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**Organising Domestic Workers:  
For Decent Work and the ILO Convention  
No. 189**

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## Abstract

Domestic work is the largest sector of female employment world-wide, yet it is extremely undervalued and unprotected by labour law. Exasperating this situation, the estimated one hundred million domestic workers world-wide have until recently hardly been organised as workers. The aim of this thesis is to investigate how domestic workers, despite these conditions, have never the less organised successfully during the past decade. The study is conducted as a literature review, a quantitative methodological approach.

In order to understand the variety of organisations that have emerged, part two of this thesis is committed to delineating characteristics and circumstances of domestic work; a distinguishing feature being the private nature of the employment relationship. An overview of the extent of domestic work, the changing concepts of *work* and *identity formation* and central regulatory frameworks are provided as background information.

First, my findings reveal that the organisations that domestic workers typically organise in fall into two main categories. One is membership based organisations (MBOs) such as traditional unions, associations or community based organisations, characterised by ownership and democratic leadership structures. In contrast the second form, non-governmental organisations (NGOs), support and empower from the “outside”, providing invaluable services. They do not, however, *represent* domestic workers, but intervene on their behalf. Mixed forms are common, as are changes of organisational forms over time.

This thesis finds secondly that domestic workers have built strong international alliances, thereby gaining growing recognition by parts of the international trade union movement. In this context a trend toward unionisation, up-scaling and transnationalisation can be identified. This has been instrumental to domestic workers representation within the structures of the ILO, and the attainment of a sector specific convention. Importantly, the findings indicate that domestic workers’ organising efforts and the ILO preparatory mechanisms for the convention have had a mutually reinforcing effect.

Domestic workers’ organising has not been focused on the usual counterpart; *the employers*, who are generally not organised. Further research on labour relations in the domestic work sector could therefore be an analysis of models in the field of collective bargaining.

Search words: Domestic work; domestic employment; decent work; ILO Convention No. 189; union, labour NGO; organising domestic workers.

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## List of abbreviations

AFL-CIO	American Federation of Labor - Congress of Industrial Organizations
CBO	Community based organisation
CONLACTRAHO	Latin American and Caribbean Confederation of Domestic Workers
FADWU	Federation of Asian Domestic Workers Unions
FEMME	ILO Division on Women
HKDWGU	Hong Kong Domestic Workers General Union
HRW	Human Right Watch
IDWN	International Domestic Workers Network
ILC	International Labour Conference
ILO	International Labour Organisation
IR	Industrial Relations
ISCO	International Standard Classification of Occupations
ITUC	International Trade Union Confederation
IUF	International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Workers'
KUDHEIHA	Kenya Union of Domestic, Hotel, Education Institutions, Hospitals and Allied Workers'
MBO	Membership based organisation
MUA	Mujeres Unidas Y Activas / Women United and Active in California
NDWA	National Domestic Workers Alliance
NGO	Non-governmental organisation
ODW/FDW	Overseas domestic worker / foreign domestic worker
SER	Standard employment relationship
SEWA	Self-Employed Women's Association
STD	Sindicato dos Trabalhadoras Domésticas do Município do Rio de Janeiro
SUMAPI	Samahan at Ugnayan ng mga Manggagawang Pantahanan sa Pilipinas
UNIFEM	ILO Programme on Rural Women
WIEGO	Women in Informal Employment: Globalizing and Organizing
ZCIEA	Zimbabwe Chamber of Informal Economy Associations

## List of content

Abstract.....	2
Acknowledgements .....	3
List of abbreviations .....	4
<b>PART I: INTRODUCTION AND METHODS.....</b>	<b>7</b>
1 Introduction .....	7
2 Methodology and research design .....	9
2.1 Aim, focus, approach and research question .....	9
2.2 Assumptions.....	10
2.3 The literature.....	10
2.4 Limitations and ethical considerations.....	13
<b>PART II: BACKGROUND.....</b>	<b>13</b>
3 Domestic work around the world .....	13
3.1 Characterising domestic work .....	14
3.2 The global and regional prevalence of domestic work .....	18
4 Theoretical considerations and changing concepts .....	20
4.1 What is work and who is a worker?.....	21
4.2 The informal economy.....	23
4.3 Identity and solidarity: Negotiating similarity and difference.....	24
5 Regulating frameworks for domestic work .....	25
5.1 Key working conditions.....	26
5.1.1 Remuneration and minimum wage coverage .....	27
5.1.2 Working hours and time of rest.....	28
5.1.3 Maternity leave, income replacement and social security.....	28
5.3 Migration regimes, sponsorship and recruitment agencies.....	29
5.4 The right to organise and collective bargaining.....	30

PART III: FINDINGS AND CONCLUSIONS.....	31
6. Organising domestic workers .....	31
6.1. Membership based organisations.....	34
6.1.1 Community based organisations.....	34
6.1.2 Associations.....	35
6.1.3 Unions.....	37
6.2 Non-governmental organisations.....	41
6.3 Transnational and trans-institutional alliances .....	43
7 Conclusions .....	48
Literature .....	52

# PART I: INTRODUCTION AND METHODS

## 1 Introduction

The present thesis investigates the recent phenomenon of domestic workers' organising prior to, and to some degree after the adoption of The International Labour Organisations' (ILOs) Convention No. 189. The ILO campaign "Decent Work for Domestic Workers" is more than a question of labour standards; it is often a question of fundamental human rights, including the right to exist. As I started researching this paper, on May 18<sup>th</sup>, the newspaper Jakarta Globe noted "9th Indonesian Maid Falls to Her Death in Singapore This Year. Another maid fell to her death yesterday, apparently while cleaning the windows of a high-rise flat" (Chin 2012). According to The International Domestic Workers Network (IDWN), on June 16<sup>th</sup>, 2011 Singapore was one of 9 countries to vote against the ILO Convention No. 189. The good news is, however, that 396 members of the ILO<sup>1</sup> *did* sign the Domestic Workers Convention that day<sup>2</sup>, thereby establishing global labour standards for domestic workers. Although these standards will only be formally binding for domestic workers in countries that have ratified the convention, a diffusion of norms is already observable. There is evidence that some of the countries with the worst human rights violations against domestic workers such as Kuwait and UAE are preparing legislation on domestic work, thereby consulting ILO standards (Varia 2012).

Labour standards have not been a prominent topic in the context of master studies of International Social Welfare and Health Policy, the area within which the present thesis is carried out, other than as instruments of labour market integration and unemployment insurance or pensions. Key international experts on social welfare, however, such as Van Ginneken, concerned with *Extending Social Security* (ILO), and Holzmann and Jørgensen who approach the topic from the perspective of *Social Risk Management* (World Bank), both make explicit reference to labour standards as a foundation for social protection.

Domestic workers have generally not been fortunate enough to enjoy decent working conditions. On the contrary, they are amongst the most vulnerable and exploited workers at the lowest end of the wage distribution, working the longest hours often under conditions

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<sup>1</sup> The ILO is a tripartite agency of the United Nations; its members represent workers' organisations, employers' organisations and governments.

<sup>2</sup> The delegates of the 100<sup>th</sup> International Labour Conference "adopted the Convention on Domestic Workers (2011) by a vote of 396 to 16, with 63 abstentions and the accompanying Recommendation by a vote of 434 to 8, with 42 abstentions" (ILO 2011).

resembling slavery. In fact, Domestic workers are often *exempted* from labour law and social security provisions. In addition, whilst being marginalised as workers individually, the sector is not marginal in its prevalence. Experts have estimated that there are as many as 100 million domestic workers worldwide, with growing figures from Europe to Asia (Simonovsky and ILO 2011, 6).

Against this background, and assuming that the establishment of labour standards past and present has resulted to a large degree from efforts of organised labour, the present study is concerned with exploring the forms and conditions of organisation of domestic workers into labour unions, associations and other interest groups that have developed in particular during the previous decade. As this thesis will argue, these organisational activities seem to be strongly interlinked with the processes that lead to the adoption of the Domestic Workers Convention; the prospect of gaining a convention has had an immense mobilising effect, as the example from Kenya in chapter six illustrates. On the other hand, the organisation of domestic workers and their strategic representation in the Workers Group at the ILO advanced the issue of a specific convention for domestic workers reaching the agenda of the annual International Labour Conference (ILC) in 2010 and the adoption of a comprehensive convention only a year later.

This thesis proceeds in the following manner: Following the introduction, the purpose of this study and research methodology; a qualitative literature review, are described in Chapter Two. There I will discuss premises and limitations of my research approach and the varying reliability of the available literature.

Part Two, covering Chapters Three to Five, provides the reader with essential background information. First, Chapter Three gives a descriptive, global overview of the phenomenon domestic work. Chapter Four offers brief reflections on central concepts, such as ‘work’, ‘the informal economy’, ‘identity’ and ‘solidarity’. Chapter Five presents central rulings of the newly adopted Domestic Workers Convention (2011), and other relevant regulatory frameworks.

The intention in Part Two is to provide insights which support a differentiated understanding of the specific concerns entailed in the main research topic, at the same time illustrating its relevance. Due to the complex nature of domestic work around the world, the array of problems and opportunities linked to it, the descriptive background must be non-exhaustive. I have never the less strived to deliver a broad characterisation of domestic



work that includes both commonalities and variations, as allowed within the scope of this thesis. These aspects inform typical modes of organising as well as obstacles and promoting factors. Likewise, the theoretical considerations and concepts explained in Chapter Four only scratch the surface of possible theorising around the topic. This is first and foremost an empirical, and less a theoretical work. Therefore, only those considerations are included that I deem essential to understanding how domestic workers organise (or not).

The findings are presented in Chapter Six. Here I provide examples of different kinds of organisations in which domestic workers organise under varying circumstances in different parts of the world. They might be membership based organisations that include traditional labour unions and associations as well as supporting NGOs, charities and religious groups. An essential dimension of the successful organisation of domestic workers, transnational and trans-institutional organising, will find consideration. Chapter Seven sums up and delivers perspectives.

## **2 Methodology and research design**

### **2.1 Aim, focus, approach and research question**

The present thesis is conducted as a literature review, with the purpose of exploring how the newly adopted Domestic Workers Convention (No. 189, 2011) came about and the specific ways in which domestic workers organise. Having learned about the new ILO convention I got the impression that elsewhere, particularly in the Global South, less so in Europe, organised domestic workers represented a driving factor behind its constitution. My original intention was to find out whether the emergence of the Domestic Workers Convention in fact resulted from pressures advocated by organised domestic workers or alternately, to which degree the initiative developed internally within the International Labour Organisation. In other words to ask; to what extent are we looking at a bottom up or top down process? This would entail the question of who set the agenda in detail. However, it soon became clear that extensive studies of the institutional dynamics and policy making processes of the ILO would be required, alone filling a thesis of this scale. Though the latter is highly interesting, time and space considerations led to my choice to focus on domestic workers' organisation, thus narrowing the research question down to:

*How did domestic workers organise in face of the ILO Convention No. 189?*

Taking this perspective, the research objects are therefore domestic workers and their organisations, and the ILO constitutes an environmental factor. With a literature review, an inductive, qualitative methodological approach is chosen, a procedure in which the researcher “starts in the data,” (here; “the literature”) and develops a general set of conclusions about a given research problem (Chambliss and Schutt 2010, 29-30). The idea to collect primary data through expert interviews was discarded at an early stage<sup>3</sup>. This would have required more time than the given one semester, and as has become clear in retrospect, a much narrower research question would have been necessary.

I have chosen a broad, explorative approach in order to give an overview of an extremely complex, global phenomenon and issues relevant to domestic workers’ organisation. The comparative element of this study will become evident in chapter six, where I present different modes and levels of organising and to some degree, how they change over time.

## **2.2 Assumptions**

The focus on domestic workers agency is founded on two premises. One is the assumption that organised labour plays a fundamental role in the development and continuous defence of social welfare – whilst not being free from internal power relations and exclusive motions. This awards the topic relevance to the present master studies of *International Social Welfare and Health Policy* and to the welfare of domestic workers.

The second assumption is that however marginalised and in need of protection some people may be, active (self-) empowerment and the formulation of own interests on both an individual and group level is an essential part of human development and societal coherence, and a central principle of my profession – social work<sup>4</sup>. Considering the intense vulnerability of domestic workers, I am fascinated by the fact that they *are* organising and that transnationally. This thesis builds on these premises and does not discuss them here.

## **2.3 The literature**

The literature consists of secondary data and statistics, published scientific research, journal articles, reports, conference papers and other documents from the ILO, global and national unions, the International Domestic Workers Network (IDWN), the global action-

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<sup>3</sup> On recommendation from my supervisor, Professor Frank Meyer.

<sup>4</sup> I am trained in Germany in “Gemeinwesenarbeit” (Community Work) and Community Organising, which further explains my focus on organising and self-representation.

research-policy network Women in Informal Employment: Globalizing and Organizing (WIEGO)<sup>5</sup>, Human Rights Watch and other relevant NGOs, as well as standard textbooks.

Key search words : Domestic work; domestic employment; decent work; ILO Convention No. 189; union, labour NGO; organising domestic workers.

Although there is a growing body of research on “new” forms of (transnational) organising, including groups of workers previously ignored by unions and traditional industrial relations (IR) research, a review of the literature suggests that this does not extend to domestic workers to the same degree. Where other widespread informal work arrangements, such as street vending or day labour in agriculture, are beginning to find consideration in IR research on new forms of organising, my research suggests that organised domestic work is usually not exemplified in this context.

The literature on domestic workers and their organisations consists to a large degree of human rights (particularly in regard to strategies to prevent *trafficking*), feminist and activist linked research, that is; interest or value lead research or publications of varying academic quality. The authors are almost exclusively women, except for some authors of ILO reports and one centrally involved global union leader/researcher and promoter of “new unionism”<sup>6</sup>. Their concerns and fields of scholarship cover human rights, women and law, feminist political economy, a rights based approach to migration and migration and development, to mention the most important. A little investigation shows that many of the researchers are affiliated with WIEGO, and some have worked for the ILO, whilst WIEGO has received funding from the ILO for some of its research. The point here being that seemingly independent research is in fact linked / or *networked* – my impression being that the body of research that exists is to some extent circular in its references. This can be explained by xx I cannot exclude the possibility that this impression results to a certain

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<sup>5</sup> Founded in 1997, WIEGO “is a global action-research-policy network that seeks to improve the status of the working poor in the informal economy, especially women. Economic empowerment of these workers is at the heart of WIEGO’s mission. We believe all workers should have equal economic opportunities and rights and be able to determine the conditions of their work and lives” (WIEGO 2012a).

<sup>6</sup> This refers to Dan Gallin, present chair of the Global Labour Institute (GLI) and Director of the Organization and Representation Programme (ORP) of WIEGO from 2000 to 2002. Serving almost 30 years as General Secretary of global union IUF, Gallin promoted organisations such as SEWA, WIEGO and IDWN and their access to union institutions. He is an early supporter of a cooperation and solidarity between global social and union movements and an open, inclusive transnational unionism, and author of the United Nations Research Institute for Social Development (UNRISD) report *Trade unions and NGOs: a necessary partnership for social development* (Gallin 2000).

degree from my own search strategies, using the bibliographies of relevant papers, given the restricted body of literature.

There is significant reason to assume that a fair share of the research has been conducted in connection with the development of the Domestic Workers Convention, in order to provide a scientific foundation for policy decisions concerning the convention itself or items that ought to be included. Thus, the making of the convention has not only impacted organising efforts, but also the scope and focus of research in an under-researched field, not least by providing earmarked funding. It is research with an agenda: The improvement of conditions for domestic workers, with all the implications that that entails.

Another characteristic of the body literature is its novelty, with a few historical exceptions. The bibliography of this thesis exposes that a great part of the literature has been published after 2005. The majority of texts culminate around the time prior to the 100<sup>th</sup> ILC in 2010, and after the adoption of the convention in 2011, relating to the new instrument and its limitations and opportunities – or possibly riding on the tide of attention<sup>7</sup>. Again, my selection criteria are reflected, but I am convinced that little literature would be found concerning domestic work and/or organising between 1945 and 2000. It seems that Convention No 189 is seminal, not only for domestic workers. For the ILO, it possibly marks a turning point towards a more hard law instruments after decades of criticism for its turn to “soft law” (Vosko 2002; Standing 2008), with a novel holistic approach including human rights and informal work as *work*. That is, however the study I did *not* conduct.

Most of the literature on *organising* derives from authors actively involved in the ongoing campaigns through unions such as the *International Trade Union Confederation* (ITUC), WIEGO, IDWN, ILO etc. They have specific knowledge of this topic. The very reason for the foundation of WIEGO was the lack (and marginal position) of research on all forms of informal workers’ conditions, and organising. Due to the “young” nature of the body of literature and its strong growth, I have chosen to keep taking in new sources that have been published whilst I write. This, along with the quality of the papers makes it difficult to conduct a systematic and rigorous literature review in the sense normally required. I chose this strategy, because the quality and breadth of knowledge on this topic are improving

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<sup>7</sup> As domestic workers have complained about lack of recognition in the past, so are researchers of domestic work likely to have suffered a similar fate in the “Twilight Zone”, to borrow a metaphor from Helma Lutz.

rapidly. In acknowledgement of this somewhat weak systematic procedure I will avoid strong generalizations in my concluding remarks.

The literature search was conducted in the search engines EBSCO Host and Google Scholar, the BISYS database and the Labour Movements' Archives and Library in Oslo, and website and databases of the ILO, WIEGO, IDWN, ITUC and smaller unions, associations and NGOs. In addition, I have studied the bibliography of existing literature.

#### **2.4 Limitations and ethical considerations**

As a literature review, ethical considerations to be made in this thesis regard mainly transparency, honesty and quality of referencing.

In addition to the above described limitations or peculiarities of the literature, I would like to add my personal position as a researcher. As a feminist, former activist and social worker with a strong focus on political empowerment processes, keeping informed on the ratification campaign and the victories and setbacks through various social media and newsletters has at times spoken to the activist rather than the researcher in me, producing what I call an *activist bias*. The most significant effect is a certain susceptibility to motivational discourses that aim at producing action rather than neutral facts. It has nevertheless given me invaluable “live” insights, particularly into the transnational networking of domestic workers, and great moments of excitement and motivation, as each new country ratified the convention, states improve their labour law and domestic workers form new groups and gain voice. I have also learned quickly about new publication through these sources. Of course, this too produces a certain selection bias, but as pointed out above – the entire body of literature is characterised by this bias, and I have done my best to critically assess its quality. In order not to “go native” in this virtual community, I decided to ration the information flow, blocking it completely in periods of work requiring a strong critical distance.

## **PART II: BACKGROUND**

### **3 Domestic work around the world**

Domestic work is not only a very old occupation “rooted in the global history of slavery, colonialism, and other forms of servitude” (ILO 2009, 1). It is also extraordinarily significant in the present day and age, and expanding, particularly as a result of the

growing degree of women's labour migration. For women in many parts of the world domestic work represents *the* central means to earn a livelihood (ibid, 5). This chapter aims at giving a general overview of the nature and extent of domestic work around the world. It highlights some of the problematic conditions domestic workers face which gave rise to the call for sector-specific, international standard setting through the ILO. When studying how domestic workers organise, it is essential to understand the uniqueness of domestic work and the particularities that make it unlike any other work in many respects.

### **3.1 Characterising domestic work**

Domestic work covers many different activities, situations and relationships and plays an important economic and social role in different regions and countries. Despite this wide variation, domestic work almost always encompasses some kind of remunerated reproduction work carried out in private households by a person who is usually not a member of the family. As such, domestic work is strongly gendered, covering the same kind of tasks that women carry out “for free” on a private basis within their own families. Following this logic, domestic workers “clean, do the laundry and ironing; go shopping, cook and fetch water; care for the sick, elderly and children; look after pets; sweep and tidy the garden” (IDWN 2012a) to mention the most common activities. Where men are domestic workers they normally have different, better paid tasks, such as gardening or chauffeuring (ILO 2009, 6) and rarely engage in the more intimate tasks of care work.

Some of the household tasks mentioned above can be defined as (object-related) housework, others as (person-related) care work (Lutz 2011, 7). One may ask; is a nanny a domestic worker? Helma Lutz however, argues that attempts to divide domestic workers into different professional categories such as cleaners, nannies and elder carers may be useful in the context of professionalization efforts, but they draw “a veil over the current practice in which these activities intermingle” (ibid). In the everyday work, they are usually expected to carry out a variety of chores even if the work agreement is restricted for example to taking care of children (ibid). Such distinctions have therefore proven to be of little use when trying to clarify how adequate protection for domestic workers can be conceptualised and implemented.

From a strategic vantage point of organising and representing domestic workers, unity around a common identity is vital. Furthermore, sector specific legislation requires a common definition as a foundation. In order to embrace the heterogeneity of tasks, skills

and responsibilities, the ILO has therefore decided to base the new convention on a definition of domestic work in that does not list tasks as in the International Standard Classification of Occupations (ISCO). Instead, the focus is on characteristics that are common for all domestic workers. The Domestic Workers Convention therefore focuses on the private workplace as a common denominator; “(a) the term *domestic work* means work performed in or for a household or households;” (ILO 2011) and the employment relationship; “(b) the term *domestic worker* means any person engaged in domestic work within an employment relationship; (ibid)” regardless of whether the employer is a natural person, the household or an agency. *Exempted* from the ILO definition is “(c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis [...]” (ibid) such as babysitters or volunteers helping the elderly.

Domestic workers can be found in a wide range of employment relationships. They usually work for one or more employers that are private clients or households. (ILO 2009, 40) Sometimes they are formally employed with written contracts, labour rights and social protection, but most work in an informal employment relationship and do not enjoy such protection (IDWN 2012a; WIEGO 2012b). In a few countries like Brazil or South Africa, collective bargaining agreements between trade unions and confederations of Domestic Workers exist (ITUC 2010).

Many domestic workers live-in and are almost permanently on call in that household (ILO 2009, 8); others live elsewhere and may work for several employers, perhaps only working a few hours per week for each. They are often effectively self-employed, working for many different households. Yet others organise in workers cooperatives that provide services to private households on fixed terms (IDWN 2012a)<sup>8</sup>.

In countries where care workers are employed by the state or state subsidised organisations such as in Canada, Norway or Belgium, they often (although not always) benefit from proper employment contracts, union rights, and collective bargaining agreements. However, the privatisation of such services in the past few decades has nurtured the growth of private agencies and a deterioration of working conditions and unionisation (Blackett

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<sup>8</sup> Some observers regard cooperatives as a desirable way for domestic work to organise as they “can create structures that allow domestic workers to take control of their working lives and their working time. They break the daily isolation and reinforce solidarity” (ILO 2009, 85). I support this idea, but due to the low prevalence and little empirical data on cooperatives and time and space considerations, I have chosen to disregard cooperatives as an organisational form in this thesis.

2011, 3). In addition, agencies involved in the recruitment of Overseas Domestic Workers (ODW) are wide spread (ILO 2009, 69).

One of the most striking changes in domestic work in the past 30 years has been the growing prevalence of migrant work. In several regions, including Europe and the Gulf countries and the Middle East, the majority of domestic labourers today are migrant women (ILO 2009, 6).

The high prevalence of migration into domestic work creates a powerful link between the employment relationship and national and international migration regimes that can be extremely detrimental to the well being of migrant domestic workers (Lutz 2011; Anderson 2007; Ford and Piper 2007).

On the other hand, people or households that employ domestic workers regularly do not see themselves as employers as “[p]art of the specificity of paid domestic work is that it is often perceived to be something other than employment” (ILO 2009, 12). Domestic workers are in fact regularly perceived, and often see themselves as “part of the family” (ibid). This view is frequently supported by labour legislation. In the United Kingdom (UK) for example, domestic workers can be exempted from the minimum wage requirements, if *treated as a family member* (Mantouvalou und Albin 2011, 5, my emphasis). This condition reveals the intimacy of the employee-employer relationship that is unique to domestic work (Lutz 2011) as well as the determining role of legislation (Vosko 2007; Anderson 2007). As Mantouvalou und Albin remark, the “intimacy of the relationship serves as a justification for the continued precariousness of domestic work in the UK”<sup>9</sup> (2011). This is not an idiosyncratic condition – it reflects the experience of domestic workers in a variety of developed and developing countries alike.

Accordingly, the *work place* is a determining factor that renders domestic work unlike other work, contributing significantly to its lack of recognition and regulation. Common features relating to work in private homes are the lack of privacy and autonomy of live-in domestic workers and the questionable evaluation of payments in kind in the form of meals and housing (ILO 2009, 42). A seemingly simple demand of organised domestic workers in California is therefore the right to cook and eat their own meals and not be obliged to eat the same food as, or with their employers (NDWA 2012). To be provided with accommodation may be seen as a benefit, but from a domestic worker’s perspective it means a lack of privacy and being “on call” 24 hours a day (ILO 2009, 44).

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<sup>9</sup>On June the 16<sup>th</sup> 2011, the UK abstained from signing the Domestic Workers Convention.



Migrant domestic workers often face living-in as a requirement tied to their residency permit (ibid), thus amplifying their dependency on their employers. In the UK a recent report by the NGO Kalayaan<sup>10</sup> states that 50 per cent of the migrant domestic workers covered by a survey in 2010 did not have a room of their own (Lalani 2011). As pointed out in the ILO report, the “live-in” conditionality “can open doors to forced labour” (ILO 2009, 69). Throughout the Middle East and many parts of South East Asia, it is common practice that domestic workers are not allowed to leave the house without their employer’s permission, and countless are locked in, as Scully in an article with the telling title *Blocking Exit, Stopping Voice*<sup>11</sup> describes (2010). But also in the UK the above mentioned report by Kalayaan discloses that 60 per cent of the respondents were not allowed out unaccompanied.

Working in a private home also poses difficulties regarding occupational safety and health requirements (OSH), as many employees – and almost all governments regard the home as “safe” and perceive labour inspection in private homes as a breach of privacy, thus valuing the employer’s right to privacy above the domestic employee’s right to safety and health at work (ILO 2009, 61–62). In Norway, known for its high labour standards, gender equality and active promotion of the ILO Decent Work Agenda and the Domestic Workers Convention, domestic workers are explicitly exempted from OSH regulations (Karin Enodd, LO)<sup>12</sup>, in line with most other ILO member countries (ILO 2009, 61). This can have dramatic consequences, as the unfortunately not singular lethal fall of an Indonesian domestic worker out of a high-rise flat depicted in the introduction illustrates. In this respect, “[t]he role of labour inspection services [...] can hardly be overstated” (ILO 2009, 72).

An additional typical feature recognised by the ILO, but particularly stressed by Nicola Piper<sup>13</sup> as possibly the most significant problem domestic workers face today, is the non-payment or late payment of wages (Oelz and ILO 2011, 7). This must be seen in relation to domestic workers earnings that are generally “the lowest in the labour market” (ibid, 1) not higher than 20 per cent to one half of average wages in most countries (ibid).

Domestic work as described above is thus characterized by being precarious, undervalued, poorly regulated and, due to the workplace in private homes, often invisible. In addition,

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<sup>10</sup> The survey covered the 326 registered members of Kalayaan, a NGO supporting ODWs in the UK.

<sup>11</sup> The full title of the article is *Blocking Exit, Stopping Voice: How Exclusion From Labor Law Protection Puts Domestic Workers at Risk in Saudi Arabia and Around the World* .

<sup>12</sup> Conversation on the 26th of June 2012.

<sup>13</sup> An expert on labour migration, domestic work and female agency in South East Asia, at the Norwegian European Migration Network conference in Oslo on June 18<sup>th</sup> 2012.

domestic workers are frequently subjected to extreme abuse and human rights violations, attracting the attention of organisations such as Human Rights Watch (HRW):

Many countries exclude domestic workers from labor laws partially or completely, denying them basic labor protections that most other categories of workers can take for granted, such as a minimum wage or limits to hours of work. Such exclusion— together with discrimination and a profound devaluation of work associated with traditional, unpaid female roles has led to a wide and disturbing range of abuses against domestic workers around the world, many of whom are migrants and an estimated 30 percent of whom are children under the age of 18 (Varia und Becker 2012).

### **3.2 The global and regional prevalence of domestic work**

Having looked more closely at some of the typical characteristics of domestic work, questions arise around its prevalence. How important is domestic work on a global scale? Is it mainly a phenomenon of the Global South? Indeed, it is difficult to present reliable and comparative data on domestic workers around the world. This results from dissimilar national definitions and categorisations of domestic work, the weak reliability of some existent data, as well as underreporting that follows a “high incidence of undeclared domestic work” (ILO 2009, 5) reflecting the lack of recognition and visibility of the sector. Where ILO estimates represent minimum numbers, thus likely to understate real figures, NGO calculations may well tend towards maximum estimates, as the figures are instrumental to their ability to gain recognition of their respective cause (ibid).

Discussing these statistical problems, the ILO Policy Brief No 4, “Global and Regional Estimates on Domestic Work” (2011) therefore states there is a *minimum* of 52.6 million domestic workers world-wide (ibid, p. 6). In order to make this figure tangible, the authors point out that if all these people worked in a single country, it “would be the tenth biggest employer” (ibid) in the world. However, this is not the whole picture. They stress the problems mentioned above concerning the source data, suggesting a more realistic estimate to be nearer to 100 million domestic workers world-wide (ibid). It is thus evident that although domestic work suffers a peripheral *status*, until recently barely publicly perceived, it is in fact a major source of global employment. In addition, the number of domestic workers is estimated to have grown by 19 million (60 per cent) during the past fifteen years (ILO 2013, 24)<sup>14</sup>. Based on the minimum estimate above, the ILO shows that

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<sup>14</sup> This ILO publication was released on the January 9<sup>th</sup>, 2013 – only few days before the deadline for this thesis. I could therefore not up-date all the data accordingly. The new publication, however, builds on the basic data I have used from 2009-2011, so that the figures I mention are not outdated. After a quick review, I

domestic work accounts for at least 3.6 per cent of the total paid employment and 7.5 percent of women's paid work world-wide (Simonovsky and ILO 2011, 7). In some parts of the world, such as in Latin America and the Caribbean, it accounts for more than *one quarter* of women's paid work, and almost 12 per cent of total employment (ibid 2011, 8). In the Middle East as many as every third working woman is a domestic worker, the vast majority being migrants. Despite the prevalence of domestic work being much lower in high income countries, varying from 1 to 2.5 per cent, domestic workers are usually immigrants, their numbers growing rapidly (ILO 2009). On a global scale 83 per cent of domestic work is carried out by women (ILO 2011, 8).

Among those not included in the ILO estimates are undeclared and immigrant workers without legal residency or work status. In addition children under the age of 15 are excluded per definition by the ILO, which for the above purpose only regards a domestic worker to be a person of working age, that is, generally above 15 years old. This is explained by the survey data being based on the standard international definition of employment and the normative function of such labour standards. Child labour is in fact, as the above cited Human Rights Watch report suggests, extensive and one of the factors that has led to the increasing attention on domestic work during the last decades. The ILO does not disregard child domestic workers, and supplements the statistics on domestic workers with figures from its Statistical Information and Monitoring Program on Child Labour (SIMPOC) revealing a *minimum* of 15.5 million children under the age of 18 engaged in domestic work (Simonovsky and ILO 2011, 9). More than one fifth are under 11 years of age, and around one in three is a boy (ibid). As we have seen, HRW estimates suggest that as many as 30 million domestic workers are under the age of 18.

Historically, domestic work was as wide spread in Europe as it is in Latin America today (Lutz, 2010), usually characterised by rural to urban migration within nations. But not an insignificant part was in fact, as it is today based on international migration - although usually within the region, according to Sarti (c2008). In the United Kingdom, the category 'menial or domestic servant' was one of the largest group of workers up until the mid 20<sup>th</sup> century, encompassing 1.3 million workers in 1911 (Albin and Mantouvalou 2012, p 4). After World War II, paid domestic work became almost obsolete in most of the industrialised world, largely as a result of labour standards based on the male

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would say that the main benefit of this book/report is that it supplies the most comprehensive overview of the extent and working condition of domestic work to date, and is highly recommended to an interested reader.

breadwinner/housewife model. However, the last quarter of the 20<sup>th</sup> century has brought about (or back) dual wage earners as a typical family model in the industrialised part of the world. In middle income countries, where domestic work has been uninterrupted, the expansion of the middle class has in addition lead to a higher demand, whilst the prevalence of poverty and (often ethnically structured) economic inequality continues to feed the supply side. This has lead to a growing demand for paid domestic work of various kinds, particularly in the realm of child care and care for the elderly, In many countries the growing market for home carers is regarded as a result of the demographic development and withdrawal of public services for the elderly (Blackett 2011).

As the ILO and domestic workers' organisations stress, domestic workers make a significant economic contribution. Their labour permits the families they work for, and particularly the women of those households, to engage in gainful employment. Remittances play a valuable role in the economy of their countries of origin. The truism, that domestic work is crucial to women's (employers) labour market participation is often stated as a fact without critical assessment or investigating alternatives by the ILO, IDWN and many domestic workers organisations. However important it is to recognise the economic value of domestic work this understanding does not fully grasp some more critical aspects concerning the gendered division of labour and old, but particularly newly emerging ethnical or racially coined forms of class divide and in not so few cases, modern servitude (Blackett 2011). Matha Chen, founding member of WIEGO<sup>15</sup> suggests that domestic work is on rise in middle and high income countries, "especially those with high inequality in wages and incomes" (2011, 183).

Put in a nutshell; wherever it occurs, "[d]omestic work is prone to precariousness for social (gender, race, migration and social class), psychological (intimacy, stigma), and also economic reasons" (Mantouvalou and Albin 2011, 3).

#### **4 Theoretical considerations and changing concepts**

Having established an overview of typical characteristics and the wide variety of domestic work as an empirical phenomenon, this chapter takes a brief step back to question some of

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the underlying concepts that inform our understanding of domestic work and domestic workers' organising on a theoretical level.

First, the concepts of *work* and *worker* need closer investigation; their re-definition seems to have breathed life into the Domestic Workers Convention in an almost magical way. This changing definition belongs in the wider perspective of informal economy workers' struggle for acknowledgement. Secondly, the efforts to regulate domestic work reflect its initial informality, but the idea of *the informal economy* is not self evident, requiring some scrutiny. Finally, *common identity and solidarity* are regarded as essential prerequisites of organising, but can they be taken for granted? How do informal economy workers form unity based on *identity and solidarity* – amongst each other and with other workers who enjoy formal employment and organise in traditional unions, bridging the formal – informal divide?

#### **4.1 What is work and who is a worker?**

Whilst studying the developments that lead up to the Domestic Workers Convention, I cannot suppress the idea that redefining the terms 'work' and 'worker' resembled the magic spell that transported Cinderella to the ball. The present case is somewhat less glamorous, but certainly more far-reaching: The invitation of informal and domestic workers representatives to the International Labour Conferences (ILC) of 2002 and 2010 (Bonner 2010, 14). Unlike the fairytale, the transforming words were not uttered by a benevolent godmother, but are the result of long lasting struggles in many parts of the world of trade unions (especially of informal workers' unions such as SEWA), emerging labour organisations in the informal sector, women's groups and NGOs campaigning for the recognition of domestic and other workers in informal economy as *real workers*.

Beyond the question of identity, the definition as a worker is a legal instrument with crucial implications for the right to associate and to partake in the mechanism of collective bargaining, coverage by national and international labour legislation and representation in the tripartite institutions of the ILO. In this respect, there are two fundamental dimensions of (re-) defining domestic work; (1) the gendered division of labour that is implicit in the Standard Employment Relationship (SER), and (2) the informal/formal economy divide. For the sake of clarity and brevity these aspects are treated here as separate phenomena. It is however evident that in domestic work the two aspects are in fact closely linked both historically in regards to the SER and present in regard to the global labour market devel-

opment, as “...the feminisation of work and migration is largely an outcome of increasing informalisation [...] not only linked to the transnationalisation of work, but also to gender segregated labour markets within and across countries” (Piper 2009, 1).

Not all informal work is precarious or vice versa, but the majority of work in the informal economy is. These workers do not enjoy the regulations associated with the SER.

The standard employment relationship is best characterized as a continuous fulltime employment relationship where the worker has one employer and normally works on the employer’s premises or under his or her supervision and has access to a range of benefits that complete the social wage. (Vosko, 2002: 14)

Vosko remarks that although the ILO has been concerned with regulating precarious work (all work originally being precarious) since its dawn in 1919, it has not recognised its gendered nature until a few decades ago (2006, 1).

Anyone – male or female – can work. The only requirement is that, as employees, they should conform to the norm of the ideal worker. An ideal worker is a worker who behaves in the workplace as if he or she has a wife at home full-time, performing all the unpaid care work that families require. Personal problems do not belong in the workplace. Conflicting demands are expected to be resolved in favour of requirements of the job (Applebaum cited in Vosko 2006, 73).

In Europe and other parts of the industrialised world, the “male-breadwinner model” became the norm for the standard employment relationship in the historical period in which core labour institutions were mapped out. Vosko argues that this is reflected in definitions of work, workers and workplaces in international labour standards. Thus, throughout the last century, labour standards have been moulded around the male employment norm, reinforcing the SER. She sees this clearly illustrated by the ILO Convention on Social Security of 1952, which “casts the standard beneficiary of social insurance as a man with a wife and two children” (ibid 2006, 56). It would nevertheless be a mistake to think that the workforce in this period actually only consisted of workers in standard employment. In 1977 Cox observed:

The economy does much less well by the remaining half of the labor force. Largely non-union, heavily representative of women and minority people, whose employment is unstable and who have little or no career opportunities, this lower half is a human buffer softening the blow of an economic downturn for the more privileged upper half. Acceptance of the corporative state by the leaders of organized labour means that unions have largely abandoned this lower half, or made only token efforts at unionization amongst it (cited in Vosko 2002, 42).

Vosko criticises that attempts to extend these labour standards to women have, until recently only aimed at promoting equality without addressing the gender contract underlying the SER and the problem of women's' incorporated but unpaid reproduction work, cleaning, cooking and caring. This might explain why domestic workers were not the first informal workers to gain access to the institutions of the ILO. The first breakthrough for informal economy workers, preceding ILOs Decent Work Agenda, was the adoption of the Home Work Convention<sup>16</sup> in 1996 (Vosko 2006, 63). It is

the product of the collective struggles on the part of insiders in the ILO Division on Women (FEMME) and the ILO Programme on Rural Women (UNIFEM) and trade unions and emerging labour organisations to expand the ILC to cover home workers [...altering] what constitutes a worksite (ibid).

The adoption of the Home Workers Convention marks the first step towards recognising *the home as a workplace*. In 2002 the International Labour Conference (ILC) responded to continued mobilisation and lobbying by making “Decent work in the informal economy” a central issue on the agenda (Gallin 2012, 9). A discussion on the definition of who is a worker ended in the recognition of *own account workers* as workers. Reporting on the ILC 2002, Vosko remarks that this represents a historical shift within the ILO as

(1) it effectively extends the application of a range of ILO standards [...] to a new group of workers; (2) it weakens the position of the employers' organisations in making claims that own account workers are not workers; (3) and, it places more weight on the presence of ‘dependent work’ than an employment relationship per se as a threshold for providing social protection” (2006, 63).

#### **4.2 The informal economy**

The above depicted successful struggle for recognition of informal economy workers as *workers* that reached its culmination in 2011 with the adoption of the Domestic Workers Convention, demands a closer look at the concept of ‘informal economy’. There are different theoretical approaches to explaining the phenomenon.

Some observers view the informal economy in positive terms, as a pool of entrepreneurial talent or a cushion during economic crises. Others view it more problematically, arguing that informal entrepreneurs deliberately avoid registration and taxation. Still others see the informal economy as a source of livelihood for the working poor (WIEGO 2012a).

The term ‘informal sector’ was coined in the 1970s and attributed to the British anthropologist Keith Hart’s study on Ghana in 1973. Hart viewed the sector from the

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<sup>16</sup> Domestic work is not meant here; home workers, predominantly women, are part of a production chain, producing services or products for a commercial employer in their own homes.

perspective of traditional economies in developing countries evading or surviving ‘modernisation’. At the time “many observers subscribed to the notion that the informal economy was marginal and peripheral and not linked to the formal sector or to modern capitalist development” (Flodman Becker 2004), seeing it as a phenomenon restricted to developing countries. This view was contested by Portes, Castells, und Benton (1989) who pointed to the general existence of an informal economy in the seminal compilation *The Informal Economy. Studies in Advanced and Less Developed Countries*. Their structuralist accounts regard the informal economy as essentially linked to the formal economy. Although domestic workers work in private homes, the arguments that highlight their economic contribution and role in facilitating their employer’s labour market participation suggest at least one structural link. Another link can be seen where qualified nurses, teachers and other professionals fail to find adequate employment with formal contracts and see themselves forced to take up domestic work in order to feed their families.

Typical for workers in the informal economy is the lack of contract, a clearly defined employer – employee relationship, contingency and failing social security provisions, or to follow the terminology above – the absence of the standard employment relationship (SER). Despite differing explanations and inherent measurement problems, a broad consensus prevails that the informal economy is growing. Some authors, such as Cobble and Vosko point out that from a historical perspective “non-standard work is not atypical or new” (2000, 292) and that it is only as informalisation threatens *standard work* that traditional unions have started to regard organising informal workers as their business. On the other hand, they point out that prior to the Second World War it was not uncommon for non-standard workers to organise on a wide basis (ibid).

### **4.3 Identity and solidarity: Negotiating similarity and difference**

Unity, a sense of common interests and solidarity are prerequisite to organising. On this matter Lindell remarks that “some influential perspectives [...] have tended to treat ‘informals’ as a rather undifferentiated crowd mainly made up of the ‘working poor’ and sharing one and the same structural position” (2010, 210) and in doing so, taking their identity for granted. However, there exists a great diversity of interests, organised actors, positions and identities among informal workers as

informal economies are traversed by multiple axes of power, along lines of income, gender, age, race, ethnicity, religion, etc, which interact with each other to produce particular patterns of advantage and disadvantage. Collective organising [...] may



address more than one kind of injustice and this is no less true of informal (ibid 2010, 211).

There has been “a move away from the idea of objective interests” (ibid 2010, 212) towards understanding similarity and difference as the result of negotiations within “multiple subject positions”. As Lindell puts it; identities are “constructed through the discursive identification of a fundamental contradiction”, through political struggle (ibid).

One example pertains to instances of organising across the formal–informal ‘divide’. A share of organised informals is redefining itself as ‘workers’, a new frame that indicates the active construction of a discourse of ‘sameness’ and a novel process of identification with formal workers (ibid, 213).

This perspective can help us understand “how people are in practice bridging apparently insurmountable differences” (ibid). Yet these differences were not given, they too were a result of negotiations, political struggles and power relations, where unity has often been created by a double movement of inclusion and exclusion founded on formulations of similarity *and* difference. In the past, in the context of unionisation these formulations have been based on the SER, and this position has become set in labour law. Yet, if one looks back to the origins of unionisation, a wide variety of non-standard workers formed workers associations (Cobble und Vosko 2000). Thus, we see an ongoing process of negotiation shaping and reshaping identities. The Domestic Workers Convention can be regarded as a product of just such processes. On the ground, local, national and international negotiations between different groups, organisations and governments will continue. The convention, however, represents a fixed point of reference, defining domestic workers as workers and demanding equal treatment by law, supplying them with powerful arguments for identity formation.

## **5 Regulating frameworks for domestic work**

Following the pioneer Uruguay on the 5<sup>th</sup> September 2012 the Philippines was the second country to ratify the Domestic Workers Convention. This is in its consequence the more significant event, as “The ILO’s Convention on Domestic Workers has now been ratified by two countries, meaning it will come into effect in a year’s time. The Convention extends basic labour rights to tens of millions of domestic workers worldwide” (ILO News 2012). A year in advance, the 100<sup>th</sup> Session of the International Labour Conference had adopted the Convention No 189, the Domestic Workers Convention (2011) and the accompanying Recommendation No 201.

“The Convention and Recommendation are founded on the fundamental premise that domestic workers are neither “servants”, nor “members of the family” nor second-class workers” (Juan Somavia, Director-General, preface, ILO 2011). In contrast to previous strategies the Decent Work Agenda, the Domestic Workers Convention has been welcomed for its “holistic” approach addressing human, civil and social rights issues in an integrated instrument of *hard law* – i.e. a convention (Mantouvalou und Albin 2011, 1, 9). It is supplemented by a recommendation, which as the name suggests makes only non-binding, i.e. *soft law*<sup>17</sup> suggestions for the interpretation of the instruments in the convention and their adaption to national legislation. In contrast, the standards set out in the convention are binding for the ratifying countries. “Given that collective bargaining remains rare in the domestic work sector, statutory entitlements provide a minimum level of protection to be enjoyed by all workers, which are ultimately enforceable in court” (Luebker and the ILO 2011, 2).

The task of regulating domestic work, with the aim to protect and secure decent working and living conditions for domestic workers, is clearly not only a matter of labour law. For the large group of live-in domestic workers (who are more likely to be migrants) decent living conditions – including respect for their privacy and autonomy are equally important to their physical and mental well-being, calling for regulations also in the realm of civil and social rights. Migration management and immigration legislation impacts significantly on many domestic workers lives, as does the often insufficient regulation of placement /recruitment agencies. Moreover, the extent of child and forced labour, trafficking and abuse call for the need to address basic human rights. This chapter will present a non-exhaustive overview of central provisions of the Domestic Workers Convention, focusing on three key labour rights (minimum wage coverage, regulation of working hours and maternity leave), the “sponsorship” model within overseas recruitment, domestic workers privacy and autonomy and their right to organise.

## **5.1 Key working conditions**

It would be a mistake to believe that prior to the adoption of the Domestic Workers Convention, domestic work had not been regulated. In some countries national legislation is well developed, and governments are making convincing, ongoing efforts to improve

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<sup>17</sup> This description of soft and hard law is oversimplified, but must suffice for the intent of this thesis, which does not claim to deliver legal expertise. Critical assessments of the use soft law instruments within the ILO during the past two decades are delivered by Leah Vosko (2002) and Guy Standing (2008), amongst others.

national labour law. South Africa, Uruguay, and Brazil for instance, have thus provided evidence that domestic work *can* be regulated and argued in favour of a convention during the negotiations at the ILC in 2010 (Becker 2012, 53). However, a common form of regulation is the explicit *exemption* of domestic workers from existing labour law or from parts of it, propelling many domestic workers into a state of “legislative precariousness” (Mantouvalou und Albin 2011, 4). On the supra-national level a number of ILO conventions contain so called *flexibility clauses* to the same effect (ILO 2009, 20).

This section presents the findings of *Domestic Work Policy Brief No 5* (2011, Luebcker and ILO) on the degree of coverage by three key working conditions laws prior to the adoption of C 189, “namely minimum wage legislation, working time provisions and maternity protection” (ibid, 1) and their subsequent regulation in the convention.

### **5.1.1 Remuneration and minimum wage coverage**

National or sector-specific minimum wage regulations exist in many countries, serving as an important instrument to protect in particular low wage earners against even lower wages and (deeper) poverty. Policy Brief No 5 finds that half<sup>18</sup> of domestic workers have the same entitlements as other workers, where a general minimum wage exists. For over 42 per cent of domestic workers world-wide no minimum wage is applicable. In less than 1 per cent of these cases this results from there being no general minimum wage regulation in their country. For the other 21.5 million, notably around two in five domestic workers, national labour legislation excludes them from existing minimum wage provisions. “Given the primary objective of minimum wage legislation to protect vulnerable workers at the bottom of the wage distribution, this is a serious gap in coverage” (ibid 2011, 2).

Aiming at closing this gap, the Domestic Workers Convention defines the right to a minimum wage, where this exists, and specifies “that remuneration is established without discrimination based on sex” (Article 11). A further wage related issue typical to domestic work is the question of the value of accommodation and meals. Article 12 states that only a *limited* part of the wage may be paid in kind and only with the employees consent. The assessed value must be “fair and reasonable”. A few countries have more beneficial regulations, forbidding payment in kind altogether as in Brazil or defining the limit as a percentage of the total wage as in South Africa (ILO 2009, 43). The convention also states

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<sup>18</sup> These figures refer to ILO statistics, estimating 52.6 million domestic workers world-wide as referred to in chapter 3.

that domestic workers must be paid in cash, “at least once a month” (Article 12) – an attempt to combat the extensive problem of withheld wages.

### **5.1.2 Working hours and time of rest**

The lack of clarity concerning what represents working time at the best, and being on call 24 hours a day, seven days a week at the worst is “one of the most defining elements of domestic workers sectoral disadvantage” (Mantouvalou und Albin 2011, 13). Policy Brief No 5 finds that for almost 30 million domestic workers no restriction or limitation to the weekly hours of work is legislated. This makes up over 56 per cent of domestic workers world-wide, but in Asia and the Middle East the vast majority – 95 per cent – are not entitled to a limitation of their weekly working time. Not only are these workers at their employers’ complete disposal, but as a consequence they are not entitled to overtime payment. Again, these conditions are largely (in the case of 28.2 million domestic workers) due to exemption from existing labour law restricting weekly work time for *normal* workers. In addition, almost half of all domestic workers “are not entitled to weekly rest under national law” (ibid, 3). The convention seeks to meet these challenges in Article 10:

1. Each member shall take measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave in accordance with national laws, regulations or collective agreements, taking into account the special characteristics of domestic work.
2. Weekly rest shall be at least 24 consecutive hours. (ILO 2011, 5)

### **5.1.3 Maternity leave, income replacement and social security**

Article 14 of the convention determines that members “ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity” (ILO 2011, 6). The facts suggest that this is particularly necessary, as over 36 per cent of all domestic workers are not entitled to maternity leave. Almost 40 per cent are not entitled to income replacement, without which the right to maternity leave for most domestic workers, as low-income earners, “is likely to lose its practical effect” (policy brief No 5 2011, 5). It comes as no surprise that these deficits are again due to the specific exemption of domestic workers from existing maternity provisions in national legislation. Whereas entitlements and benefits are common in South America, Africa and high income countries, the majority of those excluded from provisions are to be found in Asia and the Middle East. Approximately 60 per cent of all female domestic workers “are entitled to maternity cash

benefits that are at least as favourable as those paid to other workers” (ibid). Considering domestic work is a predominantly female sector, the extension of maternity protection to domestic workers is vital to the improvement of their working conditions (ibid).

Where provisions for key working conditions exist, they are frequently less favourable compared with those regarding workers in general (ibid, 6). To put it differently, this means that in a variety of countries, national legislation explicitly discriminates domestic workers, either by general exemption or from selected areas of labour law. Working conditions are particularly detrimental in Asia and the Middle East.

### **5.3 Migration regimes, sponsorship and recruitment agencies**

On the supply side, an increasing number of people seek better working and living opportunities in other countries. There is also a significant demand for foreign domestic workers (FDW) who are often preferred to nationals (should a local supply exist) as they are less likely to complain about low wages and detrimental working and living conditions (Mantouvalou und Albin 2011, 3). Inferior citizenship rights tend to compliment the hierarchical difference in status between them and their employers. In Europe, Canada, the United States, in the Middle East and South East Asia the vast majority of domestic workers are regional or global migrants, a significant part engaging south - south migration. Many are not entitled to a residency or work permit. Subsequently, they are “without papers”. For them, labour law may or may not be applicable *de jure*, but application is usually *de facto* not feasible as deportation looms, exerting a decisive disciplinary effect. In this context, “regulating” domestic work also means regulating, i.e. legalising migration, in order for migrant domestic workers to effectively enjoy their rights and entitlements.

One way that national immigration regimes control the entry, residency, labour and exit of FDW is through the so-called *sponsorship system*. It is designed to satisfy the demand for domestic workers whilst exerting a sharp control on immigrants’ stay, granting them a minimum of rights. In this system, special immigration regulations apply to FDWs, authorizing immigration for a restricted period of time, tied to a single employer and usually compelling them to live in the employers’ home. Under such conditions FDWs are in an extremely vulnerable and dependent position. Generally, those who leave their employer due to exploitation or abuse forfeit their work permit without consideration of the reason and are deported. The sponsorship system is often referred to as “modern day

slavery”, opening up to trafficking and abuse, as immigrant domestic workers are denied basic civil rights in many countries (ILO 2009, 67). Sponsorship is the norm in South East Asia and the Middle East, but also in so-called advanced countries such as Canada. Sponsorship is often, but not always, linked to placement agencies, and these or the employers themselves often withhold FDWs passport and other travel document, intensifying their dependency.

Various parts of the Domestic Workers Convention address these problems directly or indirectly. Highlighting the particular vulnerability of migrant domestic workers to human rights violations (preamble), higher order rights that are particularly relevant for FDWs are “the effective promotion and protection of the human rights of all domestic workers” (Article 3(1)) and the respect, promotion and realisation of

the fundamental principles and rights at work, namely: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour; and (d) the elimination of discrimination in respect of employment and occupation (Article 3(2)).

The “effective protection against all forms of abuse, harassment and violence” (article 5), the enjoyment of fair working conditions “like workers generally” and “decent living conditions that respect their privacy” (Article 6), including the right to keep their identity papers in their possession. Article 8(1) rules that FDWs recruited to work abroad must “receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed, addressing the terms and conditions of employment”. Article 9 requires domestic workers’ freedom to choose whether to live in the employers home, to spend free time outside the household and importantly, the right to keep “their travel and identity documents”. The convention requires further that activities of private employment agencies that place/recruit domestic workers shall be regulated by national law and “ensure that adequate machinery and procedures exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies” (Article 15(1)b).

#### **5.4 The right to organise and collective bargaining**

As a fundamental right at work, “*freedom of association and the effective recognition of the right to collective bargaining*” is addressed in Article 3 of the Domestic Workers Convention (above) and in the Conventions No. 87 (1948) and No. 98 (1949). In reality,

however, in addition to the above described difficulties, FDW's right to organise and become members of a union in the country of destination are often restricted with reference to the sponsorship system or other immigration regulations (Ford und Piper 2007). Even without a formal prohibition, organisation is often practically impossible where employers control the precondition for FDWs occupational activity, the work permit, or when they simply have no reliable free time, a case that affects national DW too, albeit to a somewhat lesser degree. Besides, many countries such as the United States, as mentioned above, have generally denied domestic workers the right to organise and collective bargaining by law.

The mechanism of collective bargaining provides further challenges. Where permitted, it is often not possible in practice as labour law requires a majority of employees of the same employer, clearly not common in domestic work. Much depends on the willingness and creativity of the involved parties. Where they are intent on overcoming such organisational and legal obstacles, ways can be found as the following example demonstrates:

In Uruguay, the establishment of the new tripartite wage board to negotiate the wages and other conditions of domestic workers [...] gave further impulse to the consolidation of workers' and employers' organizations representing domestic workers and their employers. The Housewives' League of Uruguay, which was originally created to revalue unpaid domestic work, agreed to act as the employers' representatives on the wage board, while the National Trade Union Confederation agreed that the National Confederation of Domestic Workers, not yet registered as a trade union, could negotiate on their behalf (ILO 2009, 78).

## **PART III: FINDINGS AND CONCLUSIONS**

### **6. Organising domestic workers**

This chapter investigates the organisational processes that led up to the adoption of the Domestic Workers Convention. It provides an overview of the diverse and changing landscapes of organisational forms and alliances, presenting selected examples that illustrate typical types of organisations, how they have changed over time and considerations that arise concerning the feasibility of domestic workers' organising.

Changes can be identified in regards to the rights, the organisation, and more subtly the perception of domestic workers. Furthermore, transformations are evident in regard to the general understanding and definition of 'work' and of 'informality' within the ILO and

trade unions, as illustrated in Chapters Four and Five. The processes I describe in this thesis are part of an ongoing global development that involves a great variety of organisational forms and modes of co-operation between trade unions and social movements (Bieler and Lindberg 2010), or as Bonner and Spooner<sup>19</sup> put it, changes in the relationships and institutional forms (2011, 128). This process can also be seen as a reflection of the diffusion of a universal understanding of human and civil rights and more specifically of international labour standards, as well as a growing self-awareness of those engaged in informal work along with new opportunities presented by cultural and technological aspects of globalisation. This chapter is therefore as much about the transformation of positions and the development of alliances. Projected into the near future, this will probably be demonstrated by the foundation of the International Domestic Workers Confederation, scheduled in October 2013, in Uruguay (IDWN 2012).

In part two of this thesis I have illustrated the need for domestic workers' organising on the one side and the particular difficulties they face in doing so on the other, given the adverse working and living conditions. These difficulties are founded in the special, private nature of domestic work, both in respect to the employment relation and the work-place itself. The common informal nature of the working arrangement, along with a frequently lacking self-perception of being a "worker", as described above, all represent enormous obstacles for organising efforts. These obstacles can, however, be overcome with deliberation and a wide range of strategies, based on many different kinds of identity formation and solidarity, bedded into specific organisational structures. It is evident that many factors contribute to the forms of agency in particular, local, national and regional contexts. Legal frameworks, politics, tradition, culture, ethnicity and religion, as well as specific trade union approaches, gender relations and leadership cultures are all factors that influence forms and strategies of organising (Bonner 2010). As Christine Bonner remarks, "When domestic workers organise, they do so according to their circumstances" (ibid 2010, 4).

The first section of this chapter will investigate into the activities of key organisations beginning with different kinds of membership based organisations (MBO's) such as unions and associations. Secondly, the initiating and supporting role of the NGO's in domestic workers will be illustrated. Finally, the third section highlights the importance of emerging transnational and trans-institutional alliances. I will demonstrate the effect campaigning for

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<sup>19</sup> Christine Bonner is Director, Dave Spooner is MBO consultant of the Organisation and Representation Programme at WIEGO (Bonner und Spooner 2011, 149–150).



C189 has had on changes in organisational forms, up-scaling and networking. In this context I briefly illustrate the role of the ILO in promoting “Decent Work for Domestic workers” as part of the Decent Work campaign. In this chapter I will demonstrate how the placing of domestic work on the ILO agenda builds on informal workers struggle for recognition in the preceding two decades.

The intention here is not to deliver methodological guidance, a “How To” of organising<sup>20</sup>, but to give a clearer picture of specific subjective and objective factors that must be dealt with by those who intend to organise domestic workers, whether that be domestic workers themselves or supporting NGOs. This insight is important in order to understand the mixed organisational forms described further on, as well as the sometimes ambiguous roles of both unions and NGOs. Due to the scope and volatile nature of the topic and time and space limitations of this thesis, this chapter aspires to present central issues and illustrative examples rather than a stringent, systematic analysis, thus the following should be read as trends rather than generalisations.

Despite the wide variety, Bonner identifies two basic forms, or ‘ideal types’ of organisations (2010, 5). The first type consists of membership based organisations (MBOs) that are in essence democratic structures with fees paying members who elect leaders from their midst. Traditional trade unions are a typical example of workers MBOs, but as the (self-) interests and identities around which domestic workers originally organise are many, and may be other than those of ‘workers’, other types of MBOs such as associations or community based organisations (CBOs) are common. Bonner refers to organisations that represent their own members interests as “primary organisations”, whereas the second typical form, non-governmental organisations (NGOs) are termed “secondary organisations” (ibid 2010, 10). This distinction is useful in that it makes the subject standpoint clear, although some organisations operate according to both primary and secondary principles. NGOs may have a wide variety of leadership structures and organisational levels, but are characterised by the fact that they advocate for and support domestic workers from the “outside” (ibid). I will attempt to illuminate why this kind of external support has been and still is necessary.

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<sup>20</sup> Some useful practical considerations and organising methods applicable to organising informal and domestic workers may be found in the publications *Decent work for domestic workers in Asia and the Pacific: Manual for trainers* (Ramos-Carbone 2012) and *The Only School We Have Learning from Organizing Experiences Across the Informal Economy* (Bonner und Spooner 2012).

## **6.1. Membership based organisations**

In this section I will distinguish between different types of membership based organisations (MBOs) such as community based organisations (CBOs), associations and unions.

### **6.1.1 Community based organisations**

Non-union MBOs are widespread amongst informal workers. In many cases, these workers have initially been overseen or excluded from unionisation. This can be due to lack of resources and voice, that makes them uninteresting as members, or because they are not regarded as ‘real workers’ in a clearly identifiable employee/employer relationship (Bonner 2010, 6). The latter represents a substantial problem for unions, their central instrument being collective bargaining which traditionally demands not only organised workers, but also identifiable and organised employers. Additionally, domestic workers often do not even see themselves as workers, or the families they serve as employers. Many lack the necessary self-confidence, are isolated and fundamentally disempowered. This represents not only a personal burden, but is detrimental to the development of a specific worker's identity and professional pride.

For many reasons then, domestic workers frequently begin to organise around common identities based on language, nationality or ethnicity, or others such as being women informal workers, as in the case of *Self-Employed Women's Association* (SEWA) that will be discussed below. As domestic work often is carried out by migrant workers, Community Based Organisations (CBOs) in the form of migrant associations address their needs in many countries. Some of them are extremely powerful, being able to mobilise the governments of the sending countries on the basis of the crucial role of remittances for the national economy and social welfare at home - as in the well-documented case of the Philippine diaspora. These organisations may follow a multitude of strategies ranging from advocacy to labour relations and operating in ways similar to a union, without being one (ibid, 5). This has given rise to the terms “quasi-” or “proto-” union. Migrant CBOs usually address a wide range of issues, from social activities and health issues to residency status, which makes it easier to achieve a more fundamental empowerment of domestic workers, prerequisite to organising as workers “where usual organising strategies are ineffective” (Bonner, 5). Bonner and Spooner point out that migrant organisations world-wide have begun focusing more on labour issues in recent years (2011).

A typical example of a migrant CBO is *Mujeres Unidas Y Activas (MUA) / Women United and Active* in California (USA), “a grassroots organization of Latina immigrant women with a dual mission of promoting personal transformation and building community power for social and economic justice” (MUA homepage). MUA arose out of community organising – a typical phenomenon in the USA.<sup>21</sup> Their focus is on empowerment and the fight for immigrant, workers’ and women’s rights. MUA makes use of a wide range of strategies such as service provision, advocacy, solidarity campaigns and mobilisation (Bonner 2010, 6). In 2007 MUA was a founding member of the National Domestic Workers Alliance (NDWA) in the USA (2010, 11).

In the USA, domestic workers - including home carers of the elderly - are excluded from the *National Labor Relations Act Law* which secures the right to representation and collective bargaining. This gives rise to the necessity to find modes of organisation that do not rely on the status of being a ‘worker’, explaining why the organisation around migrant domestic workers has been and still is important. The recognition as workers is a main goal of the present NDWA campaign, both for immigrant and native domestic worker (ibid).

Being a migrant worker can therefore intensify individual's isolation or be a resource around which to organise, providing a common identity as well as a supportive, international network. Organisation based on nationality may on the other hand exclude domestic workers from other countries or native domestic workers. Some organisations that are formal unions today grew out of CBOs with an organisational base in single nationality immigrants associations, like the Indonesian Migrant Workers’ Union of Hong Kong , a typical phenomenon in South East Asia (Ford and Piper 2007).

### **6.1.2 Associations**

A typical non-union MBO that has played a significant role in formulating the need for a convention as well as campaigning and organising on an international level is *the Samahan at Ugnayan ng mga Manggagawang Pantahanan sa Pilipinas / the National Linkage Association of Domestic Workers in the Philippines* (SUMAPI). In existence since 1995, SUMAPI has built a membership base of over 8000 and an outreach of around 20 000. In contrast to a CBO based on nationality, SUMAPI is a self-managed domestic workers

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<sup>21</sup> Interestingly, Community Organising (CO) itself bases on early union mobilisation methods: The founder of CO, Saul Alinsky developed CO and wrote the manual “Revels for radicals” while sitting incarcerated for union activities in the 1940ies. Based in Chicago, he was active in many US ghettos, including the barrios of southern California.

association that addresses the needs and interests of native and immigrant domestic workers in the Philippines, as well as the estimated 2 - 2,5 million Overseas Domestic Workers (SUMAPI 2012). The mention here of “outreach” indicates that not all MBOs are strictly membership based, in the sense that they focus only on the interests of fee paying members. SUMAPI, addressing the problem of child labour and trafficking, aims at working with extremely vulnerable and abused women and children who initially are not capable of becoming fees paying members.

SUMAPI does this by providing counselling, helping domestic workers access social services and promoting the empowerment of its members and other domestic workers through training in subjects such as rights awareness, leadership, creative organising methods and life skills. It was among the organisers of the first international domestic workers’ summit in 2006 and contributed significantly to formulating the “Decent Work for Domestic Workers” agenda (D’Souza 2010, 79). In 2011, SUMAPI’s National President, Lilibeth Masamloc, held an opening speech on behalf of Anti-Slavery International at the plenary meeting of the ILO Committee on Decent Work for Domestic Workers at the ILC. Lilibeth Masamloc embodies the process of empowerment and leadership building, having started working as a domestic worker herself at the age of thirteen. She had the opportunity to enrol in SUMAPI’s educational and empowerment programmes, before which, she says “I didn’t have the faintest idea that I, too, have rights” (cited in Becker 2012, 38)<sup>22</sup>. As a member of the tripartite Technical Working Group in the national Campaign on Decent Work for Domestic Workers, the organisation played a vital role in pushing for the ratification of C 189 by the Philippine government, which signed the convention on the September 5<sup>th</sup>, 2012 (SUMAPI 2012).

Domestic workers’ organisations often need help to get off the ground, and SUMAPI is no exception, receiving founding support in 1995 from a Philippine NGO fighting trafficking and child labour; the Visayan Forum Foundation Inc<sup>23</sup>. Furthermore, SUMAPI was one of many organisations in South East Asia targeted for the capacity building and developmental endeavours of the ILO and internationally operating human rights and anti/slavery NGOs and agencies such as the UK Department of International Development during the past decade. The main focus of these interventions has been to combat the abuse

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<sup>22</sup> Jo Becker is Advocacy Director, Children’s Rights Division at Human Rights Watch.

<sup>23</sup> See section 6.2.

of immigrants and child and bonded labour by empowering women and children. The formation of associations of domestic workers was an explicit objective (D'Souza 2010, 62). SUMAPIs success exemplifies the interdependent role of various institutions and organisations. In addition, the Philippine government has played an important role.

### **6.1.3 Unions**

Despite the various efforts and motifs to organise outside traditional unions, trade unions have in fact started organising domestic workers in recent decades in places such as South Africa, Hong Kong, and Brazil. Although IDWN states that “for the most part the organised labour movement has been slow to take up domestic workers’ concerns and the particular risks faced by children and migrants” (2012b), Bonner and Spooner (2011) note that unionisation of domestic workers is in fact not so unusual, having intensified since the early 1990s. Even though governments and employers have not recognised domestic workers as workers, unions around the world frequently have (ibid 2011, 141). This section presents some examples of how traditional and “new” unions have managed to organise and represent domestic workers, and promoting and hindering factors.

An important issue is whether domestic workers organise in particular, sector specific unions or as a sector within a broader based union. The first option comes with the problem that due to their lack of resources, it can be difficult for domestic workers to build a sustainable organisation. Alone developing and upholding the logistics of a sustainable collection system for membership fees can be extremely demanding, considering the informality and scattered workplaces that in the case of live-in domestic workers are also their homes – leaving little privacy and protection from employers’ attention. For instance, it took the Zimbabwe Chamber of Informal Economy Associations (ZCIEA) five years to establish a sustainable fees collection system (Mather 2012, 23). In addition, due to domestic workers marginal position in society, a pure domestic workers’ union might find they have little voice when not backed by a more powerful union. On the other hand, as Vicky Kanyoka, IDWN African Regional Coordinator stresses; existing domestic workers’ unions are usually small and weak, and cannot contribute much financially to the union movement. “*So unions are often not interested in us*” (cited in Bonner 2010, 9). This circumstance is one of the reasons why domestic workers’ organisations (in whichever form) have been and still are dependent on supportive NGOs, a situation with its own advantages and challenges, as will be discussed in the following section.

As a section of a larger, often male dominated union, domestic workers may easily find that they have little voice internally, and thus encounter difficulties putting their issues on the agenda. These matters of power and resources are fundamental, widespread and highly gendered. Both unions and NGOs have been accused of patronising domestic workers as many statements demonstrate (IRENE und IUF 2008; Bonner und Spooner 2011, 141). However there are more constructive examples, without which C 189 most likely would not have come about. Where domestic workers organise within a stronger union, with strong support by the leadership on domestic workers own terms, they have access to infrastructure, resources and political influence and much can be gained. An outstanding example of such a fruitful development within a traditional union is the Kenya Union of Domestic, Hotel, Education Institutions, Hospitals and Allied Workers' (KUDHEIHA).

Although initially founded as a union for domestic workers as long ago as 1952, KUDHEIHA is a broad based public and private service union. By 2008 however, with only 100 members from the sector, KUDHEIHA had become irrelevant as a union for domestic workers. Only one year later the picture had changed entirely, membership had risen to 10, 500 domestic workers (KUDHEIHA 2012, 14; Chris Bonner 2010, 8), making KUDHEIHA one of the strongest domestic worker unions at that time. According to Bonner, this exceptional growth was made possible by an enthusiastic (male) leader dedicated to organising domestic workers, in combination with practical support from the *International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Workers'* (IUF) and the newly established International Domestic Workers Network (IDWN). The combined efforts of these three organisations, mobilising for a convention for domestic workers was additionally supported by the *Solidarity Center*, a labour NGO (ibid). The exceptional growth in membership provided KUDHEIHA with seats at the International Labour Conference (ibid). This incident gives a good example of the positive organisational effect for individual unions, that mobilising for the convention has had.

An initiating role in the present movement towards organising women informal workers was also played by the *Self-Employed Women's Association* (SEWA) in India (Gallin 2012). Whereas KUDHEIHA is a traditional, recognised union that intensified its efforts using methods suitable for organising domestic workers, SEWA is a hybrid organisation that has undergone many changes and battles for recognition over the years. Today, SEWA too, is a recognised union and member of the ITUC with representatives at the ILC. However, SEWA has a unique organisational form:

SEWA is not just a trade union, it is a movement of several inter-connected types of organizations supporting informal women workers, including cooperatives, social security organizations, savings and credit groups, a bank, a housing trust and many others – all under the SEWA umbrella (Wiego 2012).

A look at the development of SEWA provides valuable insight into central questions around the organisation of domestic workers. In the 1970s, the Women's Wing of the *Textile Labour Association* (TLA) started organising informal women workers who had approached them for protection. These were tailors, cart pullers and head-loaders at the cloth market (Gallin 2012). SEWA was founded in 1972 as an informal women workers' organisation within the structure of the TLA in order to take care of the particular needs and interests of informal workers. The organisation grew dramatically over the next decade with over 6,000 members in 1981 - when it was expelled from TLA due to tensions between the male leadership of TLA and SEWA. According to Gallin, the former disapproved of the women's agenda, and they had differing views on union priorities. SEWA thus became an independent union and, despite objections from the Indian trade union federations who regarded SEWA as a women's NGO and not a union, was affiliated to the *International Union of Food and Allied Workers' Association* (IUF) in 1983.

During the 1990s, SEWA grew to have over 2 million members, and in 1997 it played a leading role in setting up the research and organising network *Women in Informal Employment Globalizing and Organizing* (WIEGO)<sup>24</sup>, which in turn is a co-founder of IDWN, again with the IUF. Being affiliated to IUF, SEWA became part of the IUF delegation to the International Labour Congress (ILC). As described in Chapter Four, they successfully campaigned for redefining the workplace and the recognition of own account workers as *workers* changing ILO logic, laying the foundation for the decent work agenda and paving the way for the Domestic Workers Convention within the ILO.

In most South-American countries, domestic work has had a constantly high prevalence throughout the 20<sup>th</sup> century. In Brazil for instance, it represents an important part of a highly stratified internal labour market. 16 per cent of the female labour force is employed in this sector. There is a history of domestic workers unionisation in Brazil that goes as far back as the 1930s (ILO 2009, 77). At present 35 unions in Brazil represent domestic worker (ibid). However, these organisations have had few resources and little voice, due to the marginalised position of their members; predominantly poor, female and black or

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<sup>24</sup> Research done by WIEGO and affiliated scholars and activists form a core of this paper

indigenous domestic workers (Tomei 2011, 205). The Brazilian government actively promotes regulating domestic work and was one of the governments that advocated for the adoption of a binding convention, rather than just a recommendation, at the ILC in 2010 (Becker 2012, 49).<sup>25</sup>

Not all evolving unions succeed in building a power base. The reason may be of an institutional nature. Many unions have evolved out of associations or NGOs, and the way this happens gives them a particular organisational structure. The history of the *Women Domestic Workers' Union of Rio de Janeiro / Sindicato dos Trabalhadoras Domésticas do Município do Rio de Janeiro* (STD) in Brazil exemplifies some of the drawbacks that may follow such an institutional path (Vidal 2009). Although STD supports many domestic workers in lawsuits and conducts up to 8000 consultations each year, domestic workers themselves generally do not regard the union as their own organisation, but as a public service provider. In fact, in 2009 STD only had 40 fees paying members (ibid 2009, e4). This strange circumstance is explained by the way STD became a Union in 1988 and by its role in the legal system. In 1988 domestic worker associations were allowed to become unions, but unlike other unions household workers unions are not allowed to demand a mandatory membership fee (ibid 2009, e4). This has led to a structure where the STD is funded partly by the *United Workers Federation* and by several NGOs (ibid, footnote 6). However, the biggest source of funding is through fees for legal services and consultations by a lawyer or social worker and from a percentage of successfully regained remuneration or severance pay through legal proceedings or mediation (ibid 2009, e5). When a domestic worker approaches the Labour Tribunal with a complaint, she is sent to the union for representation (ibid). Vidal suggests that this procedure strengthens domestic workers' perception of the union as a public service provider and part of the juridical apparatus. Activists find it very difficult to recruit these women. According to Vidal, who conducted intensive ethnological studies at STD over a four year period, they often insist on the union being part of the public administration and complain about the bad quality of services along the line of other public services, or see the fees as unjustified taxes that "burden the poor" (ibid, footnote 6). This is in part due to unions having been under the jurisdiction of the Labour Department for many years and their above mentioned role in the juridical process (ibid e7).

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<sup>25</sup> Governments that supported this position were Argentina, Australia, Brazil, South Africa, the United States and Uruguay (ibid).



Despite various difficulties and setbacks, the revival of domestic workers' organising and unionisation "is an important development as being organised is one dimension of formalisation" (Chen 2011, 183). However, whilst unionisation plays an important role in improving domestic workers working conditions, it is not as straight forward as the unionisation of other, *normal* workers. The fact that the employers of domestic workers are private people from all social strata, not companies or 'capitalists' and as such are generally not organised, is a "reality [that] confounds the standard understanding of the relationship between being organised and having bargaining power" (ibid 2011, 172) leading to the necessity to rethink collective bargaining.

## **6.2 Non-governmental organisations**

This section looks at the role non-governmental organisations (NGOs) play in organising domestic workers. Despite their indispensable efforts, it is important to recognise that NGOs are *secondary* organisations according to the distinctions made by Bonner and Spooner above. They might be led by a single, dedicated founder/chairperson as the *Visayan Forum* or be a membership based organisation like *Amnesty International*, with more or less democratic structures. However, the members are usually not primarily those, whose interests are being advocated, but third party supporters of a cause - often human and women's rights activists. As such they do invaluable work, but as Bonner and Spooner point out, they have no democratic mandate to represent or negotiate on behalf of domestic workers and are not accountable to them (2011, 143) in the way that the organisations described in the previous section are.

Due to domestic workers' vulnerability and lack of resources, as well as their isolation at the workplace and the lack of time and opportunity (one of the demands being the right to a day off), self-organisation of domestic workers is usually no easy task even where there are no legal barriers or direct dangers. In many cases, however, domestic workers, often children, are victims of human trafficking, a phenomenon particularly widespread in the context of labour migration in South-East Asia. These factors have led to the involvement of a range of NGO's that have played an important initial role in the early stages of organising (Bonner und Spooner 2011, 144). Above we have seen that the Philippine NGO *Visayan Forum Foundation Inc* supported the foundation of the domestic workers association SUMAPI.

It is globally recognized as a best practice organization that does innovative work for the empowerment of vulnerable migrants especially victims of human trafficking, domestic servitude and other forms of exploitation through building social movements, advocating for policies and delivering of services (Visayan Forum Foundation Inc. 2012).

Wherever domestic workers to a large extent consist of migrant workers on temporary contracts, mediated by recruitment agencies as is wide-spread practice in (not only) South-East Asia, they may be de jure or de facto excluded from the freedom to organise in labour unions (Ford und Piper 2007). In these countries foreign domestic workers from a single sending country are often represented in large numbers, which may promote organising around nationality. Wherever organisation is illegal and/or linked to real threats of deportation, often with detrimental financial consequences as often linked to the sponsorship system (Scully 2010, 856), advocacy may be the only feasible method to protect domestic workers. In such instances, NGO's, charities or religious organisations engage in protecting, and where possible organising domestic workers.

A further reason for NGOs becoming involved may be seen in their greater ability to adjust to changing forms of labour and workers' representation in the face of globalisation. Discussing the obstacles facing social activism for a rights based approach to labour migration, Grugel and Piper (2011) hold that unions, weakened by a global neo-liberal economy and "associated with old-fashioned corporatist governance, Fordist production systems and class based demand for workers rights" [...] have been sidelined in "progressive political networks that tend to be dominated by development and rights based NGOs" which, they claim, "represent the most significant social justice organisations in the South" (ibid 2011, 445).

A different kind of NGO with a clearer focus on supporting the growth of membership based organisations are labour NGOs, such as the *Solidarity Center*<sup>26</sup>, located in the United States. "The Solidarity Center is a non-profit organization that assists workers around the world who are struggling to build democratic and independent trade unions" (Solidarity Center 2012). It was founded in 1997 by the *American Federation of Labor - Congress of Industrial Organizations* (AFL-CIO) "to tackle the enormous challenges workers face in the global economy" (ibid). One of the many solidarity projects was the backing of the KUDHEIHAs organisational drive in Kenya in 2009, as described above.

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<sup>26</sup> The Solidarity Center's full name is *American Center for International Labor Solidarity*

Although domestic workers' organisations, whether associations or traditional unions often need support from NGOs to get off the ground, this has sometimes led to a form of dependency on, or domination by the supporting organisation, as expressed at the first International Congress of Domestic Workers through statements such as "we are tired of hearing other people speaking in our name" (Mather 2012, 12). These sentiments reflect domestic workers' growing claim for self-determination. This does not mean that the need for support both in initial organising, building of leadership and up-scaling of organisations has diminished, as resources remain meagre. As Elizabeth Tang puts it "our close collaboration with NGOs in building the Federation of Asian Domestic Workers Unions (FADWU) has been key" (cited in Bonner und Spooner 2012, 144). However, as the ZIECA slogan "nothing for us without us" (Mather 2012, 23) signals, domestic workers are becoming more confident in setting their own agenda, whether it be vis á vis NGOs or traditional unions, whilst gaining access to resources and institutional power, and the legitimacy that union affiliation provides (Bonner und Spooner 2011, 145).

### **6.3 Transnational and trans-institutional alliances**

In the introduction to this thesis I suggested that we are looking at dynamic and rapidly changing organisational landscapes. Not only are models and scales of organisation, that is to say the *institutional forms* (Bonner und Spooner 2011) changing, so are new alliances, in other words, new *relationships* (ibid) between organisations both on the national and international level evolving. To put this development into a chronological perspective; only six years ago, the first international conference of domestic workers took place in Netherlands. The following section describes these changing landscapes in a chronological rather than analytical sequence. I do not wish to imply strict causation, but I do suggest that the processes and changes become clearer in a historical perspective and that certain events made the present development possible.

In retrospect, SEWAs affiliation with the *International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Workers* (IUF) in 1983 can be seen as a key event and trigger of this process. Together the two organisations have played an essential role in enabling the organisation of domestic workers and the adoption of the Domestic Workers Convention. According to Dan Gallin, who was general secretary of IUF from 1968 to 1997<sup>27</sup>, the affiliation of informal women workers through SEWA in India was a

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<sup>27</sup> Despite Gallin's potential bias as General Secretary, his view of the role of IUF is confirmed by all other sources, from WIEGO to the ILO. During my research, I have not encountered any comments contesting his

novelty amongst international trade unions. At the time, national trade unions centres were not willing to acknowledge informal workers and SEWA struggled for recognition. The affiliation with IUF however, provided SEWA with the formal status of a trade union centre (Bonner und Spooner 2011, 145). Gallin characterises IUF as “a dissident in the international trade union movement” (2012, 7) with many small and struggling members and opposed to the bureaucracy that had developed within the post-war international union movement. It is dedicated to “building global solidarity” and has a clear assignment to take “global action to defend human, democratic, and trade union rights” (IUF UITA IUL 2012). Together with SEWA, IUF supported the foundation of WIEGO in 1997 (Gallin 2012, 7). Both organisations were involved in promoting the issue of *decent work in the informal economy* within the ILO, and in 2008 IUF gave the newly founded *International Domestic Workers Network* (IDWN) an organisational base within its structures (Bonner 2010, 13).. Through affiliations and practical support IUF and SEWA have promoted informal workers permanent representation within the traditional trade union movement. After long struggles, SEWA finally achieved own membership in the ITUC in 2006 and vice presidency at the 2010 ITUC congress (Bonner und Spooner 2011, 146). The role of IUF facilitating organisational changes, access to the institutional resource and power structures of the trade union movement, whilst taking part in or promoting many forms of transnational co-operations between various kinds of organisations, cannot be undervalued.

On the other side of the globe, separate from the above development but likewise preceding the activities around the convention, the *Latin American and Caribbean Confederation of Domestic Workers* (CONLACTRAHO) was founded as early as 1988, in Bogotá, Colombia, building on a strong tradition of mobilisation in Latin America (Lindell 2010, 209). Considering CONLACTRAHO has existed for 25 years, currently consisting of associations and unions from 11 countries, its impact is regarded as marginal (D’Souza 2010, 80). D’Souza suggests this might be due to domestic workers’ organisations in the region remaining, to a large part, outside national trade union structures. She suggests that domestic workers have been reluctant to join ranks with unions because “they perceive them as highly politicized and male dominated” (ibid 81). But there are other, institutional reasons why domestic workers’ unions might be weak, as the above example of STD in Rio de Janeiro illustrates, where domestic workers’ unions are generally perceived as part

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version or questioning the reliability of his narrative. As Gallin presents detailed knowledge in a comprehensive historical perspective and is widely referenced, I regard his work as among the most central within this field.

of public administration. None the less, four out of the seven countries to have ratified the convention<sup>28</sup> are Latin American countries, and more are expected to follow in the near future. This suggests that the organisational density has led to public awareness, and that with the convention an instrument has finally been created that is likely to strengthen national labour law where it already exists but is insufficient or difficult to implement.

More recently, building on the developments over the previous two decades, the first *global* conference of domestic workers took place in the Netherlands in 2006, hosted by the Dutch trade union federation FNV and coordinated by the International Research and Education Network Europe (IRENE) (Bonner 2010, 14). Again, IUF played a key role facilitating the participation of domestic workers' organisations and a wide variety of supporting NGOs, with more than 60 representatives from all over the world (IRENE und IUF 2008). At the conference the foundation of the International Domestic Workers' Network (IDWN) was determined, and the claim for a sector specific ILO convention for domestic workers was formulated (Mather 2012, 26). IDWN was then founded in 2008, representing organisations of domestic worker (union and non-union) from all continents, and housed within the structures of the IUF. This is a novel procedure (ibid 2012, 27), enabling domestic workers' organisations to become integrated in the international trade union movement. In addition to accessing resources, observers confirm that backing from a global union federation has opened doors within the ITUC and the ILO (Bonner und Spooner 2011, 142). This move improved IDWNs opportunity to put decent working conditions for domestic worker on the ILO agenda immensely and strengthen organising efforts. The next change for IDWN will be the foundation of an international confederation in 2013 (IDWN 2012), transforming the network into a global union and achieving organisational independence.

Building on other informal workers' efforts in the past, it is evident that campaigning for the Domestic Workers Convention and its ratification has had a tremendous and probably unequalled mobilising effect. For instance, I have described the growth of the Kenyan union KUDHEIHAs organisational base amongst domestic workers from less than 100 to over 10, 000 during the year 2009. This example shows how *national level organising by a traditional, broad base union* was motivated by the campaign for the convention. It also demonstrates that successful organising can be achieved by, and in this case was dependent

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<sup>28</sup> As of 27<sup>th</sup> December 2012 Uruguay, Philippines, Mauritius, Bolivia, Nicaragua, Paraguay and Italy have ratified C 189.

on, new international alliances with a variety of types of organisations such as the Solidarity Center (labour NGO), IDWN (network of different types of domestic workers' organisations) and IUF (global labour centre). Similar alliances have emerged in numerous other countries. International solidarity and a successful mobilisation strategy resulted in KUDHEIHA and other unions qualifying to send delegates to the ILC, where they represented domestic workers' interests and influenced negotiations on the convention on the highest level.

*Regional up-scaling* is another observable trend, such as the foundation of the Federation of Asian Domestic Workers' Unions FADWU. Again, different kinds of organisations were involved. Elizabeth Tang of *Hong Kong Domestic Workers General Union* (HKDWGU) explains that NGOs supporting migrants rights played an essential role bridging the differences between native unions and migrant one-nationality unions and CBOs (Bonner und Spooner 2011, 141). The process of campaigning for the convention "helped to highlight the common interests" (Bonner 2010, 11) and build a common identity, currently uniting seven organisations under the roof of the federation (FADWU 2012).

By the time the International Trade Union Confederation (ITUC) was founded in 2005<sup>29</sup>, awareness within the international trade union movement of its responsibility towards informal workers had grown. Its constitution states that the ITUC is committed to "initiate and support action to increase the representativeness of trade unions through the recruitment of women and men working in the informal as well as the formal economy" (Bonner und Spooner 2012, 146). The same year, SEWA became an affiliate in its own right. Along with other international trade union centres they "put pressure on ITUC to become more pro-active in their support for informal workers' organizing" (ibid). As soon as 2007, the ITUC recommended all its member unions, representing 176 million workers worldwide, "to seek support from their governments for an ILO convention for domestic workers" (Becker 2012, 44), whilst the ITUC Women's Committee promoted the building of domestic workers organisations (Bonner und Spooner 2012, 141). At present the ITUC acts as coordinator of the ratification campaign "12x12".

The ambiguous role of the ILO has been touched upon throughout this thesis. As shown in chapter four, due to its origins the ILO has focused mostly on the "needs of waged workers

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<sup>29</sup> The ITUC was constituted as a merger of the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labour (WCL).

– the majority of them men – in formal enterprises” (Vosko 2002, 26). The precarious situation of domestic workers was nevertheless a concern and the need for regulation was addressed at the ILC in 1948 and 1965. One might say that domestic workers were not so much “out of sight” for the ILO, as rather without voice to define their needs or frame issues and the power to push for effective, comprehensive instruments within the ILO structures. The Decent Work Agenda represents a widening of the ILO’s perspective beyond the narrow group of standard workers, acknowledging that “[a]lmost everyone works, but not everyone is employed” (ibid). Yet in 2002, Vosko critically remarked that “the protections surrounding ‘decent work’ are significantly inferior to those typically associated with a standard employment relationship”. In an article in 2007, Guy Standing asks rather polemically whether the ILO is taking on the role of a development agency rather than that of a standard setter of international labour law, viewing ILO policy development during the past decade more than sceptically (Standing 2008)<sup>30</sup>. However one assesses recent ILO policy, the adoption of the Domestic Workers Convention in its present form represents a strong move towards a hard law instrument within the Decent Work Agenda. In this context it is important to recognise that the ILO is not only a multi lateral institution. It is also a tripartite organisation where workers, employers and governments negotiate international labour standards. The ILO has in fact responded to domestic workers organising, acknowledging domestic workers’ *own definitions* of their problems and needs - admittedly not without intense lobbying from internal and external pressure groups. In addition I would like to highlight ILO’s preparatory mechanisms for standard setting that triggered extensive reporting and research on domestic work and legal practice prior to the negotiations for the convention. A questionnaire sent to all member countries in 2008 generated an unusually strong response. This in turn lifted the level of knowledge, informed negotiations and supplied those in favour of a convention with well founded arguments. This thesis does not aim at evaluating the processes within the ILO, but I do wish to remark that the ILO has taken up the challenges presented by informal and domestic workers’ representatives, contributed significantly to the body of knowledge and most importantly, formulated and adopted the Domestic Workers Convention.

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<sup>30</sup> Guy Standing left the ILO after 26 years of service in various positions and is currently Professor of Development Studies at the School of Oriental and African Studies (SOAS), University of London. Unfortunately, I could not find any comments made by Standing referring to the Domestic Workers Convention in relation to the above mentioned critique.

## 7 Conclusions

Domestic work is the largest sector of female employment worldwide, yet it is extremely undervalued and unprotected. Despite their large numbers, possibly one hundred million, domestic workers have until recently hardly been organised as workers. This was in part due to lack of self-recognition, but largely because unions and many governments generally have not recognised them as *real workers* - excluding them from institutional resources and legal protection, often also from the right to free association and collective bargaining. The main intention of this thesis has been to investigate how, despite such disempowering conditions, domestic workers have taken up the challenge and in many cases organised successfully with unmistakable impact during the past decade. The research question; *how did domestic workers organise in the face of the ILO Convention No. 189*, addresses the relation between these organising efforts and campaigning for a sector specific ILO convention for domestic workers. This approach is based on two underlying assumptions that illuminate the topics relevance to studies of *International Social Welfare and Health Policy*; 1) Organised labour plays a fundamental role in the development and continuous defence of social welfare. 2) Active (self-) empowerment and the formulation of own interests on both the individual and group level are vital to human development and societal coherence.

To sum up; I have demonstrated that domestic workers organise in different types of organisations “according to their circumstances”, (citing Bonner, above). In order to better understand the wide variety of organisational forms, a large part of this thesis (part two) is committed to delineating these circumstances on different levels, for domestic work is in many respects unlike other work. There, I have described considerations concerning the definition of domestic work; the wide variety of tasks involved has led to a definition in the convention that focuses on the workplace (in private homes) and the employment relationship. This definition points to a distinguishing feature of domestic work, the private nature of the employment relationship, frequently with the exemption from labour law, partly or in whole, as a consequence. Based on statistical data from the ILO an overview of the global and regional extent of domestic work has been provided, indicating that it is, in contrast to its marginal status, a major source of employment in many parts of the world, largely for women and children. Reflections on the struggle for a changing concept of *work* and a *worksite* have been presented, in particular in regards to the gendered division of labour, the informal economy and connected historical processes concerning the setting of



labour standards and linked to *identity formation* bridging the formal-informal divide. Finally, part two ends with a comparison of particularly relevant and/or problematic regulatory frameworks and the respective normative standards of the Domestic Workers Convention. A central question in regards to organising is whether domestic workers are recognised as workers with workers' rights and thereby have de jure *and* de facto access to organising in unions, and to partake in collective bargaining. I have shown that this is often not been the case.

In part three, I present my findings in accordance with the research question, conclude and present recommendations for further research. Following Christine Bonner, a leading expert on organising in the informal economy, I have given examples of different kinds of organisations that domestic workers typically organise in, on different levels. I found different kinds of membership based organisations (MBOs) (primary organisations) and NGOs (secondary organisations). MBOs can be traditional unions such as KUDHEIHA in Kenya, associations like SUMAPI in the Philippines or community based organisations like MUA in California, usually catering for a migrant population from a single country of origin. MBOs are characterised by ownership and democratic leadership structures. In contrast, NGOs such as the Visayan Forum that support and empower from the “outside” do not represent domestic workers nor are they accountable to them, but provide invaluable services and interventions that MBOs often cannot supply on their own. In many cases domestic workers organisations actually have mixed forms, changing over time. For instance, a common development is that a CBO evolves into a union as the focus on labour issues becomes more central, thus shifting the unifying mode of identity from, for example *Indonesian immigrant* to (domestic) *worker*.

Considering prevailing human rights violations, the extreme poverty and the vulnerability of domestic workers, I am convinced that NGOs will continue to play a vital role for a long time to come. Domestic workers' earnings will remain meagre, even with a minimum wage, and so will the fees they pay to their organisations. On the other hand, they are faced with campaigning and organising challenges that require a high degree of financial, personnel and organising resources. Time consuming organising efforts, empowerment, skills training and leadership building as well as responding to the particular obstacles faced by migrant domestic workers will continue to be indispensable. Cross-subsidising within broad-based unions, alliances with NGOs and solidarity groups, external funding and resource provision by the international labour movement will remain essential. There is,

however a clear tendency that domestic workers strive to represent themselves and set their own agenda. This includes a tendency towards more clearly defined roles of MBOs, and towards unionisation.

Yet, the most central finding of this thesis is that throughout the past decade and despite detrimental conditions, domestic workers' organisations have not only come into existence in many forms all over the world; they have mobilised immensely both locally and on an international scale. Domestic workers have built strong international alliances and an international network and thereby gained recognition by growing parts of the international trade union movement. The increasing involvement of the ITUC, I believe, is thereby crucial. Furthermore, organised domestic workers have found representation and support in the ILO, and achieved a comprehensive convention that to a large degree coincides with their claims both in detail and in form, as a *hard law* instrument rather than simply a recommendation. This achievement was not self-evident, but hard fought for. Additionally, I have found that domestic workers' organising efforts and the ILO preparatory mechanisms for the convention have had a mutually reinforcing effect. It remains to be seen how the planned *International Domestic Workers Federation* will be able to build organisational power and resources. Never the less, the scheduled constitution for October 2013 exemplifies this trend towards international up-grading and unionisation, corresponding with Bonner and Spooner remark that where own, democratically legitimated MBO's are increasingly important in organising domestic workers, there is also "a need to scale up into larger organisations to engage governments and to make an impact on global developments affecting informal workers' lives" (2011, 127).

Focusing on domestic workers' agency and justified by the angle of research, centrally involved organisations such as the ILO or Human Right Watch have received marginal treatment in this thesis. Likewise, government positions are only rudimentary addressed. I would like to note that governments play a crucial role. For one, they are part of the transnational, tripartite arrangement of the ILO. It is however on the national level that a convention is ratified and adapted to national labour law. Last, but not least, governments must find way to secure compliance.

This leads to the following observation and subsequent suggestion for further research. A by-product of this thesis is the insight that over the past decade, domestic workers' organising has not been focused on the usual strategic counterpart in IR; *the employers*. On the

contrary, the major struggle has been for *recognition as workers* in terms of respect, in national and international labour law and most significantly; by the *international labour movement* itself, without which domestic workers could not gain access to the ILO. To put it differently, the struggle has been focused on becoming insiders of the labour movement by defining “sameness” as workers, the fight being against formal and practical exclusion, whilst at the same time successfully maintaining the “differentness” or particularity in regard to employment relations, as the scope of issues covered by the convention clearly illustrate. This is a remarkable achievement. Organising impetus linked to the ratification campaign again, targets governments for the reason I have stated above. Yet, and this is my point: the employers are not irrelevant. Considering that employers of domestic workers as private households are equally “dissimilar” to regular employers, an important and under-research topic is how collective bargaining can be organised within the field of domestic work. The fact that employers are generally not organised and not even an “organisation” as a firm or a company is, means that organised domestic labour has no bargaining counterpart in the traditional sense. In addition, despite the employment relationship being structured by power relations disadvantaging the domestic worker, employers’ demand for domestic work is often (but not always) a result of their own struggles in a relentless labour market. All this suggests a systematic analysis of the few existing models (such as in Uruguay) and new practical experiments in the field of collective bargaining, as a logical and relevant augmentation of research on domestic workers’ organising.

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