

Who cares for domestic workers and family caregivers?

Domestic workers as poor cousins of the labour law

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Introduction

Domestic workers

- *“poor cousins of the labor law”* (Maillard, Encinas de Munagorri, 2022)
 - ✓ even with a formal labour contract
- *“statistical invisibility”* (Alonso & al., 2024)

A wide and undefined category

- EU: domestic work (female-dominated) sector
 - ✓ difficult to delimitate
 - ✓ structured by public policies promoting “essential” formal and affordable domestic services
 - ✓ poor employment and working conditions

Domestic work as a

“work like any other, work like no other” (Adelle Blackett, 2019)

Questions

- How (and to what extent) did the pandemic change the situation?
- How to improve the situation of domestic workers ?

The French case: illustrative

Context

- construction of the GCPI for France
- work in progress

Difficulties

- scoring fragmented regulations in a fragmented landscape
- where mobilizations are also fragmented

France as an illustrative case

- inspired EU regulations (2012)
- high rate of domestic workers

Semantic difficulties (France)

- what is domestic work?
 - ✓ unpaid housework
 - ✓ informal domestic work (no labor contract)
 - ✓ formal domestic work (labor contract)
- domestic workers and their employers do not use this denomination
- they rather name occupations/jobs
 - ✓ home carers, social life assistants, childminders, etc.

Outlook

1. Definitions and quantifications (EU)
2. Employment, working conditions and regulations (EU)
3. The French case

1. Definitions & quantifications (Alonso et al., 2024)

Several definitions of domestic work

- ✓ unpaid housework
- ✓ informal domestic work (without a labour contract)
- ✓ formal domestic work (labour contract)

International definitions

- focus on paid work

ILO – domestic workers

- provide paid domestic services in one or more homes within an employment relationship
- employer: individual or service provider

ILO' definition

domestic workers “*work in other people’s home in exchange for remuneration and who provide a range of domestic services: sweeping and cleaning, washing clothes and dishes, shopping and cooking, taking care of children or the elderly, ill or disabled, and/or providing services such as gardening, driving or security*” (ILO and WIEGO, 2013, p. 42, quoted in Alonso et al. 2024).

European definitions

EU – “personal household services” (PHS)

- sector-based definition since 2012
 - ✓ as in France
- employers: households, private or public organisations

EU PHS encompasses

- care and non-care activities (cleaning, gardening, private education, etc.)
- also includes “professional” activities such as nursing care and domestic repair
 - ✓ unlike the ILO

European Federation for Services to Individuals (EFSI)

- major actor in the PHS sector
- domestic work refers to
 - “activities carried out mainly in the homes of users related to personal assistance services (early childhood, and childcare, dependency, disability, invalidity, etc.) summarized under the term ‘services related to care’, as well as day-to-day life services (cleaning, ironing, gardening, minor DIY, maintenance, tutorial classes, etc.) united under the term ‘home support’”* (EFSI, 2018, p. 11, quoted in Alonso et al., 2024)

Available data sources & limitations

ILO activity & occupation classifications

- United Nations International Standard Industrial Classification of All **Economic Activities** (ISIC)
- International Standard Classification of **Occupations** (ISCO-08) categories
 - ✓ 9111 “Domestic cleaners and helpers”
 - ✓ 5322 “Home-based personal care workers”

EU activity classification

- Statistical Classification of Economic Activities in the European Community (NACE)
 - ✓ NACE T97 “Activities of households as employers of domestic personnel”
 - ✓ NACE Q88 “Social work activities without accommodation”

ISCO 9111 & 5322

- exclude some male-dominated activities (e.g., gardening, driving, etc.)

NACE T97 “Activities of households as employers of domestic personnel”

“maids, cooks, waiters, butlers, laundresses, gardeners, porters, stable boys, drivers, caretakers, governesses, nannies, tutors, secretaries, etc.” (EC, 2008 quoted in Alonso et al., 2024)

- excludes service provisions by independent/self-employed workers

NACE Q88 “Social work activities without accommodation”

- includes “Social work activities without acc. for the elderly and disabled” and “Child day-care activities”
- but also social welfare, guidance, etc.
- overestimates domestic work

Quantification: how many domestic workers in the EU?

ILO (ILOSTAT database, Eurozone)

- ✓ 2.07 million persons in direct household employment in 2019 (89.4 % were women)
- ✓ 3.92 million in the Q88 group (83.3 % women)

EFSI (PHS Industry Monitor, EU)

- ✓ 7.92 million employed in the personal and household services sector in 2016 (91 % were women)

Alonso et al. (2024) (Labour Force Survey, EU)

- ✓ 7.62 million persons were employed as domestic workers in 2016
- ✓ high European heterogeneity

Alonso et al. (2024) (LFS, EU27)

• evolution

workers employed in the domestic sector

- ✓ 7.1 million in 2021
- ✓ loss of jobs and hours during the pandemic between 2008 and 2021 changing composition
- ✓ T97: reduction (-26.5 %)
- ✓ Q88: increase (+35 %)

“may be due to the efforts to reduce informal work in the various EU countries, as well as to the proliferation of internet-based recruitment platforms; even so this does not imply a reduction in precariousness” (Alonso et al., 2024)

2. A “work like no other”: employment, working conditions and labour regulations (EU)

In general

- high incidence of temporary and part-time work
- low wages
- jobs demanding “time-availability” (Devetter, 2006)
- many women workers in this sector are above the age of 55
 - ✓ more than 60 % in Germany, France, the Netherlands and Portugal (Alonso et al., 2024)
- high incidence of “abusive work” (Alonso et al., 2014)
 - ✓ employment relationship between individual employers and precarious workers

During the Covid pandemics (Alonso et al., 2024)

- some of the domestic workers were mobilised for more hours
 - ✓ to care for the elderly or for the children of other essential workers
 - ✓ some where “trapped” with their employer
 - ✓ without proper protective equipment (masks)
- job losses were above the registered average

International and European regulations

International advances

- ILO: Domestic Workers Convention, 2011 (No. 189, C189)
 - ✓ result of domestic workers' mobilization

Decent work

- objective: include domestic workers in decent work
 - ✓ opportunities for work
 - ✓ safe working conditions and social protection for all
 - ✓ fundamental labor rights (and equal rights)
 - ✓ social dialogue

Official position of the EU

- Council gives Member states an “authorization” to ratify C189
 - ✓ encourages ratification to combat human trafficking
 - ✓ but Member states are free to ratify or not
- European Parliament's resolution (28 Apr 2016)
 - ✓ to better recognize domestic work as a professional activity

Many EU countries did not ratify the ILO C189

EU countries are allowed / encouraged to sign the ILO convention

About half of EU countries did not ratify it (Alonso et al., 2024)

- countries that have ratified
 - ✓ Italy, Spain, Portugal, Germany, Belgium
- countries that have not ratified
 - ✓ France, Cyprus, Austria

France did not ratify the Convention C189

- ✓ for fear of being condemned for the fragmentation of its regulations
- ✓ domestic work remains an “*adjustment variable*” (Encinas de Munagori, 2022)

3. The French case

Construction

- sector-based approach: “personal services” (*services à la personne*)
- France: public policies aiming at stimulating job creation in a neoliberal way
 - ✓ increasing women’s participation in the labour market
 - ✓ stimulating a “potential” for formal (private) job creation
 - ✓ limiting state investment in quality public services
 - ✓ maintaining a low cost of labour to avoid discouraging employers
 - state subsidies or tax/social contribution exemptions
 - low wages (near to the minimum wage)
- France inspired the EU (European Commission, 2012)

Statistics – French Ministry of Labour

- 1 million employees in the services to individuals in 2019
 - 4 % of the working population
 - 9 of 10 are women
 - 1 of 3 are above the age of 55
- share of informal/undeclared work: about 20 % in 2017

Working conditions and pay in the services to individuals' sector

Multiple employers

- 2 of 3 workers are solely employed by individual employers
 - 41 % work for at least 3 individual employers
- others work for a service provider (in most cases in the private for-profit sector) or an agency
 - ✓ or both for a service provider and an individual employer
- 1 out of 4 also works outside the sector

Working time (WT)

- on average, 39 % of the annual WT of a full-time job
- ✓ even though employees working for individual employers have a collective agreement that provides for a 40-hour (instead of 35) week

Low wages

- employees working for an individual employer receive higher hourly wages (EUR 14.30)
- above that of employees working for a service provider (EUR 11.80)
 - the share of care activities (which are less remunerative) is lower for dependent persons
 - service providers exert pressures on wages to remain cost-competitive
 - whereas individual employers benefit from fiscal reductions

Gender pay gap

- women's average hourly wage below that of men
 - ✓ but they work more hours in the sector so that their annual pay is above that of men

Occupational / sector fragmentation

Childcare workers in *crèches*

- Pediatric nurses (*puéricultrices*, Bac + 4/5)
- Early childhood educators (*éducatrices de jeunes enfants*, Bac + 3)
- Certified childcare assistants (*auxiliaires de puériculture*, national diploma, equiv. to Bac)
- *Crèches* agents (*agentes auprès d'enfants*, Early childhood certificate *CAP Petite enfance*)
- **domestic workers**
 - Registered childminders (*assistantes maternelles administrative agreement, 120 hours training*)
 - Home carers (*gardes à domicile*, no prerequisites)

Long-term care workers in institutions

- Doctors, head nurses
- Psychologists, physiotherapists
- Nursing auxiliaries (*aides-soignantes*, national diploma equivalent to the Bac)
- Nursing auxiliaries in gerontology (+ 140 hours training)
- Facilitators (animateurs, professional certificate, CAP, DUT etc.), etc.
- **domestic workers**
 - Home helpers (*aides à domicile*)
 - Certified social life assistant (*auxiliaires de vie sociale*)
 - Domestic helpers (*aides ménagères*)
 - Family caregivers (*aidant-es familiaux·les*)

Statutory fragmentation

Formal domestic work: various statuses

- denominations depend on the nature of the activity
 - ✓ childcare
 - ✓ long-term care
 - ✓ housework, gardening, handiwork, etc.
- on the nature of the employer
 - ✓ individual clients
 - ✓ organizations (service providers, mandating agencies)
 - ✓ self-employment
- on the employer's sector
 - ✓ public sector
 - ✓ private for-profit or non-profit sector

Varieties of informal domestic work

- unpaid housework
 - ✓ mostly provided by female unpaid caregivers
 - ✓ in some cases, within the framework of care leaves
 - ✓ and some dedicated social rights
- forced domestic work
 - ✓ slavery (denial of legal personality)
 - ✓ servitude (denial of freedom)
 - ✓ forced work (under constraint)
- informal domestic work (no labor contract)
 - ✓ undeclared (paid) work
 - ✓ non-wage compensated domestic work (e.g. indemnity for family caregivers)
 - ✓ unpaid domestic work

Fragmented regulations

The labor market for domestic work is fragmented

- continuum paid/unpaid work
- female-dominated occupations/activities
- common features
 - ✓ lack of recognition/depreciation
 - ✓ poor working conditions and job precariousness
 - ✓ poor pay, poor living conditions
- varieties of sectors and job statuses

Fragmented social regulations

Many labor code exemptions

- rules that depart from common labor rules
- and differ according to the employer's status
- ✓ answering the needs of employers instead of protecting domestic workers

3 collective agreements

- ✓ differ in the private non-profit and public sector (mostly dedicated to care for the elderly)
- ✓ in the private for-profit sector
- ✓ and for individual employers

➤ Maillard (2022)

Regulations applying to individual employers

Special provisions of the Labor code

- ✓ argument: individual employers cannot be treated as for-profit firms
 - part 7, section 2 regarding “employees of individual employers at their private home to carry out domestic or family work”
- ✓ only some provisions apply (regarding harassment, paid holidays, care leaves, medical care)
- ✓ provisions on discrimination or part-time for instance do not apply

Collective agreement

- individual employers’ representatives largely define working conditions
 - Collective agreement of 15 March 2021 for individual employers and domestic work
 - ✓ describes the “specific status of individual employers”
 - ✓ does not mention/consider employees, their working conditions
 - ✓ or the fact they work in homes, not in business premises

Regulations applying to organizations (NGOs, firms)

Labor Code exemptions

- ✓ no obligation to define working time schedules for part-time workers
- ✓ reduction of the compulsory advance notice
- domestic workers do not have access to a stable, predictable, family-friendly work schedule
- Labor code exemptions make collective bargaining crucial

Collective agreements

- private non-profit sector
 - ✓ National collective agreement for the “assistance and support, care and home services” sector (21 May 2010)
- private for-profit sector
 - ✓ National collective agreement for companies providing services to individuals (20 Sept. 2012)
- Collective agreements also provide for exemptions on working time or transportation times/fees

Consequences

- ✓ for the same work, workers are not treated the same
- ✓ a single worker working for different employers may have to rely on different rules

Covid regulations

Covid19 pandemic

- massive support for firms and the economy
 - ✓ short-time working schemes (employers' compensation of a wide share of the labor cost)
 - ✓ derogatory sick leave for care
 - ✓ 24 Billion € for employment protection
- mobilization of “essential” workers
 - emergency Health Law of 23 March 2020, ordinances to increase working-time, etc.
 - poor compensations

Difficult recognition in a fragmented landscape

- **Ordinance of 27 March 2020**
 - ✓ gives childminders access to a short-time working scheme
- **Covid premium (15 Apr 2020)**
 - ✓ unevenly distributed
- **Agreement of 26 Feb 2020 on pay increase in the “assistance and support, care and home services” sector**
 - ✓ National Accreditation Commission: negative assessment in Nov 2020 (lack of guarantees as to its fundings)
 - ✓ finally agreed and implemented in Oct 2021
- **National collective agreement of 15 March 2021 for individual employers and domestic work**
 - ✓ now includes registered childminders

Current regulations (EU and France)

- ✓ care leaves for family caregivers

Conditions for protection and recognition

Social movement

- fragmented mobilizations
- support of labour unions is crucial

State support

- “essential workers” during the pandemic
- ambivalent support

International / EU regulations

Future changes from EU regulations?

France: Labor Code exemptions have been contested as violating the equality principle

- French Court of Cassation (decision of 13 April 2022) refused the argument
 - ✓ in the name of the specific status of individual employers

Spanish case

- EU Court of Justice (decision of 24 Feb 2022)
 - ✓ social contributions’ exemptions for individual employers
 - ✓ EU Court: the exclusion of domestic workers from unemployment protections creates “social distress”
 - domestic workers’ needs justify their reintegration into the common Labor Law

Conclusion

French case

Fragmented regulations

- do not meet the needs of domestic workers
- ✓ for job and income security, safe working and living conditions
 - workers do not access to a stable, predictable, family-friendly work schedule (Maillard, 2022)
 - or to a stable wage allowing them to escape poverty (Camaji, 2022)

Recommendations

- state regulations: remove Labor Code exemptions
- unify regulations (collective agreements)

Conditions for recognition

- social mobilizations
- support of labour unions
- state support
 - ✓ also financially
- state regulations
 - ✓ against cost competition
 - ✓ and for job quality
- international regulations

Thank you!
