

# The Case of Female Migrant Domestic Workers in Europe: Human Rights Violations and Forward Looking Strategies

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## Abstract

Female migrant domestic workers constitute one of the most vulnerable groups of workers in the international labour market as they are frequently found working and living in conditions that put their human rights at stake. They can be subjected to multiple and intersecting discriminations deriving from their gender, their status as migrants and their occupation. The aim of this article is to explore the issue of female migrant domestic workers through its human rights dimension. It first analyses the phenomenon by discussing aspects such as gender, ethnicity and migration. Secondly, it provides for an account of the International and European framework for the human rights protection of this group of migrant women. Then, some of the most important human rights concerns that the issue of female migrant domestic workers entails, such as the exploitative terms of work, the problematic living conditions and private life issues, are discussed. Finally, the article, examines suggestions that could improve the living and working conditions and the general status of female migrant domestic workers. The forward looking strategies presented are grouped in three core categories; how to prepare female migrant domestic workers for their entry to the destination country, how to protect them through migration policies and labour regulations and finally, how to empower them allowing them to develop skills and capacities for better civic participation.

**Keywords:** domestic work, empowerment, migrant women, labour rights, human rights violations, gender equality.

## Resumen

Las trabajadoras domésticas extranjeras constituyen uno de los grupos de trabajadores más vulnerables en el mercado laboral internacional, ya que con frecuencia se encuentran trabajando y viviendo en condiciones que ponen en juego sus derechos humanos. Éstas pueden ser objeto de discriminaciones múltiples e interrelacionadas derivadas de su sexo, su condición de migrantes y su ocupación. El objetivo de este artículo es examinar el tema de las trabajadoras domésticas migrantes desde la dimensión de los derechos humanos. En primer lugar, se centra en abordar aspectos tales como el género, la etnia y la migración. En segundo lugar, da cuenta del marco internacional y europeo para la protección de los derechos humanos de este grupo de mujeres migrantes. A continuación, se abordan algunas de las cuestiones más importantes sobre derechos humanos en lo relativo a las trabajadoras domésticas migrantes como son la explotación laboral, unas condiciones de vida difíciles y la vida privada. Por último, el artículo examina algunas sugerencias que podrían mejorar las condiciones de vida y de trabajo así como el estado general de las trabajadoras domésticas migrantes. Las estrategias de futuro presentadas se agrupan en tres categorías principales: la forma de preparar a las trabajadoras domésticas migrantes para su entrada en el país de destino, la manera de protegerlas a través de políticas migratorias y de la normativa laboral y, por último, el modo de potenciar el desarrollo de sus habilidades y capacidades para una mejor participación ciudadana.

**Palabras clave:** Trabajo doméstico, empoderamiento, mujeres migrantes, derechos laborales, violaciones de derechos humanos, equidad de género.

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## Introduction

Female migrant domestic workers constitute one of the most vulnerable groups of workers in the international labour market as they are frequently found working and living in conditions that put their human rights at stake. They can be subjected to multiple and intersecting discriminations deriving from their gender, their status as migrants and their occupation. As women, they are confronted with gendered biases, patriarchal structures and oppressive social and political environments. As foreigners, they may additionally face xenophobia and racism due to their ethnic origin, colour, religion or any other characteristic, as well as limited opportunities regarding employment and integration in the host society due to restrictive migratory regimes and unjustified infringements on the full enjoyment of their civil, political, economic, social and cultural rights. Finally, as domestic workers they are confined in the private sphere of the employer's household thus exempted of any monitoring and labour inspection and they conduct, frequently under poor working conditions, an occupation that is considered unskilled and of a low status. Thus, the protection of the human and specifically labour rights of female migrant domestic workers depends mainly on how migration models in each country address them as a group of migrants and how national labour regulations deal with them as a category of workers.

There is a growing demand of domestic services in Europe in general, but in Southern Europe the phenomenon has acquired enormous dimensions. This can be explained by taking into consideration the common social changes these countries are experiencing. To begin with, there is the ageing population, as well as disabled people that call for personalized care services. Secondly, women, who up until recently were the main responsible ones for household maintenance, as well as for child and elder care, are now massively entering formal employment, leaving a gap behind them. Besides, a more equal redistribution of household and care tasks did not take place between men and women, as the perception that these are "women's responsibilities" still persists in these societies. Furthermore, Southern European states,

with their weak welfare systems do not seem to respond to these increased social needs. The solution has been a private one; the employment of another woman, primarily migrant, reminiscent of a "Dea ex machina"<sup>2</sup>, comes into the picture and is required to do the maximum while receiving the minimum.

This has resulted to the invisibility of a group of migrants, that of female domestic workers. The incoherent migratory policies and the national labour regulations concerning domestic work have produced an institutional precariousness, which in its turn has an impact on the human and specifically on the labour rights of female migrant domestic workers, further fostering their vulnerability.

The aim of this article is to explore the issue of female migrant domestic workers through its human rights dimension. It first analyses the phenomenon by discussing aspects such as gender, ethnicity and migration. Secondly, it provides for an account of the International and European framework for the human rights protection of this group of migrant women. Then, some of the most important human rights concerns that the issue of female migrant domestic workers entails are discussed. Finally, the article, examines suggestions that could improve the living and working conditions and the general status of female migrant domestic workers.

## 1. A Conceptualization of Contemporary Domestic Work

The first part of this article aims at exploring the landscapes of contemporary domestic work by providing an overview of issues that are central to the understanding of this phenomenon. Domestic work here is viewed within its intrinsic gender aspect, the emerging global inequalities it conveys and the issue of migration.

### 1.1. *The gender aspect*

Domestic work is socially viewed as a women's matter and this is proved by the fact that it is a sector dominated both by

<sup>2</sup> This expression is used by Mestre i Mestre, paraphrasing the Dea ex Machina of the Greek tragedy, the God that magically appears and provides a quick solution even to the thorniest of problems, to very eloquently describe the role the female migrant domestic worker is charged with in

our modern societies. See, MESTRE i Mestre, Ruth (2006): "Dea ex Machina. Trabajadoras migrantes y negociación en lo domestico", pp. 41-53 in *Mujeres Migrantes: Viajeras, Incansables. Monográfico Sobre Género e Inmigración*, Harresiak Apurtuz, Bilbao, p. 1.

female employees and employers. However, as Lutz<sup>3</sup> puts it, “domestic work is not merely work but a particularly gendered activity”. In this section, the reasons why domestic work is so intertwined with the female gender are discussed.

In order to understand the landscape of domestic work today, it is indispensable to closely examine the gendered connotations of the division between the private and the public spheres. This exploration goes back to the 19<sup>th</sup> century, when everyday life has two different aspects, one that takes place in the private sphere, at home, and a second one, completely segregated from the first one which takes place in the public sphere. Life in the private sphere is associated with women and their reproductive duties in the home; whereas life in the public sphere is associated with labour, production and consequently men, as they are the only ones who have access to these sectors<sup>4</sup>.

Another important consideration to be made is the predominance of the *male breadwinner model*, in other words the figure of the working man who is responsible for the economic sustainability of the family. “Proper work” is considered the one that takes place outside the domicile, in the public sphere, which is remunerated and formal. According to Mestre i Mestre, this has led to the equation of “work = rights”; civil and political rights are recognized to the citizens who can have an occupation in the formal employment sector; the rest, who are the women conducting reproductive work, are not considered citizens and do not enjoy full recognition of their rights<sup>5</sup>. Thus, occupation in the household, as juxtaposed to formal, paid and skilled work, is viewed as unskilled, basic and of a low-status. This perception of the “unproductiveness” of domestic work undervalues its economic and social contribution, thus providing a justification for the invisibility and exclusion, even in state policies, of those who perform it.

Women in developed countries started entering the mainstream employment sector massively and claiming an active role in the public domain, but their role in the private sphere has re-

mained uncontested; they are still the main bearers of responsibilities that have to do with the daily household tasks such as cleaning, cooking and shopping, as well as with the taking care of the children and the elder members of their family. Mestre i Mestre<sup>6</sup> argues that the incorporation of women in the scheme of citizenship and rights took place without the prior questioning of the base of the system which has been the “male breadwinner model” as mentioned above. Women can be citizens with fully recognised rights, as long as they can fit in the structure of this masculine model. Thus, motherhood and familial responsibilities keep posing problems to the modern state, especially to the welfare one, as the system was not reformed towards the accommodation of the divergences between men and women<sup>7</sup>.

Consequently, a different kind of arrangement, on the private level, had to be sought; in order to be able to exercise their right to employment, their right to participate in public life and to be mothers at the same time, women in the developed world turn to the employment of another woman from a poorer, developing country to replace them at home. They buy their release from their reproductive duties by paying someone else, who may be immigrant and poorer but always a woman, to fulfill these duties.

However, it is not just a matter of tasks that the domestic worker has to carry out; she is also given a role<sup>8</sup>. The expectations of the family towards the mother, the wife, the daughter are now passed onto her. The domestic worker is supposed to become “one of the family” and this rhetoric implies that she is a bearer of family responsibilities, rather than a party to an employment relationship with entitlements that have to be respected. This perception may pose a series of “moral obligations” to the domestic worker towards her employers. Therefore, she can be expected to work overtime, to be on a twenty four hours stand-by without remuneration, to have her day-off changed unexpectedly according to her employer’s needs, to be

<sup>3</sup> Lutz, Helma (2008): “When Home Becomes a Workplace: Domestic Work as an Ordinary Job in Germany?”, pp. 43-60 in Lutz, Helma (ed), *Migration and Domestic Work. A European Perspective on a Global Theme*, Ashgate, Surrey, p. 48.

<sup>4</sup> Papataxiarchis et al. (2009): *Worlds of Domestic Work. Gender, Migration and Cultural Transformations in Athens of the early 21<sup>st</sup> century*, Alexandria Publications, Athens, p. 9.

<sup>5</sup> MESTRE i Mestre, R., *op. cit.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> ANDERSON, Bridget (2000): *Doing the Dirty Work? The global politics of domestic labour*, Zed Publications, London, p. 43.

casually passed on to work for the employer's extended family, to be offered clothes as a substitute of her agreed salary.<sup>9</sup> However, she never becomes part of the family; she is in a rather subordinated position, but charged with the moral duty to feel gratitude towards her employers.

With these concerns in mind, the answer to the uncomfortable question of whether true gender equality has been achieved in our modern, European states, remains negative. We inevitably wonder if the system of gender equality and inclusion we have constructed is actually in favour of women when it is based on someone else's, the female migrant's that is, discrimination and exclusion. Some reflections follow upon this new, emerging inequality.

### 1.2. *Constructing a new global system of inequality*

As it will be argued here, the whole structure of modern, paid domestic work depicts, in a micrograph, a new system of inequality that has taken global dimensions. The position that the female migrant domestic worker has in our societies and the role she is asked to hold in our homes, is an indication of the disparities between the nations and of the global social order.

Andall refers to the phenomenon of the emergence of a *servicing caste*<sup>10</sup> in Europe. She argues that as migrant women from Asia, Africa and Eastern Europe<sup>11</sup> are progressively substituting local women in many European countries who used to work as domestic workers, the sector of domestic work is increasingly becoming highly racialized and hierarchical.<sup>12</sup> Stereotypical assumptions about the innate nature of certain ethnicities to be maids and servants are being constructed. An

indicative example is the fact that in colloquial Greek, the word "Filipina" has become a synonym of "maid" and "servant". Furthermore, the negative way this connotation is used by the native Greek population demonstrates not only the racial stereotype within which Filipinas are being viewed, but the low status that is attributed to domestic work as a profession and activity.

Ethnic and religious hierarchies about domestic workers are also being formed and this is reflected on the employers' preferences over specific groups. In Spain for example, Moroccan women are least likely to be employed to provide childcare because of anti-Islam prejudices, but they form one of the largest ethnic groups in the cleaning sector, while the shared culture with Latin American women and the popular perceptions that depict them as loving and caring, places them first to the preferences of the employers especially when it comes to childcare.<sup>13</sup> In Cyprus, Anthias<sup>14</sup> notes that Filipinas are generally preferred over Sri Lankans, because of the shared Christian religion and of the fact that most of them speak English.

In addition, in spite of the fact that female migrant domestic workers in Europe come from different ethnic and social backgrounds, there are some shared characteristics that help us understand the landscape of contemporary domestic work and its inherent, global inequalities. Sarti's study of domestic work from a historical point of view highlights some very important points of modern trends. According to her, currently, women employed in the domestic sector follow a migratory path from poorer to richer countries, but this does not always mean that they are poor themselves. On the contrary, very often they belong to the middle class in their country of origin; they have received education and have qualified but inadequately remunerated jobs<sup>15</sup>. They therefore, leave their home countries where they enjoy a

<sup>9</sup> Anderson throughout her research in domestic work in five European cities (Athens, Barcelona, Berlin, Paris and London), observed this practice; various employees (especially live-in ones) complained that their employers sometimes give them used clothes and other items instead of paying them the agreed salary. (Ibid, p. 40).

<sup>10</sup> Andall borrows the term from Katzman's study (1978) of black domestic workers in the United States during the years 1870-1920, where he argued that they form a 'service caste' in the American South.

<sup>11</sup> Here we could add women from Latin American countries as well.

<sup>12</sup> ANDALL, Jacqueline (2003): "Hierarchy and Interdependence: The Emergence of a Service Caste in Europe" in ANDALL, Jacqueline (ed.) *Gender and Ethnicity in Contemporary Europe*, Berg, Oxford pp. 39-60.

<sup>13</sup> WILLIAMS, Fiona, GAVANAS, Anna (2008): "The intersection of Child-care Regimes and Migration Regimes: A Three Country Study", pp.13-28 in LUTZ, Helma, *Migration and Domestic Work. A European Perspective on a Global Theme*, Ashgate, Surrey, pp. 22-24.

<sup>14</sup> ANTHIAS, Floya (2000): "Metaphors of Home: Gendering New Migrations to Southern Europe", pp. 15-47 in ANTHIAS, Floya, LAZARIDIS, Gabriella (eds.), *Gender and Migration in Southern Europe. Women on the Move*, Berg, Oxford, p. 31.

<sup>15</sup> Sarti, Rafaella (2008): "The Globalisation of Domestic Service. A Historical Perspective" in LUTZ, Helma (ed.), *Migration and Domestic Work. A European Perspective on a Global Theme*, Ashgate, Surrey, pp. 77-97.

relatively good social status, to be employed as domestic workers, a job that is considered low-skilled and marginal and thus to live socially excluded<sup>16</sup>. They also lose the contact with their professional and educational backgrounds, what has been referred to as the “brain drain” phenomenon<sup>17</sup>, thus reducing their chances of returning to a more qualified and socially respected profession.

Furthermore, Andall<sup>18</sup> observes that contemporary domestic workers are no longer just young, single women; on the contrary as her research that has focused in Italy has shown, they are often women with children of their own who are obliged due to the nature of their work, to neglect their personal role as mothers and push their families to invisibility. Nonetheless, even if they do not have children of their own when they start working, especially the live-in domestic workers, may be discouraged from having children out of fear of losing their jobs and because of the insuperable difficulties they will have to face in reconciling their family life with this type of employment.<sup>19</sup>

There is no homogenous approach by European Union states towards the recognition of the right to family reunification for female migrant domestic workers. In Germany and France, migrant domestic workers are not allowed to bring their children, while Spain has a different approach, permitting the regrouping of all dependent family members<sup>20</sup> and Italy recognizes the right to family reunification for children under the age of eighteen<sup>21</sup>. Nevertheless, there are cases of migrant women who prefer to

leave their children back in their countries of origin to be raised by kin members, rather than bringing them to an environment where they are likely to experience racism, xenophobia and social exclusion.<sup>22</sup>

### 1.3. *The feminization of migration*

It is significant to explain that the feminization of migration as a phenomenon does not only imply an increase in the numbers of migrant women, but it actually conveys a conceptual aperture, an acknowledgment of women's partaking and role in migration flows<sup>23</sup>. Even though women have long participated in population movements<sup>24</sup>, it is only during the last decades that the variable of gender has started to be taken into account in international migration research<sup>25</sup>. Until the 1970's migration researches focused on the male labour migrant, underestimating the role of women<sup>26</sup>. Nevertheless, as Vicente<sup>27</sup> notes, even when female migrants started to receive attention, it was taken for granted that they migrate only through family reunification schemes and “continued to be regarded as passive subjects, dependent on men in the process”.

Domestic work, as a gendered and ethnically segregated sector, has contributed on drawing attention on and making visible a long-standing reality; women are creative actors of labour migration flows as they do migrate on their own account and seek

<sup>16</sup> Ibid.

<sup>17</sup> HOCHSCHILD, Russell A. (2000): “Global Care Chains and Emotional Surplus Value”, pp. 130-146 in HUTTON and GIDDENS (eds.), *On the Edge: Living with Global Capitalism*, Jonathan Cape, London.

<sup>18</sup> Andall, *op. cit.*, pp. 39-60.

<sup>19</sup> ANDALL, Jacqueline (2000): *Gender, Migration and Domestic Service: The Politics of Black Women in Italy*, Ashgate, Aldershot, pp. 193-219.

<sup>20</sup> Nevertheless, there exist various requirements and restrictions like complete dependence on the “regrouper”, the children must be under the age of eighteen, certain duration of the marriage in case of spouses' reunification, as well as the “regrouper's” obligation to demonstrate adequate housing and sufficient financial means.

<sup>21</sup> OZYEGIN, Gul, HONDAGNEU-SOTELO, Pierrette (2008): “Conclusion: Domestic Work, Migration and then New Gender Order in Contemporary Europe”, pp. 195-208 in LUTZ, Helma (ed.) *Migration and Domestic Work. A European Perspective on a Global Theme*, Ashgate, Surrey.

<sup>22</sup> PARREÑAS, Raquel (2008): “Perpetually Foreign: Filipina Migrant Domestic Workers in Rome”, pp. 99-112 in LUTZ, Helma (ed.) *Migration and*

*Domestic Work. A European Perspective on a Global Theme*, Ashgate, Surrey.

<sup>23</sup> OSO CASAS, Laura (1998): *La migración hacia España de Mujeres Jervas de Hogar*, Ministry of Labour and Social Affairs, Instituto de la Mujer, Madrid, pp. 39-58.

<sup>24</sup> VICENTE, Trinidad, SETIÉN, María L.: (2005), “Female Migratory Models”, pp. 15-38 in VICENTE, Trinidad, SETIÉN, María L.(eds.), *Cross-disciplinary views on migration diversity*, University of Deusto, Bilbao, p.17.

<sup>25</sup> ZLOTNIK, Hania, (2003): *The Global Dimensions of Female Migration*, at <http://www.migrationinformation.org/feature/display.cfm?ID=109>, (consulted 07 July 2010).

<sup>26</sup> RIBAS MATEOS, Natalia (2005): “La feminización de las migraciones desde una perspectiva filipina”, pp. 67-87, *Revista CIDOB d'Afers Internacionals*, Issue 68, p. 68.

<sup>27</sup> VICENTE, Trinidad L. (2003): “Women migrants: invisible or creative actors?”, pp. 235-249 in TURTON, David, GONZALEZ Julia (eds.), *Immigration in Europe: Issues, Policies and Case Studies*, University of Deusto, Bilbao, pp. 236-239.

employment<sup>28</sup>. In this section the correlations of migration and domestic work are presented.

Anthias argues that the globalised economy has resulted to the flexibility of employment relations with women being the answer to the needs of the global capital. As she states: "Women fill particular functions in the labour market, being cheap and flexible labour for the service sectors. They are located within a secondary, service-orientated or hidden labour market that is divided into male and female sectors and reproduces an ethnically and gendered divided labour market."<sup>29</sup> Referring specifically to the domestic work sector in Spain, Oso<sup>30</sup> characterizes it as a "labour niche" for female migrants which functions as their main gateway to Spain.

Women from developing countries are ready to take up positions scorned by the local population in developed countries, like to be a live-in domestic, to work for low wages and in conditions that very frequently deprives them from their fundamental human rights. As Vicente and Setién<sup>31</sup> point out, women as migrants do not form a homogenous group; their decision to migrate is stemmed from a variety of reasons and their migratory projects and routes are diverse.

As the large majority of women in Europe entered the formal labour market and most young couples became dual-earners, a gap in household maintenance and childcare was created, since there was no re-organizing of these responsibilities on a shared-basis between the spouses. Moreover, the increasingly ageing population of Europe boosts the need for eldercare that women in the extended families can no longer provide for.<sup>32</sup>

However, European states, especially in Southern Europe, do not seem to be responding through their welfare system to

these new social needs. As Lutz puts it: "While some European states have a record of providing services for children, the elderly and the disabled through subsidies for care work (parental leave, crèches<sup>33</sup>, elderly care and nursery homes), neoliberal welfare restructuring now seems to lead to a market driven service and a serious decline of service-provided social care services"<sup>34</sup>. It is a lot cheaper and more convenient for states to enable private arrangements for the substitution of the reproductive work of women, rather than adjusting their welfare schemes and relocating public funds in order to effectively support their female citizens in reconciling family and professional life.

Thus, while European Union (EU) follows increasingly restraining immigration policies for non-EU nationals; states in Southern Europe have introduced migration systems to facilitate the entry of migrant women in their territories, who are given temporary working visas exclusively for the domestic service sector. In the case of Spain, a quota system was applied in 1994, granting 20.000 annual work permits to non-EU nationals to fulfill the need for domestic work services<sup>35</sup>. The quota system was then replaced by the "listado de empleo de difícil cobertura" which aims at attracting migrant workers for sectors that the local population rejects. For Escrivá and Skinner these policies indicate Spanish state's "weakness and incapacity to deal with the challenges of a new demography and society in Spain"<sup>36</sup>. In Italy, an analogous quota policy to attract female migrant domestic workers has been implemented, in contrast to the restrictive asylum law and residence permits systems that characterize the Italian migration policies<sup>37</sup>. Cyprus follows a similar approach to the issue, by setting an exceptional and easier procedure for the granting of temporary working visas to domestic workers, than to other categories of third-national migrant workers.

<sup>28</sup> VICENTE, T., *op. cit.*, p. 247.

<sup>29</sup> ANTHIAS, F., *op. cit.*, p. 25.

<sup>30</sup> OSO CASAS, Laura (2010): *An Overview of Gender and Migration in Spain*, at <http://www.migrationeducation.org/48.1.html?&rid=155&cHash=ba100da9d8>, (consulted 07 July 2010).

<sup>31</sup> VICENTE, T., SETIÉN, M.L., *op. cit.*, pp. 28-32.

<sup>32</sup> KOFMAN *et al.*, (2000): *Gender and International Migration in Europe*, Routledge, London, p. 118.

<sup>33</sup> The system of public nursery centers in France.

<sup>34</sup> LUTZ, H., *op. cit.*, p. 5.

<sup>35</sup> ESCRIVÁ, Angeles (2000): "The position and status of migrant women in Spain", pp. 199-225 in ANTHIAS F., LAZARIDIS G. (eds.), *Gender*

*and Migration in Southern Europe: Women on the move*, Berg, Oxford, p. 204.

<sup>36</sup> ESCRIVÁ, Angeles, SKINNER, Emmeline (2008): "Domestic Work and Transnational Care Chains in Spain", pp. 113-126, in LUTZ Helma (ed.), *Migration and Domestic Work. A European Perspective on a Global Theme*, Ashgate, Surrey, p. 116.

<sup>37</sup> SCRINZI, Francesca (2008): "Migrations and Restructuring of the Welfare State in Italy: Change and Continuity in the Domestic Work Sector", pp. 29-42 in LUTZ, Helma (ed.), *Migration and Domestic Work. A European Perspective on a Global Theme*, Ashgate, Surrey, p. 35.

The structure of the globalised economy that calls for flexible patterns in employment, the high demand for domestic services that the new social conditions have provoked in Europe, along with the immigration policies followed by states directed to facilitating the entry of women from developing countries to Europe in order to provide these services and the readiness of these women to work in often degrading and exploitative conditions, are all reasons that have triggered the discourse on the feminization of the migration phenomenon.

## 2. Human Rights Concerns and the Regulation of Domestic Work

This part attempts to explore the human rights' aspect of the issue of contemporary, paid domestic work. It first presents some important International conventions that map the framework for the protection of female migrant domestic and some developments that have been made on the European level. Then, it analyses some of the human rights violations that female migrant domestic workers are subjected to.

### 2.1. *Female migrant domestic workers under the International and European framework*

On the international level, there are various instruments that could be used to protect the rights of migrant domestic workers even though they do not refer to them explicitly. To begin with, many Conventions of the International Labour Organisation (ILO) contain a range of provisions to ensure the safeguarding of labour and human rights that given their general nature, protect all workers and are therefore applicable to persons employed in domestic work as well. The eight core ILO Conventions<sup>38</sup> set the fundamental principles and rights at work, such as the freedom

of association, the right to effectively exercise collective bargaining, the abolition of forced labour practices, the elimination of discrimination regarding employment and occupation and the prohibition of child labour.

Apart from the core Conventions, other important ILO Conventions guarantee fundamental rights for workers like the protection of maternity, paid holidays, night work, social security benefits, unemployment benefits, paid sick leave and safety at work.

In relation to specific concerns for migrant workers, the Migrant Workers Convention no. 143 (1975)<sup>39</sup> addresses very significant issues. In article 8(1) it guarantees the separation of work and residence permit; a migrant worker that resides legally in a state for the purpose of employment and then for some reason loses the employment and consequently his/her work permit, should not automatically lose the residence permit as well. The right to select and change employer on equal terms for nationals and migrant workers, is also assured in article 8(2). Furthermore, the Convention highlights the imperative need to ensure that no migrant worker is deprived of his/her fundamental human rights, due to being undocumented. It is evident that the said provisions are of high importance for migrant domestic workers whose migratory status very often depends on one specific employer and employment contract and they are frequently working in the informal economy.

Additionally, the United Nations (UN) Convention on the Protection of the Rights of Migrant Workers and Members of Their Families<sup>40</sup> adopted by the General Assembly in 1990<sup>41</sup> is another important document that could be applied for securing and strengthening the rights of domestic workers. In its Preamble the Convention recognizes among others, the vulnerability that often characterizes migrant workers and the members of their families in general and especially when their movement is undocumented, and highlights the importance of developing an

<sup>38</sup> As identified by ILO's Governing Body the core ILO Conventions are namely: Forced Labour Convention no. 29 (1930), Freedom of Association and Protection of the Right to Organize Convention no. 87 (1948), Right to Organize and Collective Bargaining convention no. 98 (1949), Equal Remuneration Convention no. 100 (1951), Abolition of Forced Labour convention no. 105 (1957), Discrimination of Employment and Occupation Convention no. 111 (1958), Minimum Age Convention no. 138 (1973) and Elimination of the Worst Forms of Child Labour Convention no. 182 (1999).

<sup>39</sup> ILOLEX, 1975, The Migrant Workers Convention, no. 143, at <http://www.ilo.org/ilolex/english/convdisp1.htm> (consulted 25 June 2010).

<sup>40</sup> Also referred to as the Migrant Rights Convention.

<sup>41</sup> UN General Assembly, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 18 December 1990, A/RES/45/158, at <http://www.unhcr.org/refworld/docid/3ae6b3980.html> (consulted 25 June 2010).



adequate international protection due to the fact that their fundamental human rights are not respected universally.

In fact, the Migrant's Rights Convention does not grant any exceptional rights to migrants; it basically reaffirms that, migrant workers and their families are entitled to the same basic human rights as every other human. In regards to employment, the Convention guarantees the right to equal treatment as nationals regarding fair remuneration and other working conditions, such as overtime and holidays<sup>42</sup>, the right to join freely a Trade Union<sup>43</sup> and the right to enjoy the same treatment as nationals regarding social security benefits<sup>44</sup>. It is worth to mention that until presently, no European Union state has ratified this Convention<sup>45</sup>; all the ratifications come from countries that are sending immigrants rather than receiving<sup>46</sup>.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which has been characterized as an International Bill of Rights for women<sup>47</sup>, is of course relevant to domestic work issues, as the impressive majority of domestic workers are females. In particular, Article 2 calls all party-States to condemn discrimination against women in all its forms and to pursue by all means and without delay a policy of eliminating discrimination against women. Article 6 advocates the elimination of the exploitation of women and Article 11 provides for equality of rights in respect of employment.

The CEDAW Committee issued in January 2005 the General Recommendation no.26 on Women Migrant Workers<sup>48</sup>. The Recommendation aims at tackling the issue of abuse and discrimination that certain categories of migrant women may face, through suggestions that are directed both to sending and destination

states. According to the second paragraph of the introduction, "This general recommendation intends to contribute to the fulfillment of the obligations of States parties to respect, protect and fulfill the human rights of women migrant workers [...]".

Regarding destination countries, the Recommendation notes that women migrants are often faced with gendered perceptions on what kind of jobs are appropriate for them, that restrict their opportunities for employment in the service and domestic work sectors where they are very frequently employed in the informal economy<sup>49</sup>. The said sectors do not always enjoy the same legal protection as other occupations under national Law, thus migrant women often find themselves working under precarious conditions, without contracts, for unremunerated overtime labour and without social security.<sup>50</sup> In addition to the gender based discrimination they may face, they can also become victims of xenophobia and racism due to their nationality, language, religion or any other characteristic<sup>51</sup>.

The Recommendation also highlights the specific vulnerabilities that domestic work entails regarding the personal security and living conditions of the employee<sup>52</sup>. As a consequence, a series of obligations are posed upon receiving states<sup>53</sup> in order to ensure the protection of the human and labour rights of female migrant workers. Inter alia, destination countries have the responsibility to ensure that their migration regimes do not pose discriminatory restrictions on female migrant workers<sup>54</sup>, to guarantee the same Labour Law protection to female dominated sectors such as domestic work and to include mechanisms in order to monitor the workplace of migrant women<sup>55</sup>, to provide for non-discriminatory on the basis of sex family reunification schemes<sup>56</sup>, access to social services and protection for the victims

<sup>42</sup> Article 25.

<sup>43</sup> Article 26.

<sup>44</sup> Article 27.

<sup>45</sup> The only states in Europe that have ratified the Convention are Bosnia and Herzegovina and Montenegro.

<sup>46</sup> UN Treaty Collection, Status of Treaties, at <http://treaties.un.org/pages/ParticipationStatus.aspx> (consulted 22 May 2010).

<sup>47</sup> CHARVET, John, KACZYNSKA, Elisa (2008): "Women's international human rights", pp. 200-222 in CHARVET and KACZYNSKA, *The Liberal Project and Human Rights. The Theory and Practice of a New World Order*, Cambridge University Press, Cambridge, p. 210.

<sup>48</sup> UN Committee on CEDAW, General recommendation No. 26 on women migrant workers, 5 December 2008, CEDAW/C/2009/WP.1/R, at

<http://www.unhcr.org/refworld/docid/4a54bc33d.html> (consulted 31 May 2010).

<sup>49</sup> Paragraph 13.

<sup>50</sup> Paragraph 14.

<sup>51</sup> Ibid.

<sup>52</sup> Paragraph 18.

<sup>53</sup> The Recommendation, as it has been mentioned, refers extensively to the responsibilities of sending as well as transit countries, but for the purpose of this paper, only those of receiving countries are analyzed.

<sup>54</sup> Paragraph 26 a.

<sup>55</sup> Paragraph 26 b.

<sup>56</sup> Paragraph 26 e.



of abuse regardless of migratory status<sup>57</sup>. Special attention must also be given to female migrant workers who are undocumented; it is underlined that under no circumstances can they be deprived of their fundamental human rights and that in case of violations, access to redress mechanisms has to be ensured<sup>58</sup>.

A very important development to specifically address the problems of migrant domestic workers and ensure the protection of their rights on the international level, is the decision of the ILO Governing Body in March 2008, to initiate a dialogue on standard-setting for domestic workers' decent work. This can be considered a step towards an ILO Convention for the protection of domestic workers, the first legal document on the international level dedicated to safeguarding decent working and living conditions for domestic workers which can then be used as a guideline and reference point for national legislations on the issue. A final decision on a possible adoption will be taken in June 2011<sup>59</sup>.

At the European level, initiatives like R.E.S.P.E.C.T.<sup>60</sup> which is a European network of domestic workers' organizations, NGOs and Trade Unions have begun to emerge and advocate for the Human and Labour Rights of all those employed in private households, both as live-in and live-out workers, regardless of whether they are documented or undocumented, thus raising awareness on domestic work concerns. Such initiatives have helped to disclose the problems that the employees of the domestic sector face, in an attempt to change the long-standing belief that treats domestic work as a private issue since it is an occupation that takes place in the private sphere of one's home.

R.E.S.P.E.C.T. is particularly lobbying for the securing of basic human and particularly labour rights for domestic workers in all EU member states, an immigration status within the context of human rights and which does not tie the employee to one employer, the acknowledgement of domestic work as proper work,

contracts of employment through which minimum standards, conditions and responsibilities are set, the ratification of the Migrant Rights Convention by European states<sup>61</sup>. The network has also submitted a report to the Committee of Migrant Workers of the United Nations Human Rights Council (UNHRC) in 2007, documenting on the living and working conditions of migrant domestic workers in Europe, revealing the responsibilities of governments and suggesting forward looking strategies<sup>62</sup>.

At the institutional European level, the issue of domestic work has been addressed primarily as a problem of the informal economy and only through non binding documents<sup>63</sup>. Nevertheless, there have been important references to the protection of the rights of migrant domestic workers as well, since being employed in the informal market, does carry many complications for the human rights of workers themselves. An indication of this new development is the 2000 Resolution<sup>64</sup> regarding the regulation of domestic work in the informal sector adopted by the European Parliament issued, following a report by the Committee on Women's Rights and Equal Opportunities<sup>65</sup>.

The report acknowledges the vulnerable situation of female domestic workers which is created by the fact that their occupation is one of the most hidden and least recognized ones. The Committee calls for the adoption of common European rules to secure the social Rights of female migrant domestic workers. The recognition of domestic work as a formal occupation is considered indispensable.

With its Resolution the European Parliament, *inter alia*, recommends that member states create reception centers for female migrant domestic workers that will provide them with psychological and psychiatric help in cases of mental, physical or sexual abuse and legal support to take action against said abuses, as well as assistance in order to regularize their situation if they have temporary residence permits. It is important to men-

<sup>57</sup> Paragraph 26 i.

<sup>58</sup> Paragraph 26 i.

<sup>59</sup> ILO, Media and Public Information at [http://www.ilo.org/global/About\\_the\\_ILO/Media\\_and\\_public\\_information/Feature\\_stories/lang--en/WCMS\\_140916/index.htm](http://www.ilo.org/global/About_the_ILO/Media_and_public_information/Feature_stories/lang--en/WCMS_140916/index.htm) (consulted 31 May 2010).

<sup>60</sup> R.E.S.P.E.C.T. stands for Rights Equality Solidarity Power Europe Cooperation Today.

<sup>61</sup> R.E.S.P.E.C.T. network, at <http://www.respectnetworkeu.org/> (consulted 30 May 2010).

<sup>62</sup> *Ibid.*

<sup>63</sup> ANDALL, J. (2003): *op. cit.*, p. 50.

<sup>64</sup> European Parliament, Resolution on Regulating domestic help in the informal sector (2000/2021(INI), 30 November 2000, at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P5-TA-2000-0542+0+DOC+XML+V0//EN> (consulted 30 May 2010).

<sup>65</sup> EUROPEAN PARLIAMENT (2000): *Final Report on regulating domestic work in the informal sector*, Committee on Women's Rights and Equal Opportunities, Brussels.

tion though, that so far there has not been any follow up on the Resolution<sup>66</sup>. Furthermore, since the issue of the Resolution, there is a resonant silence of the European Union bodies on the human rights concerns faced by domestic workers.

## 2.2. Human rights violations; constructing the maid with no rights

### A. EXPLOITATIVE TERMS OF WORK: CONTRACTS, HOURS AND SALARIES

As domestic work is not considered ‘proper’ employment, its regulation can be very informal. One of the consequences of this informality is the lack of written contracts of employment. Working without a written contract weakens the protection of the employee at a very large extent and may lead to abuses on the behalf of the employer. First of all, not having a written contract impedes the regularization process, since the migrant cannot prove the employment and acquire a legal resident status<sup>67</sup>. Secondly, the employee has no means of proving potential breaches of the terms of employment and the employer may arbitrarily change the orally agreed terms at any time. Finally, without a written contract, the worker is excluded from social security schemes.

Being employed as a domestic worker creates a very peculiar situation regarding the daily working hours and resting time. Especially in the case of live-ins, as the working and the living environment merge, it can be rather impossible, for the employee to have a clearly determined timetable and to set the boundaries between the time she is on duty and her free time. An illustrating example is baby-sitting at night; the task may seem effortless and easy to undertake while resting at the same time, but in reality it is highly demanding that requires the employee's full attention and alertness.

Due to the very nature of domestic work, especially when it includes child or elder care, the employee can have very long and

unsteady working hours<sup>68</sup>, asked to work consecutive night shifts, required to be on a “permanent availability”<sup>69</sup>. It is indicative that live-in domestic workers may end up working for sixteen hours daily or more, without receiving extra payment for the overtime<sup>70</sup>. Moreover, given the informal structures which characterize domestic work, even the minimum protection prescribed by the law may not be respected. Therefore, the employer can adjust working schedules depending on her needs, not allow breaks or the paid leave, change the regular day-off, and generally create instability regarding the working conditions of the employee.

Domestic work is also one of the most underpaid and undervalued occupations on the international labour market. As it has replaced women's unpaid reproductive labour in the household and it is usually conducted by migrants or people from rural areas, it is considered of a low status and its remuneration follows the same line, with wages that are usually below the national minimum standards and without provision for overtime or night work<sup>71</sup>. Live-in domestic workers may also have excessive deductions in their salary for food and accommodation costs.

### B. LIVING CONDITIONS

Live in work can put the domestic worker in an extremely vulnerable position, leading to serious complications for her personal safety and general wellbeing. Having to share her living environment with her employers, may open the door to serious human rights violations like sexual harassment or abuse, physical and verbal violence, as well as total control over her life. Specifically the latter, can be so extended to include the food the domestic worker is given-or not given-, her sleeping arrangements, her personal relations, her clothing and any other detail of one's daily life<sup>72</sup>. Moreover, the live-in domestic worker may suffer from lack of private space and isolation in the workplace<sup>73</sup>. Nevertheless, this type of employment is preferred by a lot of migrant domestic workers, especially newcomers. As An-

<sup>66</sup> CYRUS, Nibert (2009): “Being Illegal in Europe: Strategies and Policies for Fairer Treatment of Migrant Domestic Workers”, pp. 177-194, in LUTZ, Helma (ed.), *Migration and Domestic Work. A European Perspective on a Global Theme*, Ashgate, Surrey, p. 179.

<sup>67</sup> RODRIGUEZ, Encarnacion Guterrez (2007): “The Hidden Side of the New Economy. On Transnational Migration, Domestic Work and Unprecedented Intimacy”, pp. 60-82 in *Frontiers Journal of Women Studies*, vol. 28, p. 66.

<sup>68</sup> Papataxiarchis *et al.*, *op. cit.*, p. 5.

<sup>69</sup> ANDERSON, *op. cit.*, p. 41.

<sup>70</sup> D’ SOUZA, Asha (2010): *Moving towards Decent Work for Domestic Workers: An Overview of ILO's work*, Working Document 2, Bureau for Gender Equality, International Labour Office, Geneva, p. 19.

<sup>71</sup> *Ibid.*

<sup>72</sup> Anderson, *op. cit.*, p. 177.

<sup>73</sup> Papataxiarchis *et al.*, *op. cit.*, pp. 5-6.

person explains, in this way they can find immediate shelter and minimize their expenses. Furthermore, she notes that working as an internal can be a way to avoid controls by the police as many of them are undocumented at the time of arrival or they become afterwards<sup>74</sup>.

Since there are no clearly defined standards regarding neither quality nor quantity, the domestic worker's right to have access to adequate accommodation facilities and food, depends on the judgment and good will of the employer. The inability to exercise any state inspection on the basis that this would constitute an intervention in the employer's private life and home, makes it extremely difficult to disclose any violations. Thus, inadequate housing and poor nutrition are two major problems faced by migrant domestic workers, who are very frequently obliged to live in very precarious conditions.

For migrants trying to live independently, it can be extremely difficult to find suitable accommodation, for which they do not have to pay overrated rents, live in marginalized neighborhoods and under crowded and unhygienic conditions. Furthermore, as Anderson's extensive research in five European cities has revealed, live-out domestic workers find it extremely difficult to manage working schedules since they have to work for many employers and lose a substantial amount of their time on transportation<sup>75</sup>.

### C. RESPECT FOR PRIVATE LIFE

The right to respect for one's private life, family, home and correspondence is safeguarded both by the European Convention of Human Rights (ECHR) in article 8 and by the International Covenant on Civil and Political Rights (ICCPR) in article 17. Moreover, the ICCPR refers to the notion of "privacy" as well, which the Human Rights Committee has defined widely stating that:

"The notion of privacy refers to the sphere of a person's life in which he or she can freely express his or her identity, be it by entering into relationships with others or alone"<sup>76</sup>.

Domestic workers may experience infringements of the right to individual's autonomy, to protection of a person's intimacy and the right to respect for family life, all of which are aspects of pri-

vate life. It is very common that employers have to pay a guarantee to the state when employing a migrant domestic worker. The payment of this guarantee by the employer may result to, or justify, patronizing behaviors on the behalf of the latter; this can be translated to confiscation of travel documents, suspiciousness, control and monitoring that clearly goes beyond the limits of the expected surveillance that an employer can exercise over his/hers employees in any ordinary professional relationship. As a result, the right to the individual's autonomy is violated.

Ironically, domestic workers even though they are employed to provide personalised care and household maintenance services and allow their employers to combine private and professional life, they face tremendous barriers to have their own family and private life. Apart from very often being excluded from family reunification schemes, they also face insuperable practical difficulties in order to exercise the right to family and private life, such as the lack of private space and of financial means.

## 3. Forward Looking Strategies

This section focuses on measures that could improve the working and living conditions and general status of female migrant domestic workers in a way that safeguards their human rights. The suggestions presented here, are grouped in three core categories; how to prepare female migrant domestic workers for their entry to the destination country, how to protect them through migration policies and labour regulations and finally, how to empower them allowing them to develop skills and capacities for better civic participation.

### 3.1. How to prepare

#### A. DISSEMINATION OF INFORMATION

The migration policy of the hosting state must begin even before the departure of the migrant from the country of origin and continue with constant support to the latter. One way to prepare the migrants is the dissemination of information with a specific focus on three core issues; their human and particu-

<sup>74</sup> ANDERSON, *op. cit.*, pp. 39-40.

<sup>75</sup> ANDERSON, *op. cit.*, pp. 44-47.

<sup>76</sup> Human Rights Committee, *Coeriel and Aurik v. The Netherlands*, Communication No. 453/1991, Views of 31 October 1994.

larly their labour rights under the national Law of the receiving state, the society they are immigrating to and its characteristics, as well as the particularities that their occupation entails. The information could be distributed for example through brochures in the native language of the migrant at the consulates of the receiving country abroad.

Newly arrived migrants are especially vulnerable to labour and other forms of exploitation since they are not familiar with legal regulations and procedures. Therefore, upon arrival in the receiving country, the state authorities should ensure that migrants have information about and access to complaint and redress mechanisms for human rights violations available under national law. They should also be provided with information on how to find suitable accommodation and on what they should expect regarding the prices and the quality of housing facilities. This will enable domestic workers to seek alternatives to being employed as live-ins and help them on the search of adequate and affordable housing.

#### B. LANGUAGE COURSES AND ORIENTATION WORKSHOPS

Another way to help migrants to become acquainted and adapt to the realities of the host countries is to provide language and orientation courses that shall be available before departure from the country of origin and continue throughout the duration of the stay in the host country.

Undoubtedly, knowledge of the official language is a vital tool for migrants in order to become active members of the society and be in a position to fully exercise rights. Language skills are indispensable in order to establish or participate in a Trade Union, to have access to education, to seek employment outside the service sector, or to simply have a driving license or bank account.

Then, regarding the orientation workshops, some topics to be covered could be Social Security issues, health care services, as well as general knowledge on the history, culture and political situation of the host country<sup>77</sup>, something that will help the migrant to feel part of the society and not just a “guest worker”.

<sup>77</sup> DE BOTTON *et al.* (2008): “Policy Recommendations at the European Level for the Integration of Female Migrant Domestic Workers”, in Mediterranean Institute of Gender Studies, *Integration of Female Migrant*

Both language and orientation courses should be free of charge and organized in flexible ways, so that they are accessible by all. The participation of female migrant domestic workers to these courses could be encouraged through establishing an accreditation system and providing certificates for successful attendance<sup>78</sup>.

### 3.2. How to protect

#### A. ABOLITION OF DISCRIMINATORY PROVISIONS

One of the first steps to be taken by host states in order to end the multiple discriminations that female migrant domestic workers face is to acknowledge their presence and importance in the labour market and in the society; in other words, to take them out of the invisibility they are presently found in. Then, it is crucial to address the issue of such large numbers of migrant domestic workers are employed irregularly denied of fundamental human rights. In order to do so, states should establish transparent and accessible regularisation procedures and provide incentives to the employers to register their employees. In particular, it should be ensured that the procedures and the eligibility criteria to acquire the status of long-term resident, as well as for family reunification are transparent and comprehensive and that they do not arbitrarily exclude female migrant domestic workers.

Lastly, provisions that treat domestic work as a “special” and “exceptional” sector, which in reality is translated into a minority status for domestic workers, should be abolished and domestic workers should be granted the same labour rights protection as any other group of employees.

#### B. DISCONNECTION OF THE RESIDENCE FROM THE WORK PERMIT AND INTRODUCTION OF JOB-SEEKER VISAS

Domestic workers can lose their employment very easily and if in this case they are also automatically deprived of their legal residence status, then they are consequently forced to work undocumented which further fosters vulnerability and labour exploitation. Moreover, by tying the worker’s residence

*Domestic Workers: Strategies for Employment and Civic Participation*, University of Nicosia Press, Nicosia, p. 203-204.

<sup>78</sup> *Ibid.*

and work permit to one single employer, creates high levels of dependence.

Therefore, for all the above reasons, it is imperative to unlink the residence and work permit and ensure labour mobility for domestic workers. In order to do so, the introduction of job-seeker visas could be considered<sup>79</sup>. These are visas for a short period of time as an alternative to the employer-based ones; this way the employee will have the opportunity to chose her employer and vice versa and both parties will take part in the negotiations of the working conditions and will not be dependent on intermediaries. Finally, in case of unemployment, the migrant worker must have the opportunity to search for a new employer while receiving unemployment benefits.

#### C. ACCESS TO PUBLIC EMPLOYMENT SERVICES

Private employment agencies may have a problematic role for the human rights of female migrant domestic workers. Since these agencies are profit-based and promote the interests of their clients who are the employers, they may take advantage of migrant workers and lower the labour standards arbitrarily. Therefore, it is important that public employment services are made accessible to migrant domestic workers.

Gregoriou<sup>80</sup> suggests the setting up of a public database system that could work as a channel of communication between potential employers and employees; the former can use the system to post announcements on job offers and the latter will be able to contact them directly. Public services should operate as intermediaries between domestic workers who seek employment and potential employers and promote a fair and professionalized hiring system<sup>81</sup>. The adoption of this measure will potentially help to eliminate incidents of human trafficking through domestic work which is a phenomenon that has started to acquire thorny dimensions. It will also encourage better communication and contact between employer and employee and promote the idea that domestic work is a formal employment relationship.

<sup>79</sup> DE BOTTON *et al.*, *op. cit.*, p. 198.

<sup>80</sup> GREGORIOU, Zeleia, (2008): "Policy Recommendations for Cyprus. Integration of Female Migrant Domestic Workers in Cyprus: From 'duties' to 'labour', from 'maternalism' to 'labour rights'. Strategies for Employment

#### D. CONTRACTS OF EMPLOYMENT

In cases when the contract of employment can be oral, this fosters informality and precariousness regarding the labour and living conditions of the domestic worker that subsequently lead to violations of her human rights. Therefore, the employment of a domestic worker through a written contract must become a legal obligation of the employer and not an option. Evidently, there cannot be any justification in giving to the latter the flexibility not to be bound by a written contract.

The contracts of employment must clearly state the tasks, the working schedule and resting time, the remuneration along with a provision on the annual increase and extra payments the employee is entitled, the holidays, provisions on maternity leave, the conditions for the termination of the contract, as well as the procedure in order to access the national Labour Disputes Settlement. Finally, it is crucial that the contracts are also translated in the native language of the employee.

#### E. TASKS AND RECOGNITION OF QUALIFICATIONS

It has been noted that domestic workers suffer from the ill-definition of their tasks. In reality, they are employed under the general title of "domestic worker" and end up doing everything; from childcare, to eldercare, to cleaning and cooking and general household maintenance, with extremely low wages. Therefore, a clear definition of their tasks must be included in each contract of employment.

Moreover, the categorization of the employees based on their tasks, is very important. At least distinguishing between two broad categories, that of care-providers and cleaners, is vital. Finally, the recognition of the workers qualifications and prior experience is a necessary step in order to ensure their labour mobility and improve their working and living conditions. If for example a worker has been trained as a nurse, she should be able to have her diploma/certificate recognized, seek em-

and Civic Participation", pp. 161-177, in Mediterranean Institute of Gender Studies, *Integration of Female Migrant Domestic Workers: Strategies for Employment and Civic Participation*, University of Nicosia Press, Nicosia, p. 173.

<sup>81</sup> *Ibid.*

ployment as a care provider for disabled people or for the elderly and be remunerated accordingly. Therefore, accessible and comprehensive procedures for the verification and recognition of degrees and diplomas of third-country nationals must be established.

#### F. FAIR REMUNERATION AND WORKING HOURS

Undoubtedly, the low wages female migrant domestic workers receive notwithstanding their long and unsteady working hours and the multitude of their tasks, violate their right to fair remuneration. Moreover, the perception that domestic work is a low status and scorned occupation, is underpinned by the particularly low salaries they receive. Therefore the minimum salaries provided for domestic workers have to be re-examined and adjusted to the current realities of each country. The minimum salary of the domestic worker should allow the latter to live independently and not impose live-in work, an arrangement that renders the worker especially vulnerable to human rights violations. Also, an annual raise according to increases in the cost of life must be provided. Finally, night work, as well as work during public holidays should be paid extra.

Regarding working hours, they should not exceed the number of forty per week, but in case the employee has to work overtime, the employer must be obliged to compensate these extra hours accordingly. It is also very important to ensure enough resting time especially between night shifts. In order to achieve this, a legal regulation of the maximum night shifts per week that a care giver can be required to work is needed, along with fixed working hours.

#### G. SOCIAL SECURITY

The employees of the domestic work sector do not enjoy the same protection as the employees of other sectors when it comes to Social Security. There does not seem to be any justification for such a different treatment and exclusion though. It is important to establish the employers' obligation to pay

contributions for the employment of the domestic worker from the first hour of work<sup>82</sup>. In addition, domestic workers must be entitled to the same maternity leave and benefits as any other female employee. These entitlements must be incorporated in the contracts of employment in order to promote their institutionalization. Also, the access of female migrant domestic workers to unemployment benefits must be guaranteed. In case of dismissal, the worker should have a right to receive fair compensation, analogous of the employment duration. Finally, a crucial step to be taken is the signing of bilateral agreements between the host countries and the countries of origin, so that migrant domestic workers will be able to transfer their social insurance contributions upon repatriation<sup>83</sup>.

#### H. LABOUR INSPECTION

In the case of live-in workers, the employer should be obliged to demonstrate that he or she can offer adequate housing facilities to the employee. The inspection should take place both prior to the granting of the permission to employ the worker, as well as during the employment. Undoubtedly, the home does belong to the private sphere of one's life and must be protected from state interferences. At the same time though, when one's home, becomes the workplace of another, the notion of "home inviolability" has to be interpreted with certain flexibility in order to ensure the protection of fundamental rights and freedoms of the domestic worker; it can certainly not be an excuse to conceal severe human rights violations such labour exploitation that in some cases amounts to servitude, sexual violence and physical abuse. Labour Inspection of the working/living space of domestic workers is an indispensable measure to ensure the respect of their right to private and intimate life.

Following the same line, Labour Inspection authorities should monitor effectively the working conditions of all those employed in households and/or providing care, both as live-ins and as live-outs and be in a position to disclose incidents of labour exploitation. States must ensure as well that Labour Dispute Settlement

<sup>82</sup> In Spain for example the employer is obliged to contribute to the National Social Security Scheme only if he/she employs the worker for more than twenty hours per week.

<sup>83</sup> GREGORIOU, Z., *op. cit.*, p. 175.

and complaint mechanisms are accessible to female migrant domestic workers on the same terms as for the employees of any other sector.

### 3.3. How to empower

The term of empowerment is understood as “the process through which individuals strengthen their capacities, their confidence, their vision and take up collectively a leading role as a social group in order to promote positive changes of the situation in which they are living”<sup>84</sup>. It constitutes, in other words, the method of reducing of one’s vulnerability, while increasing and developing capacities, with the ultimate goal of taking part in decision making procedures. In this section, ways to promote the empowerment of female migrant domestic workers’ are discussed.

#### A. CAPACITY BUILDING AND SKILLS DEVELOPMENT

It has already been argued that newly arrived migrant domestic workers should receive orientation courses and take part in workshops that will prepare them of the social, cultural and labour market realities of the receiving country. These preparatory courses could include training on household maintenance, cooking, providing care for the elderly, childcare and so on, as this can help the domestic workers to cope better with the execution of their tasks in a country where they may be encountered with important cultural differences.

Nevertheless, it is crucial that the training and the education opportunities that female migrant domestic workers receive are not restricted in the domestic work sector. On the contrary, state authorities should ensure that migrant women can participate in workshops, training courses and other continuous education programmes that can facilitate their labour mobility. In other words, migrant women should have opportunities to develop skills and acquire qualifications that will help them leave

the domestic work sector if they wish and seek employment in another sector.

Female migrant domestic workers often have diplomas, degrees, professional experience and other qualifications that, had they given the chance to use and take advantage of, they would be working in different sectors, with much better remuneration and opportunities for further personal and professional development. It is thus crucial, that these women do not lose contact with their educational backgrounds and suffer disqualification, so that they can return to their previous profession or seek further advancement.

#### B. FREEDOM OF ASSOCIATION AND EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING

An issue interrelated with the empowerment of female migrant domestic workers is the freedom of association. The freedom of association should be exercised in a way that leads to the effective recognition of the right to collective bargaining. This can help migrant women to promote their rights actively and participate in decision making procedures. For female migrant domestic workers, who are found working and living in invisibility and under precarious conditions, it is of crucial importance to be in a position to advocate for their rights through collective bargaining. Migrants should not face legal barriers to establish their own associations and/or Trade Unions, as well as to participate to existing ones.

#### C. CHANGING PERCEPTIONS, RAISING PUBLIC AWARENESS

Migrants can face xenophobic and racist attitudes due to their ethnic origin, colour, religion, culture or any other characteristic that classifies them as “others”. Migrant women, however, can be encountered with additional obstacles and stereotypical perceptions that derive from their gender. Furthermore, when the migrant woman is also a domestic worker, she is faced with an extra “otherness” because she is executing tasks that are traditionally considered as women’s unpaid labour, thus looked down at and scorned<sup>85</sup>.

<sup>84</sup> MURGUIALDAY, Pérez de Armiño, Eizagirre, 2006, Diccionario de Acción Humanitaria y Cooperación al desarrollo, “Empoderamiento”, at <http://www.dicc.hegoa.ehu.es/listar/mostrar/86>, author’s translation from Spanish, (consulted 07 July 2010).

<sup>85</sup> GREGORIOU (*op. cit.*, pp. 161-164) notes that in Cyprus female migrant domestic workers face four levels of “otherness”; as coloured women, as migrants, as domestic workers and as sexual objects.



Female migrants may suffer violations of their human rights due to the negative images that have been established about them in society. They are frequently depicted by the Media or in public discussions as “dirty”, “sexually available” and “submissive”. Thus, changing the public perceptions about the migrant woman is an indispensable step not only for her successful integration in the receiving society, but also for allowing her to live and work in dignity.

Public awareness on human rights with a specific focus on migrants and their labour rights should also be raised. Due to the informal structures of domestic work, employers may not even respect the low protection that national labour regulations grant to the worker. Therefore, even if the regulations change, even if they provide the maximum possible protection to the worker, the most important step is the institutionalisation process. Employers and the wider society as well, should receive hu-

man rights education and be aware of the violations that migrant workers may be subjected to.

As a first step, it is important to make visible the different experiences, identities and cultures of migrant women and promote a positive and constructive dialogue between them and the wider society. This way, migrant women themselves will have an active role in changing the social perceptions about them. The Media have undoubtedly a key role in this process; they should give access to migrant communities to be represented in their programmes, promote tolerance and avoid the broadcasting of stereotypical and sexist images of migrant women in general and of domestic workers in particular<sup>86</sup>.

The following table summarizes the forward looking strategies presented in this section.

**Table 1**

Forward Looking Strategies

How to prepare	How to protect	How to empower
Dissemination of information	Abolition of discriminatory provisions	Capacity building and skills development
Language courses and orientation workshops	Disconnection of residence and work permits and introduction of job-seeker visas	Freedom of association and collective bargaining
	Access to public employment services	Changing perceptions and public awareness
	Contracts of employment	
	Tasks and recognition of qualifications	
	Fair remuneration and working hours	
	Social Security	
	Labour Inspection	

<sup>86</sup> GREGORIOU, Z., *op. cit.*, p. 176.

#### 4. Final Remarks

This article has sought to explore the issue of female migrant domestic workers drawing attention to its human rights dimension. It has been argued that domestic work, especially when it is conducted by female migrants, raises important human rights concerns. The employees of this sector can be subjected to multiple and intersecting discriminations because of their gender, their ethnicity and their occupation. They are located in a sector that very frequently is out of the scope of mainstream labour regulation and inspection which makes them vulnerable to exploitative terms of work, to precarious living conditions, to sexual, physical and psychological abuse. Moreover, the unprecedented increase in the demand for cheap, female domestic labour is a strong indicator that there is still a long way to substantive gender equality.

Apart from articulating the human rights violations that female migrant domestic workers are subjected to, this article has aimed to go beyond mere victimization and reflect on forward looking strategies for their effective protection. It has been argued that in this process, empowerment is the key; the studied group of migrant women should be allowed and encouraged to develop the necessary skills in order to become active agents of their advancement.

Even though there is not a human rights instrument to specifically address the case of domestic workers, the existing International human rights system does contain important provisions that are pertinent to this group of workers. The successful lobbying of domestic workers' organisations and Trade Unions has resulted to the decision to initiate a dialogue in the ILO with the prospect of adopting a Convention on decent work for domestic workers. It now remains to see whether this dialogue will result to an International Convention that effectively addresses the human rights concerns faced by domestic workers, encompasses their claims and strengthens the International legal framework for their protection<sup>87</sup>.

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<sup>87</sup> At the time of writing this paper, the ILO had not yet voted for the Convention on Decent Work for Domestic Workers (C189). The said

Convention was adopted by the 100th International Labour Conference in Geneva on the 16th of June 2011.

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