

IS THE DOMESTIC WORKERS
CONVENTION A TRIUMPH
FOR FEMALE MIGRANT AGENCY?

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FEMALE AGENCY, MOBILITY AND SOCIO-CULTURAL CHANGE

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This research programme focuses on the feminization of migration as one of the most significant social patterns to have emerged in the course of the last century. Too often, female migrants occupy vulnerable positions in their host societies, engaging in domestic work, sex work and other unregulated sectors. Despite being so vulnerable and despite established patterns of exploitation, the numbers of women who choose to migrate is rising. This research programme focuses on this phenomenon, in order to better understand why and how migration may offer routes to empowerment to women. A specific area of focus will be the extent to which migration allows women from the global south new sociocultural horizons as they cross over and settle in the global north.

Is the Domestic Workers Convention a Triumph for Female Migrant Agency?

Tendayi Bloom

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Summary

The Domestic Workers Convention 2011 (C189) has been lauded as a major step for female agency in cases of mobility, driving and responding to sociocultural change. This is for three key reasons. First, migrants (including internal migrants) make up a substantial proportion of the world's contracted domestic workforce. Second, women comprise an overwhelming majority of those providing domestic work. Third, and crucially, domestic workers, and in particular female migrant domestic workers, are often unable to access existing labour protections and rights. This Policy Report analyses the Domestic Workers Convention and asks whether it should be seen as a triumph for female agency. It considers the agency of female migrant domestic workers, both once in their place of work and in the decision to migrate to work. It also looks at how this feeds into wider questions of female agency. It concludes that this Convention is a vital and exciting triumph but must be part of a much broader set of changes. The Policy Report ends by offering some recommendations for policy development in this area. The appendices summarize the Convention and Recommendation and give some associated data.

A Vital Female Migrant Workforce

'Without domestic workers, society could not function'

Joaquín Nieto, Director of the Office of the International Labour Organisation for Spain, speaking in Barcelona in 2015¹

1. This and other statements included in this Policy Report were made at a roundtable 'Open Forum' event held at the offices of the United Nations University Institute on Globalization, Culture and Mobility in Barcelona on 19th February 2015.

2. Using ILO classifications of regions.

The struggle for full recognition of the labour rights of those employed in domestic work is not new, and reaches beyond the migration context. The enforcement of the labour rights of domestic servants, nannies, cleaners and carers has long lagged behind those of other workers (e.g. Smith 2012), not least because such tasks are often carried out by women without remuneration (e.g. Tijdens and van Klaveren 2011 p.19 – see also Appendix 4). This Policy Report examines the Domestic Workers Convention 2011 (C189) and Recommendation (R201) in the context of female agency, mobility and sociocultural change (from here on 'the Con-

vention', unless otherwise stated, refers to both C189 and R201). As such, it particularly considers migrant women employed in the domestic work sector. The Convention offers the following definitions (ILO 2011 Art1):

- a) the term "domestic work" means work performed in or for a household or households;
- b) the term "domestic worker" means any person engaged in domestic work within an employment relationship;
- c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

The quotation from Nieto at the head of this section emphasises the cultural shifts in most high and middle income countries from male heads of households to households headed by two wage-earners. For this family structure to work, a salaried domestic workforce becomes vital (e.g. Albin and Mantouvalou 2011). Furthermore, aging populations in these countries means that there are increasing needs for older person care. Without domestic workers, then, many modern societies simply could not function. Indeed, domestic workers satisfy some of the most basic and universal human needs found in all societies, and domestic workers are found on every continent. Chart 1 shows the global distribution of domestic workers, according to International Labour Organisation (ILO) estimates for 2010² (data from ILO 2013 p.20).

Chart 1 demonstrates that, while men are also involved in domestic work, and in some regions such as the Middle East, the proportional gender difference is less marked, for the most part, the domestic work labour-force is composed of women. As such, when considering domestic work, and migrant domestic work in particular, it is important to recognize the often implicit, but very real, connection that it has to female agency.

Chart 1: Number of Domestic Workers by Global Region and Gender

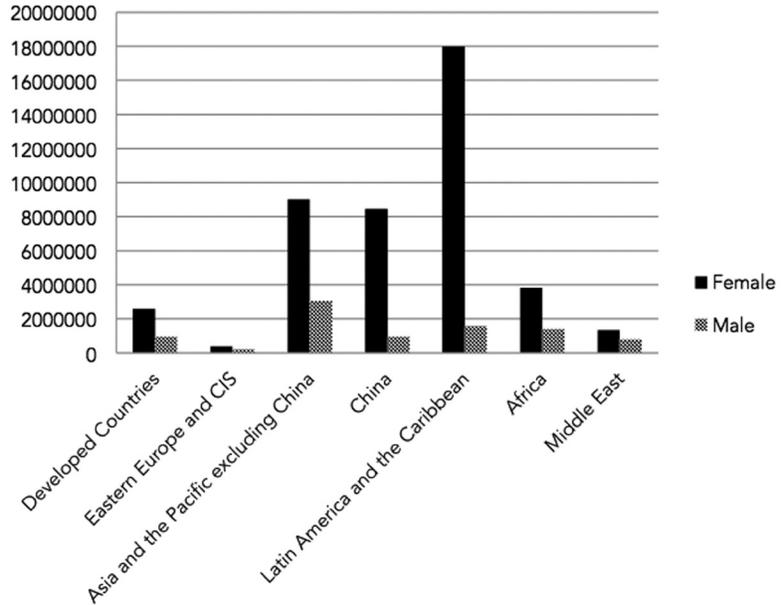


Chart 2: Gender make-up of global domestic worker population 1995

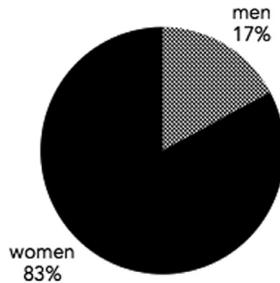
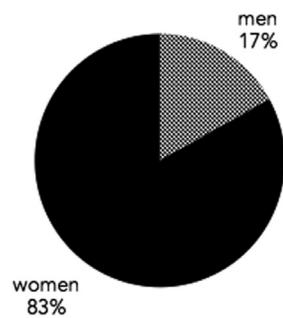


Chart 3: Gender make-up of global domestic worker population 2010



Recent years have seen the global number of domestic workers increasing. In 1995 the ILO official global number of domestic workers reached 33,229,000 persons (note that this misses many of those working unofficially), 1.5% of total global employment. In 2010 that had risen by 58% to 52,553,000, or 1.7% of those in employment globally. Whilst the absolute numbers have been growing, the global

gender imbalance has remained constant. Charts 2 and 3, representing the gender make-up of the official global domestic worker population in 1995 and 2010 respectively, reinforce that women continue to make up the overwhelming majority of domestic workers globally. Thus, while the regional fluctuations in Chart 1 are worth noting, this does not detract from the strongly gendered nature of the domestic work sector and, as a result, of the population likely to be affected by the Domestic Workers Convention. Indeed, the growing demand for domestic workers has been presented as a key factor in the 'feminization' of migration (e.g. see Olez 2014 p.145).

Global figures on the composition of the domestic worker population, disaggregated by migration status, are hard to come by, but national data sources indicate the crucial role that migrants play in domestic work worldwide. Origin country data demonstrate the role of overseas domestic worker remittances to domestic wealth. In the Philippines, for example, overseas domestic workers are estimated to contribute more than a third of the country's remittance income and 23% of Nepal's GDP is reported to come from women's remittances, many of whom are domestic workers (UNWomen and IOM 2010 p.2). In receiving countries, meanwhile, the contribution of immigrant labour to the domestic work sector is also clear. For example, in Singapore at the end of 2010, there were 201,000 female domestic workers on work permits, representing one for every five households in the country (UNWomen 2013 p.32). In Spain, the domestic worker population is largely composed of migrants from South America, and in 2005, 32% of the country's domestic workers came from Ecuador, 13% from Colombia (ILO 2013 p.36). The globalized nature of the domestic service industry is a key theme in the literature in this area (e.g. Smith 2012 p.161; Ada Cheng 2012; Gordolan and Lalani 2009 p.10). The Domestic Workers Convention, then, addresses a sector primarily composed of women migrants.

The Need for a Convention

'overworked, underpaid and unprotected'

Quotation from 1970 ILO survey of conditions of domestic workers in private households, cited e.g. in Olez 2014 p.144

The campaign to have domestic work recognized as work has been driven by the fact that domestic workers are often without access to

3. Bolivia, Brazil, Bulgaria, Burkina Faso, Chile, Columbia, Czech Republic, Ecuador, Estonia, France, Ireland, Kazakhstan, Latvia, Moldova, Netherlands, Paraguay, Portugal, Russian Federation, Romania, Spain, Trinidad and Tobago, Turkey, United Kingdom, United States, Venezuela; a further eighteen countries covered foreign domestic workers within sectoral or occupational rates.

usual labour protections. This equates, for example, to extremely long hours. Studies from across geographic regions have found women regularly working 15 hour days or 78-100 hour weeks (e.g. ILO 2013 p.57; HRW 2014 p.15; HRW 2011 p.13; Tijdens and van Klaveren 2011 p.29). There may also be difficulties claiming holidays, rest time, or maternity leave, and health care, for example (e.g. see HRW 2011). In 2012, about 45% of the world's domestic workers were not even entitled to a single day off per week (ILO 2012). Domestic workers' wages are also low, with workers often earning less than half of the average wages in the country where they work, sometimes less than 20% (HRW 2011 p.13). One report finds only 25 countries in which foreign domestic workers were covered by the national minimum wage in 2011 (UNWomen 2013 p.18)³. What is more, per-month and per-week wage calculations do not take into account domestic workers' very long working hours (Tijdens and van Klaveren 2011 p.19). Often living within the household where they work, domestic workers are vulnerable to further forms of abuse and ill-treatment.

Appendix 1 lists ILO resolutions specifically relating to domestic work. It demonstrates that this urgent vulnerability of domestic workers has been recognized by the ILO for some time and the first ILO resolution addressing this specifically was in 1948, and a 1965 ILO resolution emphasized that domestic workers needed to be provided with:

...the elements of protection which would assure them a minimum standard of living, compatible with the self respect and dignity which are essential to social justice (quoted in Smith 2012 p.165).

Despite this commitment, domestic workers have remained particularly vulnerable to rights violations. They have often been shunned by traditional unions and unable to access existing laws. Luc Demaret, ILO ACTRAV official responsible for the domestic work portfolio has explained that:

It is not that the ILO has not done anything since then [1948 and 1965], but there has not been enough pressure for it to take any significant steps (quoted in Mather 2013 p.22).

Indeed, the development of the Convention was driven in no small part by the organization and activism of domestic workers themselves, from the creation of the ill-fated International Network of Workers in Domestic Service (INWDS) in 1995 to the

first global conference in Amsterdam in 2006, until today (Mather 2013 p.3,12). Cecilia Mather's detailed first-hand account emphasizes the role also of individual domestic worker representatives and organizers (Mather 2013 e.g. p.53). Thanks to the work of domestic workers' organizations, powerful unions began also to take the case of domestic workers seriously, especially when this was supported actively by the International Trade Union Confederation (ITUC) and labour unions (Blankett 2012 p.793; Mather 2013).

The way in which the Convention evolved has also drawn attention to existing limitations within ILO in terms of the agency of people in marginalized employment sectors. Adelle Blackett, a lawyer who has been involved with the process from the beginning notes:

The ILO's traditional constituencies comprising employers' organizations, workers' organizations, and governments were forced to confront both the limits of their representativeness in relation to domestic workers and how those limits, coupled with interests expressed by domestic workers' groups, affected their mandate and how to carry it out (Blackett 2012 p.792).

As such, the progress of the Domestic Workers Convention represents a key development in the agency of vulnerable and under-represented workers more widely than the Convention itself. This concern within the ILO is reflected in what happened directly after the vote (see eye-witness account in Appendix 5), as the words of domestic workers were symbolically brought from the Observers' Gallery to meet representatives at the entrance to the Grand Plenary Hall.

Domestic worker organizing is not new, from developments in South America in the 1920s and 30s (in Chile and Brazil respectively) to more recent movements worldwide (see survey in Mather 2013). Crucially, more recent groups like the International Domestic Worker Network (IDWN), conceived in 2006, have brought domestic workers' concerns directly to international meetings and played a key role in the realization of the Convention and its Recommendation (e.g. see Tijdens and van Klaveren 2011 p.2). Meanwhile, national and regional domestic workers' unions and other rights movements have continued to develop world-wide (e.g. see Amrith 2015; Mather 2013). All of this set the stage, in 2011, for the adoption of the Domestic Workers Convention.

The Convention Enters Into Force

'History is being made'

Juan Somavia, Director General of
International Labour Organisation,
on the occasion of the adoption of the
Domestic Workers Convention (ILO 2011b)

The Domestic Workers Convention was put to an ILO vote in June 2011 and was adopted with 396 votes in favour, 16 against and 63 abstentions.⁴ Uruguay became the first State to ratify the Convention in June 2012, leading ILO Director General Juan Somavia to note, with hope, '[t]he process of ratification of this Convention has started. This first step opens the way' (ILO 2012), and as can be seen in Chart 4, discussed below, so far, this hope seems to have been well-placed. Major domestic worker sending country, The Philippines, which had also played a leading role in the negotiations leading up to the Convention, became the second State to ratify, three months later, bringing the Convention and its Recommendation into legal force an astounding two years and three months after adoption (HRW 2012).⁵

4. Voting Members of the ILO include representatives from three sectors: governments, employers and workers

5. It required ratification by two States. Philippines ratified in September 2012. The Convention comes into force in a country 12 months after ratification.

The only government voting against the Convention was Swaziland (Tijdens and van Klaveren 2011 p.1), along with 15 employer organizations (such as the Confederation of British Industry). The Governments abstaining were the Czech Republic, El Salvador, Malaysia, Panama, Singapore, Sudan, Thailand and the United Kingdom. These were joined by 55 employers' organisations. The Economist magazine, writing at the time, commented that this list was particularly interesting:

Predictably, they included Malaysia. A series of abuse cases led Indonesia to ban its citizens from going to work there as maids from 2009 until May this year. More surprisingly, the British government, too, preferred not to vote either way. It said the treaty would be too onerous, particularly the parts regulating working hours and health and safety (The Economist 2011).

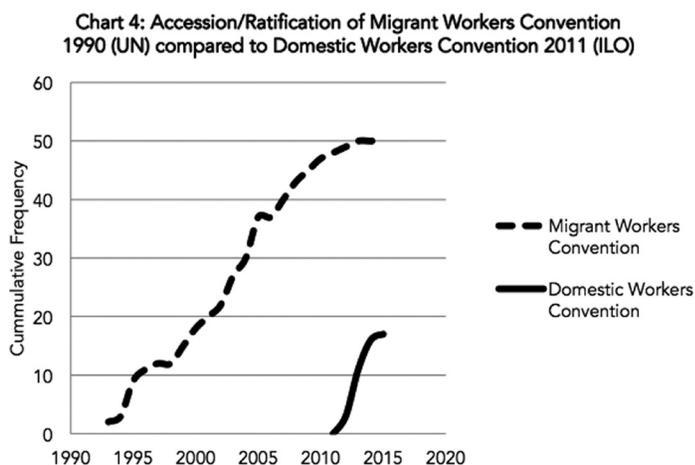
As can be seen from Table 1, none of these eight States has yet joined the treaty, though three (Czech Republic, Singapore and the UK) have since submitted the Convention for consideration (see Appendix 3).

Table 1: Ratifications of C189 – Domestic Workers Convention, 2011 (No.189), as of April 2015⁶ (in order of ratification)

6. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0:NO::P11300_INSTRUMENT_ID:2551460 (accessed 13/04/2015)

Country	Date	Status
Uruguay	14 Jun 2012	In Force
Philippines	05 Sep 2012	In Force
Mauritius	13 Sep 2012	In Force
Nicaragua	10 Jan 2013	In Force
Italy	22 Jan 2013	In Force
Bolivia, Plurinational	15 Apr 2013	In Force
State of Paraguay	07 May 2013	In Force
South Africa	20 Jun 2013	In Force
Guyana	09 Aug 2013	In Force
Germany	20 Sep 2013	In Force
Ecuador	18 Dec 2013	In Force
Costa Rica	20 Jan 2014	In Force
Argentina	24 Mar 2014	In Force

		Will enter into force on
Colombia	09 May 2014	09 May 2015
Ireland	28 Aug 2014	28 Aug 2015
Switzerland	12 Nov 2014	12 Nov 2015
Finland	08 Jan 2015	08 Jan 2016



7. Note that the processes within the UN and within the ILO differ slightly. While ILO conventions need to be Submitted for consideration to each State's relevant authorities and can then be Ratified directly, there are two routes for UN conventions. States may first Sign and then Ratify, or they may Accede directly.

8. Consider, for example, the General Comment No.1 to the Migrant Workers Convention, relating to domestic workers (UN 2011).

9. E.g. see www.ilo.org/declaration/lang-en/index.htm (accessed 13/04/2015)

Table 1 shows that seventeen States have so far ratified the Convention and from Appendix 4 it can be seen that around half of ILO Member States have submitted the Convention to their competent authority for consideration by the relevant authority. It is useful to compare the progress of the Convention with that of the UN treaty, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families ('Migrant Workers Convention'). Together these treaties reflect a wider movement towards recognition of migrant worker rights. Chart 4 is calculated from ILO and UN data as of April 2015. It demonstrates a much higher accession rate for the Domestic Workers Convention, so that at the time of writing, the latter has been joined by over a third of the number of States of the former in under a fifth of the time (and given there are also fewer Member States of ILO, this represents an even higher proportion of possible parties)⁷. However, it is also important to look at them together, and to consider the extent to which the Migrant Workers Convention has been part of what has made the Domestic Workers Convention possible.⁸ Blackett charts other contemporary international, regional and domestic legal developments in this area (Blackett 2012 pp.781-3).

The Content of the Convention

The content of the Convention is interesting on a number of levels (summarized in Appendix 2). When taken alongside the four fundamental principles of the ILO (right to free assembly and collective bargaining, ending forced and compulsory labour, ending child labour, ending unfair discrimination among workers)⁹, it can seem like it brings nothing new. Indeed, the majority of the rights set out in the Convention already exist in other forms in other treaties, and all eight fundamental ILO Conventions protecting core labour rights apply to domestic workers (Smith 2012 p.166). However, the Convention can be seen as more than an international labour law treaty. It also documents the failure to protect workers in a particularly vulnerable sector, within knowledge of States, despite existing protections. To drive the point home, Adelle Blackett adopts words Catherine Dauvergne has used to describe the Migrant Workers Convention's application to irregular migrants. It is, she says:

... a text that demonstrates precisely how few rights these workers have, and how narrowly their entitlement to 'human' rights has been read (Blackett 2012 p.786, using words of Dauvergne 2008).

Some of the most telling provisions include the entitlement to be paid according to contract (e.g. Provision 14), to be protected from physical and intimate abuse (Article 5), to protected rest and holiday time, and to be able to see an employment contract prior to migration if recruited overseas (Article 7). However, all of the provisions tell a story of until-now unprotected basic rights.

While the paucity of protection of domestic workers' rights can sometimes be interpreted as primarily reflective of the lack of recognition of traditionally female jobs, or the low status given to the tasks themselves, in fact there are specific aspects of the nature of domestic work that make it particularly difficult to implement core labour rights in the usual ways. Leaving these unaddressed is what makes domestic workers largely invisible from the perspective of basic labour legislation (e.g. Blakett 2004 p.260). The Convention addresses aspects of domestic work and the domestic working environment that make it different from other workplaces. Hence the slogan (ILO slogan, but widely used and discussed e.g. in Smith 2012):

Work Like Any Other
Work Like No Other

In defining a domestic worker as someone who is paid directly by the household, the Convention excludes individuals employed through agencies. However, in this way, it is able to address some of the specific difficulties experienced by a privately contracted domestic worker.

The principle difficulties arise from how to enforce workers' rights in a domestic setting. In particular is the conflict between the traditional separation of the public and private spheres and the need to inspect working conditions, for example. This is not new. The enforcement of rights within the home has long been a contentious issue, with questions of spousal abuse often seen as a private matter, for example (e.g. Moore 2003). There may be problems processing, deciding and enforcing any complaints made by domestic workers, given the place of work is a home. Recognizing this, Article 17 expressly requires Member States to establish effective and accessible complaint mechanisms and, in paragraph 3, expands:

In so far as compatible with national laws and regulations, such measures shall specify the conditions under

which access to household premises may be granted, having due respect for privacy (ILO 2011 p.7).

The vulnerability is particularly acute for those living within the household where they work:

... the employer has the power to control access to the means of survival - accommodation and food - as well as power over wages and social intercourse (Anderson 2006 p.17).

10. At a roundtable 'Open Forum' event held at the offices of the United Nations University Institute on Globalization, Culture and Mobility in Barcelona on 19th February 2015.

The employer also sets the terms of the social and informal interactions. Several commentators, particularly anthropologists, have explored how the introduction of this form of power structure into the home is both enforced and made palatable. Some refer to a rhetoric of difference, constructed along ethnic, cultural, national, racial, class or even gendered lines (e.g. Ada Cheng 2003; Datta et al 2006 p.7; also Blackett 2004 p.249). Another theme that emerges is the notion of 'helping', so that the employer sees herself (the employer is usual female) as 'helping' someone in a less well-off situation (Anderson 2006; Ada Cheng 2003). Both of these factors make it more difficult for employees to claim labour rights, and the Convention provides a formalization of the right to claim rights. Raquel Gil, a Union leader in Barcelona, explains: 'you can seem like part of the family, but in the end you are not in the family. You are a worker and need to be treated like a worker.'¹⁰

One further difficulty experienced by migrant domestic workers is that their visa may be tied, not to employment by a particular company or agency, but within a particular family. The most notorious example of such a situation is the 'kafala' system in the United Arab Emirates (e.g. see HRW 2014 p.18), though this is not unique. This means that migrant domestic workers in a situation of abuse may be reticent to report or complain, and unable to leave, as their right to be within the country is itself dependent on them working for the employers in question. The Convention does not explain the rights of domestic workers with irregular migration status, who may also be particularly vulnerable to their employers in a similar way. This gives a lot of power to the employer and in fact leads to quite significant violations. And, crucial for the current discussion, it removes agency from the migrant women domestic workers involved.

Those who work within households have found it traditionally more difficult to organize and develop union activity than those

who work in offices, for example, or factories, for the simple reason that they do not easily meet each other in the work place. Indeed, as Gil has put it, 'domestic workers do not exist as a collective' (though the developments discussed above demonstrate that domestic workers have managed to construct such a collective, and have developed a powerful movement). This makes it particularly difficult to demand rights, and to negotiate, and even more so when visas and work permits are contingent on working for particular employers. The Convention makes explicit the right to union activity, explained for example in Provision 2 of the Recommendation.

It is crucial, however, not to stigmatize agencies and employers, and to recognize the particular difficulties of employers in this sector. First, as has been recognized in the Convention (Article 15), agencies may have a positive role in ensuring proper placement and workers rights. Second, because of the nature of the tasks carried out by domestic workers, those using their services may well include women who also need to work to support their family and the old or infirm living alone without family or anyone else to care for them. For many, this may be their first experience as an employer. In societies that do not support working women, the old and the infirm with public provision, it is important to recognize the difficulties employers face in understanding and fulfilling their obligations regarding the protection of domestic workers (e.g. see Gordolan and Lalani 2009 p.30).

Another aspect that has been of particular concern to those campaigning for domestic worker rights is the question of diplomatic immunity. That is, diplomats may be immune to relevant domestic legislation, including that relating to the treatment of those working for them. There have been worries that such employers would still be immune to any domestic legislation developed in association with the adoption of the Convention (e.g. Albin and Mantouvalou 2011 p.10). And this is addressed directly, in Provision 26 of the Recommendation.

The Convention, Mobility and Female Agency

‘As the treaty goes into effect, millions of women and girls will have the chance for better working conditions and better lives.’

Nisha Varia, Senior Women’s Rights Researcher,
Human Rights Watch (HRW 2012).

Consider now three dimensions in which the Convention can be seen to affect female agency:

Agency of the female migrant domestic worker in her country of immigration;

Agency of the female employer of the migrant domestic worker; and

Agency of the female migrant domestic worker more broadly.

These will each be explored in turn.

As has been argued above, few of the provisions of the Domestic Workers Convention 2011 are new. In fact, for the most part, it reasserts basic labour rights and core principles of the ILO and even the UDHR, explicitly showing how they relate to this often excluded sector of the global workforce. In contrast to slogans like ‘Domestic Work is Work’, one could worry that picking out the sector in this way might reinforce a special-case perception of domestic work (a concern expressed, for example, in Albin and Mantouvalou 2011). But, as Adelle Blackett has maintained, the fact is that domestic work is a sector that is already disadvantaged in all areas of rights protection, necessitating this sort of special intervention in the first place (Blackett 2004). This is why domestic work has been referred to as ‘work like any other’ and at the same time, ‘work like no other’, to demonstrate both the need for equal rights and the particular difficulties involved in ensuring decent conditions for those working in a domestic setting.

The Convention gives legitimacy to the struggle for the rights of (predominantly female migrant) domestic workers and a renewed reason to explain the need to prioritize them. Manuela Tomei, Director of the ILO Conditions of Work and Employment Programme explains:

[it] constitutes an international commitment to work on improving the living and working conditions of a very large segment of the work force which has been historically excluded, either totally or in part, from the protection of labour law (ILO June 2012).

Indeed, Joaquín Nieto, Director of the ILO Office in Spain adds, the Convention also helps those working in countries that have not yet ratified, as it creates an environment in which the rights of domestic workers are recognized as something that needs to be addressed. He draws attention, for example, to the adoption by Spain in 2011 of a new agreement in this regard (e.g. discussed in Gomes and Baviera Puig 2013). As such, while there are many States still to ratify the Convention, its very existence may provide impetus to move domestic legal systems towards meeting its requirements.

Seen from this angle, the Convention can be part of a cultural change towards respect for paid domestic work and by extension domestic workers being given their full protections as workers (e.g. see Mather 2013 p.2), and in turn, their agency as workers realized. Javier Enrich, CEO of a Barcelona-based company recruiting and placing domestic workers said recently, 'there needs to be a cultural change. We need to professionalize the sector'.¹¹ For him, it is crucial that domestic work is respected, not only for the workers themselves, but also because he believes that the workers he places are often looking after the most vulnerable persons in society - babies, children, old people and the infirm. They need to be given the conditions and the training they need to carry out this vital role to the highest level. This is something also promoted by domestic worker advocate organizations (e.g. see Gordolan and Lalani 2009).

Anais Herrera, a female domestic worker in Barcelona, speaking in February 2015, explained that she feels lucky to have had very positive experiences, working for families that respect her and return the care that she provides. For her, there is a key message arising from the discussion around the Convention and the wider difficulties of Domestic Workers:

...the truth is everyone needs to know that their work is valued. The most important role of governments is to make campaigns to value our work.¹²

Moreover, identifying the specificities of domestic work and the domestic working environment is not to relegate the labour rights of workers. The truth is that domestic work is not just another job and:

11. At a roundtable 'Open Forum' event held at the offices of the United Nations University Institute on Globalization, Culture and Mobility in Barcelona on 19th February 2015.

12. Supra. N.11.

[t]reating domestic work as just another job is not the solution to managing the immense contradictions and inequalities inherent in the migrant domestic worker/employer relationship (Anderson 2006 p.33).

This Convention sets out clearly that domestic workers are workers and emphasizes what is needed to ensure their rights and agency - indeed, autonomy - within a unique and vital sector (e.g. see discussion of Art 9 in Blackett 2012 p.785).

Moreover, fighting for the Convention, its ratification and its implementation has been important to mobilizing domestic workers and legitimizing their struggle more widely (e.g. see first-hand account of the ILO vote in Appendix 5). After giving a presentation at a UN meeting on the topic, Shirley Pryce of the Jamaican Household Workers Association said:

I felt such pride, sitting there, waiting to go up to the podium, with all the flags of the world around me. Afterwards I sent the pictures home to our members, and I heard that one broke down in tears. A domestic worker speaking at the UN - it doesn't happen! We were just so happy to be recognized (quoted in Mather 2013 p.57).

The Convention has been part of a movement to recognize domestic workers as workers with the full gamut of rights, and with the entitlement to claim their rights and make their situation known. As such, it has been important to promoting the agency of female migrant domestic workers in the country where they work.

The rights of domestic workers need to be seen within a wider structure of female labour rights. They are part of a structure that enables women also to enter other work places, freeing them from unpaid housework duties (e.g. see Tijdens et al 2003). Appendix 4 presents data collected from the World Economic Forum Global Gender Gap Report 2014. For those 29 countries for which data is available on the average minutes per day of unpaid work carried out by all people in society, the mean for women is 238 mins (to 3s.f.) and for men it is 119 mins (to 3 s.f.) - exactly half. Indeed in every country for which there is data available, women in general do significantly more unpaid work than men, from Norway's extra half an hour per day to India's 5 hours. Taking caring responsibilities that would traditionally be carried out for free by female family members, domestic workers form part of a societal shift that enables women to participate in all parts of professional and political life.

Some have reflected that the increased use of domestic workers may reflect an increase in the recognized cost of women's time (e.g. see Tijdens et al 2003 p.3, citing various studies). Though others argue that the availability of migrant workers itself creates the need (e.g. Anderson 2006 p.4). And indeed the household's economic advantage from women entering the external workforce only exists if domestic worker wages are lower than women's wages outside the home. Furthermore, as domestic work is largely unseen and largely unpaid, we cannot know how many women would in fact choose to work outside the home if they had access to affordable domestic help. Susan Cheever has remarked, 'behind every great woman there's a good nanny' (Cheever 2003 p.31). However, we also cannot see how many women would in fact choose to stay at home if they could afford to do so. Female agency is not, then, only about the freedom to work outside the home, but also the freedom for women to work within their own home if they want to do so.

The phenomenon of private female migrant domestic work, then, could also be seen as a continuation of relegating society's care burden to women, whether they do it for free, paid, or they pay for it. One theorist develops this:

Local women continue to be deemed responsible for the maintenance of their households in local communities. Women at both ends of the migration bear the cost of social reproduction while respective governments are spared the burden of fully compensating their reproductive labour (Ada Cheng 2003 p.168).

It is also crucial to recognize that there is a significant and increasing proportion of the domestic work needs that are not part of childrearing and household chores alone. This is particularly so in the context of the demographic shifts in aging societies. An increasing proportion of the work of domestic workers relates to the help of the vulnerable and the infirm, in particular the elderly, who may have no other option (e.g. see Anderson 2006 p.2; Gordolan and Lalani 2009 p.10). In such cases, the supply of low cost private care could actually seem to reinforce a lack of government provision, and enforcing minimum wages without additional support for these vulnerable employers can in fact limit the agency of the workers themselves (who may find it difficult to extract wages) and of the employers (who may simply be unable to pay).

Domestic work can represent what one respondent in a HRW study called a 'golden opportunity' (HRW 2014 p.1) for women, particularly in countries where wages are low and work opportunities are few. It uses skills they may already have developed, offers the pos-

sibility of informal work, and flexible hours, often with the convenience of accommodation and food provided. It may pay much better than professional jobs in a migrant's home country and therefore provides the possibility for the improvement of a household's financial situation. While female migrant domestic workers may be particularly vulnerable to abuse and to rights violations, this type of work also offers a means to self-betterment and self-realisation to women with few other options. 'Migration to work in domestic service can represent an opportunity to be creatively grasped, and it is important not to either over-romanticise or to victimize those who might be seizing such opportunities to escape poverty or violence, or to see the world' (Anderson 2006 p.8). The Convention provides protection for those seizing their agency in this way, including, for example, ensuring they have the necessary information to make informed choices.

However, alongside the empowerment afforded by safe and productive domestic working environments, it is crucial to examine the question of agency in situations where it represents the only option women feel they have. For example, it is estimated that each Sri Lankan migrant woman, many of whom are domestic workers, supports five family members, implying that migrant women are supporting 20% of the Sri Lankan population. However, moving overseas, female migrant domestic workers are unable to perform the tasks traditionally carried out by women in their own families. UNWomen and others have highlighted what they call a 'care crisis' in many origin countries (UNWomen and IOM 2010 p.2), something elsewhere referred to as a 'care drain', drawing upon the 'brain drain' discourse (e.g. see Datta et al 2006 p.9). UNWomen have highlighted as a key trend causing domestic work migration the lack of employment opportunities in home countries (e.g. UNWomen 2013 p.8), alongside decreasing overseas job opportunities for men (UNWomen 2013 p.9). As such, while the Convention is an exciting and important move towards the promotion of female migrant agency, it must be seen as only one part of a much larger need to promote female migrant agency, both ensuring safe conditions for migrant domestic workers and realistic opportunities for women to remain at home if they want to.

Conclusions and Recommendations

*"C189 - Congratulations! Now comes the domestic work for governments:
RATIFY - IMPLEMENT!"*

Banner displayed by domestic workers
from Observers' Gallery of ILO Grand
Plenary Hall, from reflectins in Mather 2013
(see Appendix 5 for full text)

The domestic work sector represents a location where female agency is both expressed and suppressed. The Convention addresses the most urgent violations of women's rights, but not the structural problems that require women to take often sole responsibility for care. While the Convention, if it was fully enacted, would ensure local agency, it does not address the situation of women forced to migrate to become domestic workers when they would prefer to stay in their home countries. It also does not address the situation of women, the old and the infirm, forced to hire domestic workers when they would prefer to stay home, or to be cared for by family or public structures. The private domestic work sector represents both an empowering of women and a further curbing of female migrant agency in a context of sociocultural change. It is complex and it cannot be solved by the Convention alone. However the Domestic Workers Convention is a crucial step, and a triumph for female migrant agency both in the way it was achieved and in its content. Five key recommendations arise out of this Policy Report:

1. ILO Member States should submit, ratify and implement the Convention and Recommendation. Civil society organisations, trade unions, employer organisations and others should pressurize their Governments to take these steps.
2. If Governments decide not to ratify the Convention and Recommendation, this does not mean that they do not have an obligation to ensure the rights detailed therein when these are already included in existing treaties. Civil society organisations, trade unions, employer organisations and others should ensure domestic workers receive the labour rights and human rights to which they are entitled.
3. Migrant domestic work and the Convention is not a solution for the systemic problems and changing demographics in receiving countries that mean that it is increasingly necessary for individuals to make private contractual arrangements for care. It does not absolve States of the responsibility to support those unable to sup-

port themselves, especially in the context of an aging population. Governments should live up to their responsibilities in this area.

4. Migrant domestic work and the Convention is not a solution for the systemic problems in sending countries that mean that female domestic worker migration is often seen as the only means for a family to support itself. It does not absolve States of the responsibility to generate employment opportunities at home and to support families to stay together if they want to. Nor does it absolve the international community from assisting in this.

5. There is a major lacuna in data collection. Comparable global disaggregated data on domestic workers is needed in order to monitor progress, including information about associated migration. The ILO data provides a crucial start, but the responsibility sits with Governments to collect and communicate comprehensive and accurate data and with the ILO to collate this data and make it widely available.

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Appendix 1: ILO Resolutions Relating Specifically to Domestic Work

TABLE 2: ILO RESOLUTIONS RELATING SPECIFICALLY TO DOMESTIC WORK

Session	Held at	Date of Session	Resolution Title
20th	Geneva (Switzerland)	4 - 24 June 1936	Resolution concerning holidays with pay for domestic servants, submitted by Committee on holidays with pay
31st	San Francisco, CA (USA)	17 June - 10 July 1948	Resolution concerning the Conditions of Employment of Domestic Workers, submitted by Mr Roberts, Workers' Delegate, United Kingdom [Resolutions Committee]
49th	Geneva (Switzerland)	2 - 23 June 1965	Resolution concerning the Conditions of Employment of Domestic Workers, submitted by Resolutions Committee
99th	Geneva (Switzerland)	2 - 18 June 2010	Resolution to place on the agenda of the next ordinary session of the conference an item entitled 'Decent Work for Domestic Workers'
100th	Geneva (Switzerland)	1 - 17 June 2011	Resolution concerning efforts to make decent work a reality for domestic workers worldwide

Appendix 2: Summary of the Domestic Workers Convention and its Recommendation

TABLE 3: SUMMARY OF THE DOMESTIC WORKERS
CONVENTION (C189) 2011

Article · Summary of Content

- 1 Definitions
- 2 Potential rationale for exclusions of some workers from the Convention.
- 3 Ensuring human rights and respecting, promoting and realizing core freedoms.
- 4 Set minimum age and ensure work carried out under 18 years old should not interrupt education.
- 5 Ensure effective protection against abuse, harassment and violence.
- 6 Ensure (like for other workers) fair terms of employment, decent conditions and respect for privacy.
- 7 Workers must be informed of terms and conditions of employment in a way they can understand, ideally through written contracts.
- 8 In cases of international recruitment, conditions should be communicated prior to leaving home country and must be enforceable in National Laws in receiving country.
- 9 Workers should not be obliged to live within the household or to take their rest time within the household. They should be entitled to keep hold of travel and identity documents.
- 10 Equal treatment between domestic workers and workers generally, including minimum 24 hours weekly rest, on-call time classed as work.

- 11 Minimum wage in line with National standards without gender discrimination.
- 12 Regular pay at least one time per month in manner agreed with worker.
- 13 Right to safe and healthy working environment.
- 14 Ensure workers are treated at least as favourably as other workers regarding social security protection, including maternity.
- 15 Implement conditions on private employment agencies to ensure they are part of protecting against abusive practices, including ensuring recruitment fees are not charged to workers.
- 16 Ensure effective access to courts, tribunals or other dispute resolution mechanisms.
- 17 Establish complaint mechanisms , inspections, enforcement and penalties
- 18 Implement the provisions through laws, regulations, collective agreements and additional measures.
- 19 Convention does not affect more favourable provisions elsewhere.
- 20 Formal ratification to be communicated to Director General of ILO.
- 21 Convention binding only on ratifying ILO Members. Will come into force 12 months from registration of two ratifications.
- 22 Ratifying State may denounce it after ten years from coming into force, or will be committed to a further ten years.
- 23 ILO Director General will communicate all ratifications and denunciations to Members and draw attention to date at which Convention will come into force.
- 24 ILO Director General will communicate this also to UN Secretary General.

- 25 Governing Body of IL Office will report on working of Convention and examine whether it is desirable for any revision to be considered.
- 26 If a new Convention is adopted, revising this one, ratification of it will imply denunciation of this Convention and this Convention will cease to be open to ratification.
- 27 English and French versions of the text of the Convention are equally authoritative.

TABLE 4: SUMMARY OF THE DOMESTIC WORKERS RECOMMEN-
DATION (R201) 2011

Provn · Summary of Content

- 1 Provisions of Recommendation supplement those of the Convention.
- 2 To ensure domestic workers enjoy freedom of association and right to collective bargaining, Members should remove barriers to joining workers' associations and associations from joining workers' organisations, federations and confederations, and consider supporting capacity-building in this area.
- 3 Measures to eliminate discrimination wrt employment and occupation, Members should ensure protection of personal data and privacy in any cases of work-related medical testing, prevent discrimination wrt such testing, ensure domestic workers are not required to disclose or test for HIV or pregnancy.
- 4 If considering medical testing, Members should make public health information available regarding disease concerns, voluntary medical testing and treatment, hygiene and health practices.
- 5 Should identify types of domestic work which are likely to harm health, safety or morals of children and prohibit and eliminate such child labour. Should give special attention wrt working and living conditions of domestic workers under 18 and above min employment age,

including limiting work hours, prohibiting night work, restrictions on type of work, establish/strengthen monitoring mechanisms.

- 6 Should provide appropriate assistance to ensure domestic workers understand terms and conditions of employment. Further to Art 7 of Cnvn, required contents of terms and conditions are listed (seven elements). Consider creating model contract of employment, to be publically and freely available.
- 7 Consider mechanisms to protect domestic workers from abuse, harassment and violence, including accessible complaint mechanisms, ensuring investigation and programmes of relocation, rehabilitation, accommodation and healthcare for those subject to abuse.
- 8 Members should consider providing practical guidance on accurate recording of hours, overtime and periods of standby should be recorded and freely accessible to domestic worker.
- 9 Members should regulate maximum number of standby hours per week, month or year, compulsory rest period, rate of remuneration.
- 10 Ensure domestic workers are entitled to suitable rest periods during day, allowing for meals and breaks.
- 11 Weekly rest of min 24 consecutive hours, on mutually agreed day.
- 12 National laws and collective agreements should define any required work during period of daily or weekly rest.
- 13 Time spent accompanying household members on holiday should not count as part of paid annual leave.
- 14 Payment in kind should be limited (and only where clearly appropriate for personal use) and monetary value calculated by reference to objective criteria. There should be no deductions based on requirement to live in unless there is prior agreement with worker. Provision of uniforms, tools, protective equipment, etc, are not to be considered as payment in kind.

- 15 Payment should be given with clear written account of remuneration and reason for any deductions. Outstanding payments should be paid promptly at termination of contract.
- 16 Ensure conditions at least those of workers generally regarding protection of workers' claims in case of employer's death or insolvency.
- 17 Any accommodation provided should include adequately ventilated separate room with lock and key available to worker, access to suitable sanitary facilities, adequate lighting, heating and air conditioning, meals of good quality and sufficient quantity, reasonably adapted to cultural and religious requirements.
- 18 If employer terminates contract for reasons other than serious misconduct, live-in domestic worker should have reasonable notice period to seek new accommodation and employment.
- 19 Should take measures to eliminate or minimize work-related hazards and risks, provide adequate system of inspection, collect and publish statistics on accidents and diseases relating to domestic work, offer training and advice on occupational health and safety requirements.
- 20 Consider simplifying social security payments from domestic workers with multiple employers, concluding agreements for migrant domestic workers regarding portability of social security entitlements. Monetary value of payments in kind should be considered wrt contribution by employers and entitlements of domestic workers.
- 21 Consider establishing: national hotline with interpretation services for domestic workers needing assistance, pre-placement visits, network of emergency housing, awareness-raising for employers and workers regarding obligations and rights, access to complaint mechanisms. Countries of origin should inform migrant domestic workers of their rights before departure and establish legal assistance funds etc.
- 22 Consider developing means for migrant domestic workers to repatriate at no personal cost on expiry or termination of employment contract.

- 23 Promote good practices by private employment agencies.
- 24 Complying with national law and practice wrt privacy, consider possibility for labour inspectors to enter premises in which work is carried out.
- 25 Establish continuing professional development programmes for domestic workers, address work-life balance needs and family responsibilities. Ensure appropriate indicators and measurement systems for national statistical offices to collect data necessary to support effective policy-making.
- 26 Consider cooperation between Members to ensure effective application of this convention and recommendation. This includes adopting codes of conduct for diplomatic personnel aimed at preventing violations of domestic workers' rights.

Appendix 3: Submissions of Domestic Workers Convention 2011 (C189) to Competent Authorities

TABLE 5: SUBMISSIONS OF DOMESTIC WORKERS CONVENTION 2011 TO COMPETENT AUTHORITIES (FROM ILO WEBSITE)

SUBMITTED

Algeria, Antigua and Barbuda, Argentina, Armenia, Australia, Barbados, Belarus, Belgium, Benin, Bolivia (Plurinational State of), Botswana, Bulgaria, Cabo Verde, Canada, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, Eritrea, Estonia, Ethiopia, Fin-

NOT YET SUBMITTED (BY APRIL 2015)

Afghanistan, Albania, Angola, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Bosnia and Herzegovina, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Central African Republic, Chad, Comoros, Congo, Croatia,

land, France, Georgia, Germany, Ghana, Greece, Guyana, Honduras, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Kenya, Korea (Republic of), Lao People's Democratic Republic, Latvia, Lithuania, Luxembourg, Madagascar, Mauritius, Mongolia, Montenegro, Morocco, Myanmar, Namibia, New Zealand, Nicaragua, Nigeria, Norway, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Saudi Arabia, Senegal, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Switzerland, Tanzania (United Republic of), Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Ukraine, United Kingdom, United States, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Zimbabwe.

**Total: 89
(48% of Member States)**

Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, El Salvador, Equatorial Guinea, Fiji, Gabon, Gambia, Grenada, Guatemala, Guinea, Guinea-Bissau, Haiti, Hungary, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kazakhstan, Kiribati, Kuwait, Kyrgyzstan, Lebanon, Lesotho, Liberia, Libya, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mexico, Moldova (Republic of), Mozambique, Nepal, Netherlands, Niger, Oman, Pakistan, Panama, Papua New Guinea, Qatar, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Seychelles, Sierra Leone, Solomon Islands, Somalia, Sudan, Suriname, Swaziland, Sweden, Syrian Arab Republic, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tuvalu, Uganda, United Arab Emirates, Vanuatu, Yemen, Zambia

Total: 96 (52% of Member States)

Appendix 4: Average Number of Minutes of Unpaid Work per Day, Women and Men

TABLE 6: AVERAGE NUMBER OF MINUTES OF UNPAID WORK PER DAY, BY GENDER (WORLD ECONOMIC FORUM 2014 94-377)

Country	Female	Male	Diff.	Country	Female	Male	Diff.
Australia	311	172	139	Korea, Rep.	227	45	182
Austria	269	135	134	Mexico	373	113	260
Belgium	245	151	94	Netherlands	254	133	121
Canada	254	160	94	New Zealand	264	141	123
China	234	91	143	Norway	215	184	31
Denmark	243	186	57	Poland	296	157	139
Estonia	288	169	119	Portugal	328	96	232
Finland	232	159	73	Slovenia	286	166	120
France	233	143	90	South Africa	257	92	165
Germany	269	164	105	Spain	258	154	104
Hungary	268	127	141	Sweden	207	154	53
India	352	52	300	Turkey	377	116	261
Ireland	296	129	167	UK	258	141	117
Italy	315	104	211	US	248	161	87
Japan	326	69	254	MEAN	238	119	119

Appendix 5: First Person Testimony from the ILO Convention 189 Vote

Box 1: First person testimony from the ILO Convention 189 Vote, Mather 2013 67-8

After the votes had been cast, the domestic workers' representatives and supporters could hardly bear to wait for the result. The entire Grand Plenary Hall fell into a hush. When the vote was finally announced, it was a very emotional moment after such an intensive effort for so long. The domestic workers' representatives and supporters were stunned by the result. It was a huge victory. Amid much clapping and cheering, there were many tears and hugs. Down on the floor of the Grand Plenary Hall, most of those in the country Delegations - from all three parties - joined in the spontaneous applause. Then they turned their heads upwards as a banner, smuggled in by domestic workers, was unfurled in the Observers Gallery high above. It read "C189 - Congratulations! Now comes the domestic work for governments: RATIFY - IMPLEMENT!" Security guards arrived and everyone expected them to take the IDWN banner away. But then, to the amazement of everyone, they laid it out in front of the entrance to the Grand Plenary Hall.

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