



International
Labour
Office

Promoting integration for migrant domestic workers in Spain

Executive Summary



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BACKGROUND

The domestic labour sector in Spain has been strengthened in recent decades due to social changes that have occurred in the country. Some of these fundamental transformations include economic growth, conversion into a country of immigration, a restructuring of the population (in terms of population ageing and declining birth rates), family reorganization (prevalence of the nuclear family) and women incorporation in the public sphere (with an increase in participation in the labour market). These transformations combined with a weak and familialist welfare state have created a demand for labour in the area of social reproduction in order to fill the gaps caused by the new social organization of care. The presence of migrant women in this sector can be explained by the interaction of economic dynamics at a global and local level that results in a process of international 'care migration'.

The strengthening of this distinctive labour sector, coupled with the social issues that it generates, has led to a re-evaluation of existing labour rights and a debate on the consequences of its current state with regard to social integration and employment of migrant workers. These consequences relate at a deeper level to gender and class stigmatization when considering the low social value of reproductive work, which is typically associated with female workers, as well as the consequences of the increasing commodification of care activities.

In addition, Spain presents a unique situation due to recent legislative changes that have occurred regarding this sector and which have kept it in the public debate. This has been accompanied by developments at the international level, such as the adoption of the ILO Convention concerning decent work for domestic workers, 2011 (No. 189).

PROJECT

This case study of the Spanish situation is part of a wider international project, 'Promoting Integration of Migrant Domestic Workers in Europe', led and promoted by the ILO, funded by the European Commission and with research carried out by four international research institutions.¹ The aims of the project are to: expand the knowledge on the characteristics, dimensions, and patterns of migration in Europe and its possible implications for the integration of migrant domestic workers; raise awareness of social actors in relation to the challenges of socio-economic integration of migrant domestic workers; and contribute to the planning and implementation of efficient policies and programmes to proactively promote social and labour integration of these workers.

To achieve these objectives in Spain, research was conducted in three phases: (1) analysis of existing literature on the organization and formation of the domestic sector regarding migration policies and labour legislation, as well as a statistical overview of migrant domestic workers over the past 10-15 years; (2) interviews with key informants and a national consultation with the objective of identifying and understanding the perspective of the diverse social stakeholders on this issue; (3) qualitative interviews with 60 migrant domestic workers (including different geographical origins and migratory status as well as both sexes). The selection of respondents was undertaken with the intention of diversifying the sample composition to reflect the heterogeneity of the population in Spain, with respect to the nature of professional tasks (personal care/home cleaning), typologies of work (live-in/live-out), duration of residency (from one to 15 years), and employment in the sector (currently or not longer than one year ago).

Interviews undertaken with domestic workers were based on a semi-structured guide² aiming at retracing the migration and labour trajectories within and outside the domestic sector. Strong emphasis was placed on family and social networks and their role during different moments of their migration and labour trajectories. The aim of these interviews was to document the expectations, experiences and aspirations of migrant domestic workers during different stages of the migration process, their living and working conditions, as well as different factors – contextual, social, and individual – that affected their opportunities of social and labour integration in Spain.

1 Fundación Ortega y Gasset Gregorio-Marañón (Spain); International and European Forum of Research on Immigration (Italy); Institut National d'Etudes Démographiques (France); and Centrum voor Migratie en Interculturele Studies (Belgium).

2 The interview guide was supplemented by other tools such a life-course grid and a fact sheet, in order to provide a synthetic but clear summary of the main events in the different life domains of the respondents and to gather essential information on the employment and socio-demographic situation at the moment of the interview.

STATISTICAL AND LEGISLATIVE FRAMEWORK

One of the key elements for understanding the evolution of the employment in the domestic sector lies in the growth of the migrant population in the country. Since 2000 Spain has been the second country worldwide with the most extensive increase in immigration. As a result, the foreign-born population, which represented 3 per cent of the population in 1998, jumped to 16 per cent in 2011 (from just over one million to more than six and a half million people). Specifically, women have played a significant role in these migration flows, representing 44 per cent of all new arrivals (with the highest proportion of immigrant women coming from Central-American countries).³

Consistent with the increased presence of immigrants, the domestic sector grew considerably, both in terms of registered employment in the domestic sector (from 360,000 persons in 1998 to 655,000 in 2012)⁴ and in terms of the population enrolled in social security (from 181,932 persons in 2004 to 390,939 in September 2012).⁵ The difference between these figures reflects the presence of informal employment, which is currently estimated to comprise about 45 per cent of the sector. However, these large figures mask the fluctuations of the sector related to particular events, such as the 2005 regularization process (which resulted in an increase of registered workers), or the new legislation on domestic work enacted in 2012 (which also resulted in an increase in the number of domestic employees affiliated to social security and a decline of informally employed domestic workers). In addition, this data helps show gender and nationality differences in the sector, with foreign women being over-represented, particularly as live-in workers, putting in longer hours and being more dedicated to care activities.

In Spain, living and working conditions of the migrant population are mostly regulated through legislation. Spain has developed a body of law in response to the growth of this migratory phenomenon, culminating in the legislation of 2009.⁶ The evolution of the legislation reflects a strengthening of the connection between migration and employment status (directing the migrant population to those economic sectors with labour shortages, for example, domestic employment), as well as consolidating restrictions for the migrant population (for example, restricting conditions for family reunification, or limiting health coverage for foreigners, through a special decree in 2012). Not only is legislation reflected in the relationship that is established between immigration and domestic work but also in extraordinary migration situations like the regularization process. All past regularization

3 Data from the National Statistic Institute of Spain (INE).

4 Data from Spanish Labor Survey (EPA).

5 Data from the Spanish Ministry of Employment and Social Security (MEySS).

6 Organic Law 2/2009, December 11th, amending Organic Law 4/2000, January 11th on the rights and freedoms of foreigners in Spain and their social integration

processes, particularly the one in 2005, have led to a temporary over-representation of formalized domestic workers.

With regard to labour and social protection of workers in the domestic sector, it is important to note that changes have been endorsed thanks to various efforts to professionalize domestic work. These changes have fostered an important improvement in labour conditions. The Royal Decree 1620/2011 on working conditions as well as the Law 27/2011 on social protection (which created a special system within the general regime) represents an attempt on the part of the State to bring legislation in this sector in line with legislation in other economic sectors. In this sense, some conditions of work have been equated to other sectors (such as those relating to hours of rest breaks or compulsory affiliation for all kinds of workers) and some specificities of the sector have been improved ('times of presence' or contribution to social security according to pre-established steps). Some issues remained pending (such as the possibility of dismissal without justification or the lack of unemployment benefits), although a commitment has been made by the Government to address them through a committee of experts. Legislation has not fully addressed issues such as the creation of professional categories or inspection systems, which are still being considered for reform in the future.

There currently exist concerns regarding the achievements attained in this area due to recent legislative changes (modifications on 27 December 2012), as well as the Government's decision not to ratify Convention No. 189. These legal and political changes have once again diminished the importance of the domestic labour sector and its recognition as a labour domain in its own right.



SOME RESULTS

Interviews with domestic workers revealed a migration process marked by economic necessity, which reflected entry into the labour market in a position of relative dependency. The current economic crisis reinforced a widespread acceptance of employment conditions centred on the appreciation of access to employment rather than from the concept of labour rights. In this context, household employment worked from a dual perspective: on the one hand it reinforced the lack of this employment as decent work, but on the other, it worked as a sector that was easily accessible during a time of job shortages and widespread poor work conditions. This could be especially observed in the case of male workers who, after losing their jobs in other sectors such as construction, found employment in the domestic sector.

This previous situation was possible due to the ease of entering the sector through informal jobs/employment. A majority of the interviewees worked without any written contract, and time of residence and administrative status did not markedly affect this type of “contractual” relationship. There seemed to be an uncritical acceptance of this kind of relationship and, in any case, workers’ demands were being curtailed due to the limited access to complaint or redress mechanisms. It should be noted that some employees opted to work informally for economic benefits, reflecting a short-term vision where current profits took precedence over future rights.

Some of the female interviewees worked in the informal economy due to their irregular administrative situation. Most of them had at some point in the past 10–15 years lived in Spain in an irregular situation, in some cases living for up to seven years without a proper residence permit. Despite the anguish and difficulties brought about by this situation (for instance, due to incarcerations and expulsion orders) they had developed daily strategies, such as limiting areas of social interaction, to live and remain in Spain, although with higher vulnerabilities. Employment in the domestic work sector could be accessed quickly, often without the need for work permits and without fulfilling the necessary conditions of other sectors (knowledge of language or approval of training qualifications). Residence and work permits did not automatically guarantee mobility from one labour sector to another, nor did the lack of these documents make it impossible to access other labour sectors. The possession of temporary residence permits, with the exception of nationality or long-term residence, granted workers only temporary security, since fears of the inability to renew the documentation due to unfulfilled requirements were always present.

Access to employment had been mostly through informal channels (relatives, friends or compatriots), reflecting the limited influence of employment agencies and of public employment services.

In terms of working responsibilities, there were multiple tasks performed by household

workers that reached beyond the scope of what was generally defined as house care or personal care, such as teaching languages or taking part in customer service aspects of the family's private business. There was a significant ambiguity as to what exactly domestic employment involved and what specific tasks or duties should be developed/performed by domestic workers.

Work schedules varied greatly depending on whether the worker lived in or outside the employer's home and, consequently, on the margin of individual choice. Long working hours might be due to exploitation by employers, specifically in cases of live-in domestic workers, or an individual's decision to have multiple jobs in order to produce higher monthly earnings. The decision to work more hours was undeniably closely linked to the family situation, since the presence of a partner or spouse, or especially children, affected the number of hours performed. It was important to bear in mind the time-consuming characteristic of the sector, and the consequent difficulty of reconciling labour and personal life.

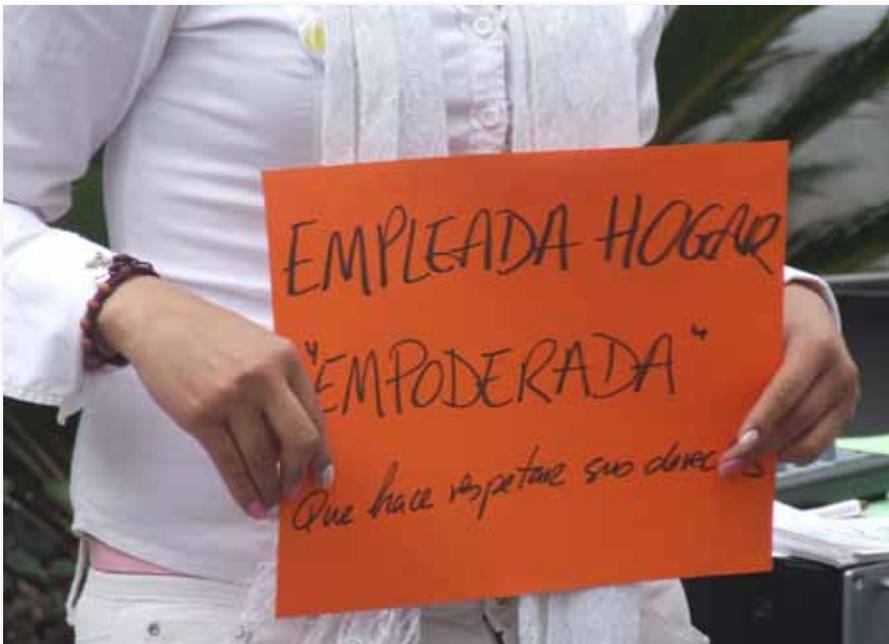
As for wage payment, two important comments brought out by the interviewees should be highlighted. First, the regularization of the administrative situation did not imply an immediate improvement in wages. Rather, it reinforced the idea of labour irregularity as a tolerable situation. In some cases, given the urgent need to address the most immediate material needs, administrative regularization was dismissed as of secondary importance and registration and contribution to social security as a way to reduce wages. Second, there had been a decline or stagnation of wages that had been related to the Spanish economic 'crisis', mostly resulting indirectly from the reduction of working hours and the consequent intensification of tasks. The effects of the economic crisis could also be noted in an ideological dimension, in the sense that domestic workers accepted restrictions as a necessary 'sacrifice' to help their Spanish employer, believing that her/his economic stability implied the continuation of the job in the household. These thoughts were possibly due to the perceived subordinate value of domestic work.

Migrant domestic workers often tried to improve working conditions, such as salaries or access to formal employment or legal residence, through working for multiple households. Situations involving exploitation or abuse, such as physical or sexual harassment, did not, in general, entail institutional or social reporting of the employer, as a worker would much sooner abandon the situation than risk a direct confrontation with the employer. In order to improve working conditions, especially in periods of high unemployment, some of the interviewees attended free geriatric, computer science, language or cooking courses offered by public institutions, non-profit organizations or immigrant associations. Courses were taken with the aim of opening new doors in other occupations, or to expand social networks. It was curious that male workers attended these courses to demonstrate qualifications that their female counterparts were automatically assumed to have.

The discourse of many interviewees showed some apathy towards the reality of their social and labour rights. With the exception of those actively engaged in immigrant or domestic

workers associations, most women had little interest in the laws that protected them: knowledge of these laws did not directly guarantee benefits as this study showed that employees did not typically enjoy paid vacations, maternity leave or sick days. Existing legal gaps, especially in relation to unemployment benefits and the distrust of international or bilaterally coordinated social security systems, did not add value to the existence of a formal framework of labour relations. Furthermore, the lack of awareness and mobilization to achieve both labour and immigration rights through their own networks, immigrant associations or trade unions were also influenced by fear and the intention to avoid conflictive situations with the employer at all costs. The scarcity of this issue in interviewees' discourse could be seen as an indication of the importance of addressing this issue.

The results of this study confirmed the complexities that exist in this sector due to the combination of numerous social dynamics, such as the sexual division of work, the social organization of care, the circumstances of labour legislation, the presence of informal employment, and the admission and integration policies for the migrant population. Activities carried out during this study showed that there were many aspects that needed to be improved and in which it was necessary to initiate actions as current methods did not work in the desired ways from the perspective of citizenship and labour equality. In addition, the particular Spanish situation reaffirmed the need to maintain continued vigilance and constant dialogue. Recent legislative changes accompanied by international campaigns, kept the issue of household employment in prominent standing, so it was not the time to weaken these circumstances but rather consolidate the positive changes that had started to be put into place. The economic crisis and the lack of agreement on certain issues among social actors should not constrain advancements, but rather create a push forward to undertake new challenges.



FINAL RECOMMENDATIONS

The arguments made in this study signal the necessity to stimulate three important and influential areas: legislation, collective action and sensitization. The first of the three areas relates to the need to continue to unite the domestic employment sector with other labour sectors in order to achieve the formation of an economic sector with similar conditions to others, and, furthermore, to achieve immigration legislation that does not pose a bar the immigrant population from integrating into the labour market. Collective action refers to the need to generate coordination between social agents who work for the improvement of this sector. There are many players at different institutional levels that are making efforts to advance this sector, thus it is necessary to strengthen dialogue between them to combine synergies. In relation to sensitization, this research has made clear the need to reach out to domestic workers to inform them about the benefits of good labour laws and the consideration of domestic employment as a labour sector. This can also be applied to the public at large for whom domestic employment is still far from being considered a proper occupation, one in which workers are entitled to labour rights that are comparable to those of workers in any other sector.

Concretely there is a recommendation to:

1. Strengthen labour rights

- a. Ratify Convention No. 189.
- b. Re-evaluate and simplify the new reform on social benefits for domestic employment (effective 1 April 2013) to establish appropriate contribution segments in accordance with wages and to return responsibility for deposit and discharge of social security contributions to the employer.
- c. Comply with the formation of expert committees as was established in the legislation.
- d. Encourage codes of ethics and strengthening mechanisms of control and inspection to ensure compliance with existing regulations, which also apply to intermediary agencies.
- e. Improve reporting mechanisms (e.g. free hotlines), regardless of the working conditions or administrative status of workers.
- f. Communicate clear and specific information about the new domestic employment legislation (using all possible forms of media and advertisement).
- g. Refrain from using the situation of economic crisis as justification for reducing rights in the sector.

- h. Include the sector within the legislation of occupational hazards.
- i. Encourage the participation of the public sector as an intermediary in labour relations of this sector.

2. Promote the consideration of the sector as a labour domain

- a. Conduct sensitization campaigns to inform employers, employees, and the public about the rights, obligations, and social value of formalizing domestic work and the importance of social reproductive work in general.
- b. Establish professional categories and related adjusted wages and establish an official certification system.
- c. Provide, through partnerships, unions and training centres, proper training, accreditation, and recognition of non-formal qualifications.
- d. Simplify administrative procedures of social security registration.
- e. Establish special protective measures or working conditions for live-in workers.

3. Promote collective action

- a. Continue the unification of efforts and establish lobbies for awareness campaigns and vindication of rights (e.g. for the ratification of Convention No. 189).
- b. Promote and strengthen cooperation and networking between different groups in society and build platforms for domestic workers to speak with one voice.
- c. Encourage the formation of an employers' group and domestic workers' cooperatives to participate in labour negotiations.

4. Promote social dialogue

- a. Reinstate/encourage tripartite negotiations.
- b. Encourage communication channels between diverse national, regional, and local stakeholders, such as trade unions and associations of domestic workers and/or domestic workers, that are considerate of the working hours of domestic workers.
- c. Generate mediation figures that allow the correct transmission of information among different social partners (trade unions and associations of various kinds).

5. Promote equal rights of immigrants

- a. Elaborate immigration policies that facilitate the regularization of migrants which are independent of social security contributions.
- b. Develop immigration policies that encourage job searching.
- c. Take into account the principle of universal health benefits (rectifying modifications realized, starting 1 April 2013).
- d. Analyze the undesirable effects of unannounced identity checks and their impact on the daily lives of the immigrant population.
- e. Establish mechanisms to register the permanent residence of live-in employees at the employer's house in order to gain access regularization procedures.
- f. Facilitate the recognition of qualifications obtained in countries of origin, including those related to the care of dependents/or the chronically ill.
- g. Establish harmonized social security systems (for the possible payment of pensions in countries of origin or others).

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