



Photo by Eileen Boris: Tribunal, "Justice for Homecare Workers," California, USA, see report below (March 2015)

DEAR COLLEAGUES,

You are reading the 15th newsletter of the Research Network for Domestic Worker Rights, including information on the implementation process of the ILO Convention, campaigns, and news from the world of research. Since the last newsletter, we have a section on research questions, aiming at connecting the research conducted by members of the network more closely. You are welcome to contribute to the section by submitting your research questions and ideas for the next newsletter as well as answering to the question posed in this edition.

1. UPDATES ON THE CONVENTION AND CAMPAIGN NEWS

Migrant domestic workers successfully sue Embassies using EU law & the ECHR (by Aishah Namukasa)

A recent legal victory for migrant domestic workers is the case of Benkharbouche & another -v- Embassy of the Republic of Sudan & Others, where the Court of Appeal has upheld the right to a fair trial of two Moroccan

domestic workers - Ms. Benkharbouche and Ms. Janah - respectively employed within the Sudanese and Libyan embassies in London ([2015] EWCA Civ 33). The domestic workers were dismissed from their jobs and subsequently brought claims against their employers claiming unfair dismissal and a breach of the Working Time Regulations 1998. Ms. Benkharbouche further claimed that the Sudanese embassy failed to pay her the minimum wage and Ms. Janah claimed arrears of pay, as well as racial discrimination and harassment. Both embassies were relying on the State Immunity Act 1978 (SIA) and argued that they were immune from the claims. This shows two faces of law in operation with the SIA being used by the embassy/diplomats to seek protection while violating the MDWs' rights by preventing them to sue or have a fair trial against diplomats. Specifically the judges decided that the provision under Section 16 (1)(a) SIA, prohibiting members of a mission to bring a claim, breached Article 6 of the ECHR. Section 4(2)(b) SIA, by refusing to allow the claimants to rely on the exception

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THE NEWSLETTER INCLUDES CONTRIBUTIONS FROM EILEEN BORIS, SILVIA CHIMPAMPWE, KATERINA DEDEROVA, HADELZEIN M. EL-FATH, MAJDA HRŽENJAK, RAFFAELLA MAIONI, SABRINA MARCHETTI, RAQUEL MARTÍNEZ-BUJÁN, CLIODHNA MURPHY, AISHAH NAMUKASA, JÔ PORTILHO, SARAH SCHILLIGER

because they were neither UK nationals nor habitually resident in the UK at the time they made the contracts, breached in their opinion. both Article 6 of the European Court of Human Rights and Fundamental Freedoms (ECHR) and Article 14 ECHR, the prohibition against discrimination. The Court would therefore not apply the SIA to these claims. The judges also held that they could not interpret section 16(1)a SIA compatibly with the rights under the ECHR and therefore proposed to make a declaration of incompatibility. So Ms. Benkharbouche and Ms. Janah can now bring claims against the embassies in the UK Employment Tribunal.

Sources

The AIRE Centre (Advice on Individual Rights in Europe). Domestic workers use EU law & the ECHR to get a fair trial. <http://airecentre.org/news.php/176/domestic-workers-use-eu-law-the-echr-to-get-a-fair-trial>

Benkharbouche & anr -v- Embassy of the Republic of Sudan & Ors [2015] EWCA Civ 33. <http://www.judiciary.gov.uk/wp-content/uploads/2015/02/benkharbouche-and-janah-v-embassy-republic-sudan-others.pdf>

Kalayaan (2014). Time to untie migrant domestic workers. Briefing for Report Stage of the Modern Slavery Bill in the House of Lords. <http://www.kalayaan.org.uk/wp-content/uploads/2014/09/Kalayaan-Peers-briefing-Report-Stage.pdf>

Lebanon

In Lebanon, the first domestic worker trade union has been founded in the region under the umbrella of the National Federation of Employees and Workers Unions (FENASOL).

Switzerland

The Respekt-Network of Polish Care Workers (most of them live-in, 24h care)

could celebrate a great success. Agata J. (24h worker) won at the Basel civil court against a private agency. Thus, a new precedent was created, which states that care workers have to be compensated for time spent on call at half the hourly wage. Additionally, the ruling underlined that the private household - if an employment relationship through an agency exists - is subject to the labor law. This means a massive expansion of labor rights for care workers in Switzerland! This was only possible thanks to the self-organization of the Polish care workers, their courage and tireless collective commitment in the last two years.

TV report in German about the case: <http://www.srf.ch/play/tv/popupvideoplayer?id=48dd5e13-06a1-41a6-947c-3047c7abf976>

Finland

On Jan. 8, 2015, Finland has ratified the Domestic Workers Convention C189 as the 17th country to ratify.

USA

On March 19, the State of California went on trial for paying low wages and going back on its promise on overtime pay to home care workers and cutting the hours of their clients. In January, after a U.S. District judge in Washington vacated the change by the Obama administration that would allow home care workers to come under the Fair Labor Standards Act, California refused to pay its In Home Supportive Workers overtime even though the legislature had allocated funding in a bill that committed the state to payment even with a delay of federal action.

On the steps of the state capitol in Sacramento, the United Domestic

Workers/American Federation of State, County, and Municipal Workers with the California Domestic Worker Coalition held a tribunal, "Justice for Homecare Workers." Around 400 domestic and homecare workers, along with those who rely on them, listened to testimony from expert witnesses, including Professor Eileen Boris of the University of California, Santa Barbara, who told how law and social policy separated home care from other domestic workers and wrote them outside of labor standards; Nikki Brown-Booker, a leader of Hand in Hand: The Domestic Employers Network who spoke of the necessity of having well trained and paid attendants; LaTanya Cline, a home caregiver, and Racquel Botello, a domestic worker, who moved the crowd through personal storytelling; and In-Home Supportive Services client Chantal Morris, who testified to the life saving labor of her care worker. Gary Passmore of the Congress of California Seniors made a closing argument requesting that the Governor Jerry Brown, the nation's oldest chief executive, give time for over time. The jury featured women's rights activist Sandra Fluke, Dr. Paul Song of the Courage Campaign; Lillian Galedo of Filipino Advocates for Justice, Evan LeVang of the Disability Action Center, Tefere Gebre of the AFL-CIO, Katie Joquian of the California Domestic Worker Coalition, and Ai-Jen Poo of the National Domestic Worker Alliance and Caring Across the Generations. The jury issued a joint resolution that resolved, "achieving equal treatment under state and federal labor laws would be an essential step toward recognizing the value of the work of homecare workers as well as a rejection of antiquated and long discredited stereotypes about domestic

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work." There was a surprise visit of a solidarity delegation from the International Domestic Workers Federation led by its President Myrtle Witbooi.

Sudan

"Biyut Rahima" which is literally translated from Arabic to "Merciful Homes" is a recently launched initiative by young activists in Sudan, calling for an equal, balanced employment relationship between domestic workers and their employers: a relationship based on mutual respect and benefit and protected by the law.

The initiative has been launched in the social media, mainly a facebook page and a youtube channel (links below). Since its start, the initiative received a wide reception and acceptance. So far, "Biyut Rahima" has achieved the following:

Articulating the pledge "My home is someone's workplace", constituting 15 provisions advocating for establishment and promotion of a sound and respectful domestic work relationship. Signature of this pledge entails both commitment and implementation. The pledge can be signed online (link provided below),

Production of 11 short videos with representatives from different segments of the Sudanese community, who are domestic workers' employers. Those differently selected come together by showcasing their commitment to the pledge and its implementation,

Articulation of 15 written messages calling for a healthy and just employment relationship. These messages were showcased in a form of posters then photographed while held by people from different backgrounds (see picture below),

A series of periodical awareness raising posts and articles about the current legal, socioeconomic and cultural contexts of domestic work in Sudan,

<https://www.facebook.com/biyutrahima/>

<https://www.youtube.com/channel/UCtJL7Nh9qMfJSdpGWR6JkQQ>

<http://biyutrahima.org/>

2. RESEARCH

2.1 RESEARCH QUESTION

Domestic Work in Brazil by Jô Portilho

I have been very busy on the last years within labour movement in Brazil. As part of the National Confederation of Financial Sector Workers, I am dealing with gender issues and workers' & unionists' education. I am also attending a PhD programme in the University of Rio de Janeiro State (UERJ), where I discuss the influence of ILO Decent Work Agenda and Convention 189 on Brazilian changes in labour law. My focus is the recent changes in labour law that extend to domestic workers the

rights other workers conquest in 1943 in Brazil. At the moment, I am finishing the research project to be submitted to the UERJ.

I would appreciate if any of you could send me information about the Brazilian participation during the building and approval process of Convention 189 at the ILO.

Contact: Jô Portilho: joportilhosps@yahoo.com.br and Facebook (Jô Portilho).

2.2 RESEARCH NEWS

Czech Republic

The research of the SIMI project "Women at the Sidelines" focuses on a group of migrants from the former Yugoslavia, who are aged 50 years or more. It analyzes how these women experience a specific position on the Czech labor market, how they coordinate their work and personal lives (particularly care for parents in the country of origin), the social, and financial and health security strategies they select with regard to their uncertain situation in the retirement period.



Picture from Sudanese domestic worker campaign



Photo by Jô Portilho: Approval of Domestic Workers' Act in 2013 in Brazil

The first interviews show that domestic work was very important for the "survival" of migrants after arrival in the Czech Republic, as well as an additional employment during their entry into the Czech social system, in which they are financially handicapped by their low pension. Paradoxically, domestic work in the household enables them to have a dignified retirement.

This research will be the first qualitative research on migration in the Czech Republic, where topics of gender, age, and migration meet in an intersectional way, and it is focused on the reflection of experience lived by these women.

The research will also be presented during a bilateral Czech-Norwegian conference, which will take place at the Faculty of Humanities in Prague in the spring of 2017.

Contact: Petra Ezzeddine, PhD.
petra.ezzeddine@fhs.cuni.cz

3. CONFERENCES AND CALLS

Domestic workers at EXPO – Milan 2015: "Domestic work: food for life"

On 16th June Acli Colf will celebrate the International Day of Domestic Workers and commemorate the ILO Convention 189 adopted in 2011 with the conference "**Lavoro di cura, nutrimento per la vita**" ("**Care work, food for life**"). It is organized by Acli Colf in collaboration with Caritas International, and the writers' contest "Lingua Madre" ("Mother Language").

The conference takes up the challenge to talk about domestic work, intercultural relationship, respect of rights, and social protection in relation to "food", the leading theme of EXPO. Thus, domestic and care work will be discussed in close relation with the topics of nutrition and environment. Domestic and care workers attending the conference will be invited to reflect on the importance of food in the choices that they make everyday (more or less consciously) in relation to sustainability.

Domestic and care work is viewed as not just a job, but as an opportunity to encourage new lifestyles, along with labour rights and social protection for everyone. For domestic workers, "social protection" needs to start from the homes where they work – their tables and their kitchens – to continue at the broader level in the fulfillment of their labour contact, the international portability of their social security rights in order to favour the protection of every citizen at the global level.

The meeting is organized by Raffaella Maioni, also member of our RN-DWR, and Sabrina Marchetti will attend in quality of reference person of our network for Europe.

Conference *Solidariy*Work(s)!* Organizing Care Labor

On **June 11, 2015**, the **Conference *Solidariy*Works* Organizing Care Labor** organized by the research unit Migration and Society at the Institut for Migration Research and Intercultural Studies/University of Osnabrück in cooperation with the RN-DWR takes place in Osnabrück, Germany. Topics of the conference are the convention 189 in Germany, transnational organizing of domestic workers, as well as migration and domestic work. The film *Dringend gesucht - Anerkennung nicht vorgesehen* - Hausangestellte erstreiten sich ihre Rechte on domestic workers fighting for their rights will be shown. Afterwards there will be a discussion with Mónica Orjeda from the film team and others. For more information, please contact lheimeshoff@uos.de.

The Conference "Domestic Workers in the Countries of Central Eastern Europe and Former Soviet Union:

Postsocialist Migrations and Inequalities” supported by the Rosa-Luxemburg-Foundation will take place **24-26 April 2015**, in Saint Petersburg, Russia.

The collapse of socialist regimes in 1990s triggered the intensification of international migrations. In this period of time labour markets of developed countries were actively segmented with the formation of niches occupied predominantly by migrants, including those from the former socialist states. The domestic service domain became one of such niches in the global division of labour. Female migrants who are occupied in the private sphere take care of children and elderly, carry out domestic work, and therefore serve the demands of the middle class in developed countries and provide an access to more prestigious jobs and careers to its representatives, especially women. Members of the RN-DWR will be present.

4. PUBLICATIONS

Boris, Eileen & Klein, Jennifer (Jan. 13, 2015). “History Shows How 2 Million Workers Lost Rights,” *Time*. Online: <http://time.com/3664912/flsa-home-care-history/>

Chimpampwe, Silvia (2013). The experiences and working conditions of domestic workers in Lusaka Zambia. Online: <http://mobile.wiredspace.wits.ac.za/handle/10539/13299>

Domestic work in Zambia has its roots in the early colonial era as a source of cash incomes for the male workers. Females mostly stayed home to raise families and manage the households, eventually being incorporated into domestic labour as child minders, and later fully fledged domestic work as is the case currently. Through surplus

domestic labour, the domestic worker is situated as an ideological function in the reproduction of the social relations of production which subsequently leads to their exploitation and abuse through increased precariousness. The study aimed to explore the experiences and working conditions of domestic workers in Zambia focusing on Lusaka’s Kalingalinga and Mtendere areas.

The study further examines the role of stakeholders such as the Ministry of Labour, the United House and Domestic Workers Union of Zambia (UHDWUZ), Employment Agencies as well as the employers in the regulation of domestic workers conditions of service, in addition to the responses of domestic workers to their challenges. The study reveals that despite the recent introduction of legislation, domestic workers continue to suffer abuse and exploitation engendered by lack of access to information, low levels of education, massive unemployment as well as lack of organised representation.

Hladnik, Mirjam Milharčič (2015, ed.). From Slovenia to Egypt. Aleksandrinks’s Trans-Mediterranean Domestic Workers’ Migration and National Imagination. *Transkulturelle Perspektiven*, Vol. 13, V&R unipress.

Aleksandrinstvo, the migration of women from a small European country to prosperous Egypt (1870–1950) brought with it dramatic changes in the role of women and men, in the value placed on women’s work within the traditional economy and within the internal dynamics of their society of origin, both at the level of families and the wider community as well as in the relationships between generations. This emigration had a profound impact on

women’s self-esteem and at the same time on the public image of migrants as non-conventional female characters whose reputation fluctuated between silent thankful adoration and loud moral condemnation.

Hobden, Claire (2015). Domestic workers organize – but can they bargain? Mapping collective bargaining and other forms of negotiation in the domestic work sector. ILO’s Work in progress. Online: <http://ilo.us8.list-manage2.com/track/click?u=5134ae699cf8943ebbbe07611&id=80b8978732&e=2a79d76fab>

Kiaga, Annmaria (2015). Domestic Workers in United Republic of Tanzania. A Situational Analysis 2013. ILO.

ILO (2015). Cooperating out of isolation: the case of migrant domestic workers in Kuwait, Lebanon and Jordan. Working Paper. Online: <http://ilo.us8.list-manage1.com/track/click?u=5134ae699cf8943ebbbe07611&id=22aafc4460&e=2a79d76fab>

Martínez-Buján, Raquel (2014), “Domestic work count! Characteristics and transformations of the domestic service in Spain”, *Revista Migraciones*, 36: 275-305.

This paper explores the characteristics and transformations that Spanish domestic service has undergone in the since 2000. The paper also analyzes the domestic service’s contribution to the Spanish economy since the beginning of the country’s economic crisis. Relying on quantitative analysis of the domestic work data from the Active Population Survey, the most relevant changes identified are the increase of its demand

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and the consolidation of migrants workers in it. The recent conversion of the domestic services in a non-professional care sector seems to mitigate the burden of personal care work that Spanish families aim to provide to their older relatives. This transformation of domestic work into care work has changed some traditional features of this occupation: the outcomes of qualitative data show changes in the intensification of the tasks carried out, a tendency to hire male workers, a reappearance of live-in workers, and key modifications in the relationship between employer families and employees.

Maybud, Susann (2015). Women and the Future of Work – Taking care of the caregivers. ILO's Work in Progress. Online: <http://ilo.us8.list-manage.com/track/click?u=5134ae699cf8943ebbbe07611&id=8e3b932182&e=2a79d76fab>

Mullally, Siobhán (2015, ed.). Care, Migration and Human Rights. Law and Practice. Routledge.

Only recently has human rights

law begun to address the structured inequalities and exclusions that define the domain of domestic work. This book addresses the specific position of domestic workers in the context of evolving human rights norms. Drawing upon a broad range of case studies, this book presents a thorough examination of key issues such as the commodification of care, the impact of the jurisprudence of the Court of Justice of the European Union and the European Court of Human Rights on 'primary care providers', as well as the effect that trends in migration law have on migrant domestic workers. The contributors to the collection are Siobhán Mullally, Clíodhna Murphy, Ann Stewart, Fulvia Staiano, Nicole Constable, Gulnara Shaninian, Ayesha Shahid.

Triandafyllidou, Anna & Marchetti, Sabrina (2015, eds.). Employers, Agencies and Immigration: Paying for Care. Ashgate.

Exploring the performance by immigrants of domestic and care work in European households, this book places

the employer centre-stage, examining the role of the employer and his or her agents in securing the balance between work, family and welfare needs, as well as investigating both who the employers are and the nature of their relationships with migrant workers. Bringing together the latest empirical work from across Europe, Employers, Agencies and Immigration will appeal to social scientists with interests in migration, ethnic and class relations, immigrant labour and domestic work and the sociology of the family.

Chapters by: Maurizio Ambrosini, Beatriz Camargo, Pilar Goñalons-Pons, Majda Hrženjak, Živa Humer, Anna Kordasiewicz, Guro Korsnes Kristensen, Sabrina Marchetti, Lenka Pelechova, Adéla Souralová, Anna Triandafyllidou, Cristina Vega Solís, Bernhard Weicht.

CONTACTS: RESEARCH NETWORK FOR DOMESTIC WORKER RIGHTS

Contact to the coordinators: Claire Hobden (ILO), Prof. Dr. Helen Schwenken and Lisa-Marie Heimeshoff (Universities of Osnabrück, IMIS and Kassel, ICDD), Raffaella Maioni (Acli Colf): coordinator@domestic-work-research.org

Asia: Sonal Sharma, Centre for Policy Research, New Delhi, India (for South Asia): southasia@domestic-work-research.org

Europe: Dr. Sabrina Marchetti, European University Institute, Italy: europe@domestic-work-research.org

Latin America: Prof Dr Mary Rosaria Goldsmith Connelly, Universidad Autónoma Metropolitana-Xochimilco, Mexico: latina-merica@domestic-work-research.org

North America: Prof Jennifer N. Fish PhD, Old Dominion University, United States: northamerica@domestic-work-research.org

Editor of the Newsletter: Lisa-Marie Heimeshoff, coordinator@domestic-work-research.org