domestic workers are more easily promoted at the national level when they are seen as part of a wider political project for social justice. Conversely, in those contexts where the connection with wider political struggles is weaker or absent, the question of domestic workers' rights is framed more narrowly as a policy issue, rather than political. In those contexts, giving more rights to this category was not meant to challenge the structural factors shaping this sector and the exploitation therein.

5.3 Domestic Workers' Organizing

Self-organized groups of domestic workers – trade unions, associations and networks composed of and led by women employed in the sector – have emerged as prominent across all countries in the politicization of domestic workers' struggle for rights. Some early examples from South African (Ally 2009, Fish, 2017) domestic workers' organizing are noteworthy as a form of collective action to fight simultaneously for labour rights, human dignity and social recognition.

At the global level, these organizations seek to represent the interests of multiply-marginalized social groups that are employed in the sector worldwide, namely migrants, low-class, low-status, racialized, and rural, girls and women. Thus, domestic workers' mobilizations 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 racialized minorities, and migrants'

rights. This may make room for solidarity, coalitions and alliances across different social movements and political projects (Marchetti et al., 2021).

A comparative assessment of the strategies adopted by domestic workers' organizations in Colombia, Brazil, Ecuador, Italy, Spain, Germany, Philippines, Taiwan and India in the struggle for domestic workers' rights reveals how these intersections work in action. We see that the strategies change depending on the national socio-economic, cultural and political context. Interestingly, one of the major discursive frameworks used by advocates of domestic workers' rights recuperates the argument on the transnational commodification of care discussed in Chap. 2 of this book. This discourse plays on the connection between migrants' exploitation in this sector and the crisis of welfare states in industrialized ageing societies. It is thus especially common among interviewees in Italy, Spain, Germany and Taiwan as destination countries for migrants in the elder care sector. In other words, this framework is a critique of marketized forms of care provision and the reliance of states on foreign labour recruitment.

Moreover, during the time of the campaign for C189 ratification, Brazilian activists – in particular from the national federation FENATRAD² – mobilized rhetorical devices which show how racism towards black domestic workers is a continuation of the attitudes that existed under slavery. In this way they established a connection with the legacy of the anti-racist movement in the country. In Colombia, the Afro-Colombian domestic workers' union UTRASD³ employed an intersectional discursive repertoire in which domestic work is addressed as a simultaneously gendered, class-based and racialized activity. The specific experience lived by Afro-Colombian women, especially internal migrants and refugees, is at the heart of UTRASD's identity in their recurrent self-identification as 'the first ethnic-based domestic workers' union in the country'. In Ecuador, the configuration is slightly different: race-based discrimination is recognized as an additional burden, but not as an intrinsic feature of the social organization of domestic work and of the collective identity promoted by the movement. In particular, the activists of the domestic workers' association ATRH⁴ appear to see the category of 'organized Ecuadorian domestic workers' as mainly shaped by the interplay of gender and class inequalities.

A different scenario emerges when we consider the demands and actions of these groups. These can be summarized in the following instances. First of all, many of the activist groups employ sensitization activities promoting the motto 'domestic work is work', thus asking for changes in the legal framework, but also radical socio-economic changes which may raise the conditions of domestic workers more generally. These campaigns are largely aimed at demanding recognition for

²Federação Nacional das Trabalhadoras Domésticas (National Federation of Domestic Workers, Brazil).

³Unión de Trabajadoras Afrocolombianas del Servicio Doméstico (Afro-Colombian Domestic Workers' Trade Union, Colombia)

⁴Asociación de Trabajadoras Remuneradas de Hogar (Association of Paid Domestic Workers, Ecuador)

domestic work with the argument that decent work deserves equal rights, the same claim that is central to the discourse deployed by the ILO and the other international organizations involved in the global governance of domestic work.

At the same time, one strategy used by organizations consists of interventions in the use of language both in public discourse and in everyday interactions (*ibid.*). In fact, most of the organizations have engaged in debates about an adequate name to address domestic workers. Refusing the diminishing terms commonly used in their local languages, they seek legitimacy for the new identity created by the movement as workers performing a valuable job and as bearers of rights. This challenges the representations of domestic work as 'intimate' yet 'dirty' work that are often internalized by workers themselves, to the point where workers are not even 'out' to their own parents or children, such as occurs in India. There are cases in which the family remains central to the semantic activist innovation, such as in the Philippines with *kasambahay* (companion in the family) and in Italy with *colf* (*collaboratrice familiare*, collaborator of the family). Yet even these new terms have the effect of challenging the ambivalent position of the worker within the employing family, where they had traditionally been 'part of the family' – if subordinate.

The capacity of domestic workers' groups to carry out empowering activities for their members and for domestic workers as a whole is another striking aspect of their activism (*ibid.*). We see that many organizations offer a host of services and education. 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). Some of the organizations 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 organizations and public institutions). As a whole, we see how these organizations also function as solidarity and mutual support groups that support domestic workers both in their labour relations and in other aspects of their lives.

To sum up, the movement is characterized by special forms of labour and women's organizing, where mobilizing for labour rights and political pressure towards institutional actors go hand in hand with cultural politics. 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.

5.4 Not Such Easy Allies for Domestic Workers

If, seen from one side, the domestic workers' movement has some very unique characteristics, from the other it can be seen as having somewhat of a shared composition and similar goals to certain other social movements. Depending on the context, these can be groups defending the rights of women and girls in general, racialized people and minorities, migrants and undocumented people, or workers in the service and informal sectors. However, these overlaps and convergences do not necessarily lead to easy and spontaneous alliances between domestic workers and other organizations, and difficulties often arise when organizers engage in alliance making. In this part, I will discuss these difficulties in two exemplary cases: alliances with trade unions and with feminist groups.

Firstly, it is important to understand the role of traditional trade unions in the struggle to assert the rights of migrant domestic workers. There has been intense discussion on the relationship between migrants and labour organizations (Penninx & Roosblad, 2000; Wets, 2000). Viewed negatively, as Lucio and Perrett (2009) argue, migration puts under threat the very identity of labour organizations, asking them to redefine their purpose to include foreign workers' issues. It also requires the formulation of specific anti-discrimination policies that are necessary for equal opportunities in the labour market (Verbeek & Penninx, 2009; Watts, 2002), and that they overcome an absence of sensitivity towards racial discrimination within the labour organizations themselves (Lucio & Perrett, 2009). In all these matters, scholars agree that it is extremely important to consider the regional differences concerning, simultaneously, the characteristics of the predominant migrant population, the cultural context in which they arrive, and the traditions of the organizations established there (Penninx & Roosblad, 2000, p. 200).

With the purpose of an intra-European comparison, Rinus Penninx and Judith Roosblad have organized this discussion into three main questions (2000, pp. 4–11). These correspond in their view to the 'dilemmas' that trade unions have historically faced in relation to foreign labour forces. The first dilemma concerns the backbone of the relation between labour organizations and migration by asking if labour organizations have to accept, or even encourage, the employment of foreign workers. It is true that the arrival of cheap labour from outside might undermine the rights of national workers. Yet, although in a different form, this question is today newly relevant as labour organizations have to position themselves on government labour migration policies. Once migrant workers are actually employed in the national labour market, a second dilemma arises: what kind of membership can migrant workers have in the national labour organizations? Are they going to join national workers, or should separate organizations be established for their interests alone? The third dilemma is also the most complex: once migrants are included in labour organizations' strategies, how should they be treated? In other words, should the organizations side with the foreign workers, demanding a different treatment for them at the workplace? This has been called the 'equal-versus-different-dilemma' and is considered the most insidious.

When it comes to feminist organizations, it is worth noting that they are only rarely directly engaged in struggles for domestic workers' rights, and the conceptual linkages that we see do not automatically correspond to forms of alliance between the two movements. As is the case for other women activists who mobilize for workers' rights or against social marginalization, domestic workers' groups are often reluctant to define themselves as feminist. In fact, the perception of distance from the feminist movement is a recurrent topic in the accounts of domestic workers' activists across different national contexts and time periods. The complicated relationship between domestic workers' rights activism and feminist activism is worth exploring to understand the conditions that make it possible in certain countries to have feminist organizations allied with domestic workers' rights, and not in others. To understand this diversity we have to take into account the different feminist traditions in each country, the other actors involved in domestic workers' rights, and importantly, the discursive frameworks that have been mobilized to promote them.

It can be argued that in spite of the disconnection that exists in many contexts between these two movements at the practical level, they share a great deal in their common critique of contemporary capitalist society and its exploitation of women, migrants and domestic workers (Marchetti et al., 2021). We find that at the level of discourse, feminist arguments are widely represented in this field, with activists for domestic workers' rights incorporating the classic repertoire of feminist critique into their own narratives. In particular, activists recurrently speak of the rights of paid domestic workers within a broader view on feminist and anti-capitalist critiques of inequality and exploitation of women's work.

The feminist argument on the valorization of reproductive labour (see Chap. 2 of this book) is widely used by domestic workers' rights advocates when they talk about how their countries should recognize the value of their work, starting from appreciating the reproductive labour done by women inside their own homes and families. In other words, as they claim the recognition of 'domestic work as work', they not only demand the right to contracts, better salaries and labour protection for themselves, but also challenge the general devaluation of all tasks connected with caregiving and housekeeping. However, they also modify and expand this traditional feminist argument, which was developed around unpaid labour, to include the case of paid workers, and their experiences of discrimination and exploitation both as women and people who belong to low-class, ethnic, racialized and caste minorities (ibid.).

In countries where, by contrast, the majority of domestic workers are migrant caregivers for elderly people, we observe a more frequent use of another feminist framework relating to the commodification of care, which in turn connects to feminist critiques of welfare systems and the care crisis. It is worth pointing out that in these contexts, some of the actors involved in the field of domestic workers' rights that have emerged in the last decade in particular are those representing care receivers and employers' needs, and their motivation at least partly taps into the debate on the commodification of care. Class differences in these contexts are complicated by the fact that employers belong to a whole range of social positions, including those

with lower incomes, for whom hiring a home-based caregiver is often the only option given the lack of support from the state for elderly, chronically ill and disabled people. In this context, domestic workers' activists tend to expand feminist arguments on care and welfare issues by placing migrants at the centre, and arguing that migrants bear the burden of the limited social provisions in the Global North.

Finally, it is important to highlight how in these different appropriations of feminist frameworks, domestic workers' activists enact a transformation of these arguments in what can be seen as an intersectional perspective. Indeed, they expand the capacity of these arguments so as to include racialized, low-class, migrant and other minority groups in ways few feminist movements have achieved. In other words, domestic workers' activists tend to create a larger inclusive discourse to promote domestic workers' rights through intersectionality. This capacity can be seen as a creative force within the domestic workers' movement, which may facilitate the building of alliances with other groups for domestic workers' interests, but also to expand the scope of contemporary feminisms (Box 5.1).

Box 5.1: The Impact of C189 in Nine Countries

During the period 2008–18, in **Ecuador** and the **Philippines** there was a strong synergy between the ILO, national governments, and civil society actors, including domestic workers' groups (Marchetti et al., 2021). The state was quick to ratify C189 and legislative measures were adopted on the basis of its requirements. Domestic workers' organizing was promoted. Other civil society actors were also responsive to the ILO campaign, taking the struggle beyond the institutional level. At the local level, C189 encountered a suitable cultural and political ground, with key collaborations between the government, NGOs, domestic workers and the local ILO office in particular, which was fully involved in the local process.

In the same period in **Colombia** and **Brazil**, there was a larger process at work (ibid.). There, a vibrant dynamism in civil society was combined with the involvement of the state and other institutional actors. The C189 process was embedded in a wider transformation process at play in the country, involving domestic workers as one of the key target groups – although not exclusively. Demands by domestic workers' groups explicitly went beyond C189, advocating for more radical changes in the conditions of domestic workers at the legislative, social and economic levels. Although C189 was the exogenous change animating the field, the legacy of past experiences is extremely relevant to understanding these contexts, since domestic workers' organizations and a long-standing tradition in workers' and women's movements were already a reality there.

In **Taiwan**, **India** and **Spain** there was a strong involvement of civil society, domestic workers' groups, and the ILO (with the exception of Taiwan for the latter) (ibid.). However, this cannot counterbalance the lack of support

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Box 5.1 (continued)

from the government, which is of course essential to the institutional process. Domestic workers' rights were opposed not only by employers' interest groups but also by the conservative parties in power and opposing egalitarian reforms, and by brokers acting as market intermediaries whose private interests were in maintaining the status quo. In fact, domestic workers were perceived as minority subjects (lower caste and 'tribal' people in India, migrants and undocumented people in Taiwan and Spain), whose interests were not beneficial to society as a whole, and could actually conflict with the interest of the majority.

Finally, during the same period, in **Italy** and **Germany** there was an observable impasse in the accomplishment of the C189 process and the full promotion of domestic workers' rights, partly due to a contradiction between a formal adherence by the state to C189 and the lack of a real implementation of C189 principles (ibid.). These countries' governments ratified C189, since their national legislation was, in their thinking, already in line with the C189 requirements. However, the ratification of C189 ought to have been followed by corresponding policy measures for a full implementation of C189 principles, which was not the case. Moreover, in these countries civil society and social movements do not mobilize on the issue of domestic workers' rights, which are largely seen as a problem concerning foreign – and often undocumented – workers.

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