

“ I THOUGHT I WAS APPLYING AS A CARE GIVER ”

Combating Trafficking in Women for
Labour Exploitation in Domestic Work



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Labour Exploitation in Domestic Work



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A

INTRODUCTION

In recent years the issues of gender and migration have received more attention from scholars, researchers and policymakers in different national contexts as well as at the EU level. Despite there being acknowledgment that gender matters, the experience of migrant domestic workers as possible victims of trafficking in human beings for labour exploitation has remained unexplored. Migrant domestic workers are left out of most policy framework relating to immigrant integration, violence against migrants, trafficking in human beings (THB), or exploitation, and therefore they tend to be invisible at all levels. However, female migrant domestic workers are visible agents within the destination countries since current economies in Europe are also built around them.

EU Mediterranean countries such as Spain, Greece and Cyprus have become destination countries for many female migrant domestic workers, while Lithuania is a country from which domestic workers originate. It is evident from previous research that many are victims of exploitation. OSCE's *Guide on Gender-Sensitive Labour Migration Policies* notes that more women are migrating and the demand for workers in female dominated sectors, such as domestic work, is ever-increasing. Research shows that domestic workers play a crucial role in society but at the same time, due to the isolated and unregulated setting of their work, they are especially vulnerable to abuse, violence and exploitation. Migrant domestic workers mostly live in their employer's house and many, according to studies by the International Labour Organization, report physical, psychological, sexual abuse, and exploitative work conditions. They are often overworked, underpaid, have their personal documents confiscated, are restricted in their freedom of movement, and have their pay withheld in order to pay off debts related to their recruitment and transportation. Such exploitation is under-reported, and authorities do not necessarily recognize these situations to be cases of trafficking. However, trafficking in women may occur if the employee has been deceived, or if her dependent status and vulnerability has been abused in order to subject her to exploitation. Furthermore, the recent EU directive on THB (2011/36/EU) recognizes the gender dimension and it encourages Member States to be more aware of the less investigated forms of THB such as labour exploitation. The new strategy on THB (*The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016*) is a critical tool in assisting the Member States to implement the Directive, and both documents pay special attention to THB for labour exploitation.

THE PROJECT

This book is the result of a 24-month research project entitled *Trafficking in Women for Labour Exploitation in Domestic Work*. This project was funded by the Prevention of and Fight against Crime programme of the European Commission's Directorate-General of Home Affairs and coordinated by the University of Nicosia in partnership with the Mediterranean Institute of Gender Studies (MIGS), the Department of Social Policy, Centre for Gender Studies of Panteion University in Greece, SURT Women's Foundation in Spain, and the Women's Issues Information Centre in Lithuania.

Our project addresses the issue of trafficking in women for the purpose of forced labour and labour exploitation with a particular focus on migrant domestic workers. The question raised is whether the means of recruitment and exploitative work situations under which migrant domestic workers live and work include elements of trafficking. As mentioned above, the phenomenon of trafficking in women for the purpose of exploitation in domestic work is a relatively new research area at both the EU and international levels. While some research studies have been conducted on THB for the purpose of labour exploitation and have identified some instances of trafficking in women for domestic work, there is still a considerable gap between the knowledge of and research on the scope of the problem and the measures required to tackle it. Consequently, policymakers have not yet been proactive, but the current research can hopefully guide them towards developing appropriate measures and formulating policies to address this issue, specifically at the EU level.

To achieve the aims and objectives of the project the methodology used by researchers in all contexts followed a human rights, gender-sensitive approach with a focus on intersectionality both in designing and in conducting research. The sampling procedure was common in all countries, given the limitations that the research questions posed.

The book compiles the results of the qualitative research implemented in the partners' countries. Their respective chapters each provide an overview of their country's existing national policy contexts on trafficking in human beings and migration which was the starting point of the research study. They map the current policies on trafficking in human beings and migration in relation to domestic workers and then explore how these are translated into practice. Interestingly, although one expects that most of the partner countries have a history on migration and would consider that gender equality is a basic principle in both theory and practice, we nevertheless see questions are still being raised about the extent to which governments' apparent commitment to gender, racial and ethnic equality is being

translated into practice. Furthermore and most importantly, each chapter focuses on female migrant domestic workers' stories, bringing to the fore their voices and experiences.

The present book aims to contribute to our understanding of complex issues relating to trafficking in human beings, gender and migration and will be of use to those with particular interest in this field in academia, civil society and policymaking. I would like to take this opportunity to warmly thank the project leaders of the University of Nicosia for the guidance and coordination of this project and all the partners for their knowledge, commitment and professionalism without which this publication would not have been possible. Special thanks are also extended to the external evaluator Professor Anna Agathangelou for her support and invaluable comments and suggestions throughout the project. Special thanks are also extended to Aileen O'Donoghue for her editorial support.

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B

METHODOLOGY

The research within the framework of the project "Combatting Trafficking in Women for Labour Exploitation in Domestic Work" was conducted in four countries: Cyprus, Greece, Spain and Lithuania. Although each country has its own socio-historic background and faces different challenges, the methodology followed in all four participating countries was similar in order to have compatible and comparable findings. If we want to proceed to a sort of typology regarding the four countries, we can distinguish three types.

First, Cyprus can be considered a major destination country for domestic workers. The guest-worker regime is unique in the EU as it is shaped by state authorities to determine every detail of the recruitment terms and the overall working arrangements and relations of the domestic worker with a particular employer/household. Within this specific regime, possible links between supply and demand of domestic work in the Cypriot labour market and the push and pull factors of workers who fall victim to being trafficked for labour exploitation had to be researched and highlighted.

Secondly, Greece and Spain present similar characteristics with regard to the extent and nature of domestic work and trafficking in human beings. In both countries, despite the high demand for migrant domestic workers, most domestic work occurs away from official regulation. Both countries also constitute significant transit points and terminals for networks of those who traffic human beings. Predominantly informal and flexible, domestic work performed by migrant women has been adapting to fluctuations in the economy and household (re)structuring, while possible connections with trafficking for labour exploitation have not yet been observed.

Thirdly and equally importantly, Lithuania offers the perspective of a sending country, since it serves – as do the other three countries – as a gateway to the European Union combined with its status as a 'supplier' of domestic workers to other EU countries, mostly to central Europe. In this sense, field research in Lithuania could provide insights on how and to what extent possible networks of trafficking in human beings are operating through different geographical and social links.

The methods used in all four contexts combined desk and field research. The former comprised both literature and policy reviews, with a specific emphasis on legal documents and actual policy measures and initiatives. Policies were analysed as a three-level continuum by following policy milestones as they were produced at the EU level and then transposed or adapted at national and local levels, according to administrative specificities of each country. Similarly, initiatives and good practices introduced either by policy-makers or by other

types of stakeholders were evaluated according to their impact on dealing with prevention of trafficking or on supporting victims.

Fieldwork research was based on semi-structured interviews with stakeholders and domestic workers. In each country, stakeholders were from public administrative bodies, such as the competent ministries, public authorities and institutions, or they were actors from civil society organisations, such as trade unions, migrant associations and NGOs. A common interview guide was produced for all countries, and it gave researchers a certain amount of flexibility by enabling them to adapt the questions raised during the interviews to the national contexts as well as to the functions and characteristics of the interviewed stakeholder. An equivalent guide was produced for the domestic workers' interviews, and it included a type of biographic interview in which the focus was on the professional course of the interviewees with regard to their recruitment, transportation and working conditions. The concluding part of the interview was dedicated to assessing what the workers knew about trafficking in particular, such as awareness and knowledge of relevant cases and what sort of practical assistance and support for victims is available.

Researchers in all contexts followed a human rights and gender-sensitive approach in both designing and conducting research. The sampling procedure was common in all countries, given the limitations that the research questions posed. In the case of stakeholders, each partner followed the outcomes of the mapping exercise that preceded the fieldwork research. The most important institutions and actors were already identified during the literature and policy review, and the representatives of the relevant institutions were formally contacted for interviews. Most of the representatives agreed to take part in the research. More precisely, 11 stakeholders were approached in Cyprus, and eight were interviewed, whereas three never responded. In Spain, representatives of 12 stakeholders were interviewed, among which were five public institutions, one trade union, five NGOs and two independent academics. Twelve of the 15 stakeholders who were approached in Greece were interviewed, and in Lithuania, representatives of 11 stakeholder institutions, five governmental and six non-governmental, were interviewed.

The sampling procedure to select domestic workers, as well as the effective preparation of interviews, proved to be complicated. Given the sensitivity of the issue, combined with the scarcity of recognised victims of trafficking for labour exploitation in domestic work in all examined countries, it was decided that research would include interviewees regardless of whether they had relevant experiences or not, without setting a prerequisite for the interviewees to have been officially identified or self-identified (potential) victims of trafficking

or exploitation. Thus, using mostly the snowball sampling procedure and occasionally relying on existing contacts made by the researchers through previous studies and social action, a relatively significant number of interviews with domestic workers was achieved in each country. Sixteen domestic workers in Cyprus were interviewed, 12 in Greece, 10 in Spain and nine in Lithuania (out of 11 who were reached).

The most important barrier faced during fieldwork in all countries was that trafficking for labour exploitation is a scarcely known phenomenon and even more so in the domestic work sector. The "invisibility" of this type of trafficking in public discourses and policies as well the strong association people make between trafficking and sexual exploitation rendered both stakeholders and domestic workers reluctant to consider that trafficking for labour exploitation in domestic work could be a problem. This was not only due to the sensitivity of the subject, but more probably because of the assumption that the respondents would not be able to provide any relevant information for our research. Nevertheless, by deploying flexible strategies, researchers in each context managed to gather as much information as they could from each interviewee, either directly or indirectly linked to the questions examined within the project.

1

COMBATING TRAFFICKING IN WOMEN FOR LABOUR EXPLOIT- ATION IN DOMESTIC WORK

BY ANNA M. AGATHANGELOU, YORK UNIVERSITY

In the 21st century, we should not have women and girls reduced to sexual slavery, children beaten and mistreated, forced to beg and to steal, and young adults compelled to work in appalling conditions for hunger wages. These crimes are not acceptable under any circumstances. We must do everything possible to stop the people responsible for these acts. (Cecilia Malmström, European Commissioner, March 29, 2010)

I am from Dominican Republic and came to Spain to work as a domestic worker for a family of diplomats. We agreed that I would work 40 hours a week with minimum pay of 7.00 Euro an hour—which seemed very good to me. I arrived to a much different reality. I worked 12-16 hours a day, 7 days a week and never received my pay. I almost never left the house. These are some of the reasons that I decided to be an activist and work towards helping domestic workers know their rights and be able to defend themselves. —Anna-Maria, a survivor of trafficking and leader of a group organizing domestic workers.

From the two excerpts above we gain a sense that the issue of trafficking inscribes itself on country specific sites, regional, and broader registers, and it ought to concern everyone, as President Obama suggests. It is a global phenomenon with US and European government statistics showing that its economy is second only to the illegal drugs trade (Desiree 2014: 1). Anna-Maria highlights the conditions under which domestic workers who are trafficked are expected to work.

Yet, much (or less) of the research done has either come from first-hand interviews or governmental offices without systematically and comparatively grappling with the question of human trafficking for domestic labour exploitation. This lack of or gap in research has not, though, disenabled governments for making decisions in how to spend their money to address human trafficking. Many governments proceed with offering funds to organizations involved in rescue and rehabilitation work. Without research and analysis done to explore the complexity and specificity of human trafficking, governments and international organizations are forced to make important policy decisions without a substantial analysis of the problem.

This short chapter engages specifically with human trafficking for labour exploitation and explores the gaps in the knowledge base so that coordinated research can be directed to those areas as well as provide insights to policymakers so they do not waste time or make decisions without enough analysis and information. First, this chapter looks at the changing environments, ranging from the household to the global stage, arguing that these environments are co-produced with migration and domestic work, thereby requiring us to analyse them simultaneously. Second, I look at the multiple frames and conceptual categories (including stereotypes) within which we read and understand and explain human trafficking, domestic

work and labour exploitation. Such notions/practices ought to be read concurrently if we are to make policy decisions that address the problem at the root. Third, I am focusing on the research that we have carried out to draw out some important insights as well as to identify gaps in the knowledge base for further research. Finally, I conclude with some suggestions of how to proceed both in terms of research but also the needs for building a knowledge base.

CHANGING ENVIRONMENTS AND HUMAN TRAFFICKING FOR LABOUR EXPLOITATION?

The development and growth of human trafficking in Europe varies depending on the socio-economic and political conditions of receiving and sending states between which trafficking takes place. Much work has shown that human trafficking developed to meet economic demands and is usually analysed based on the model of supply and demand (Zdrojewski 2014: 18). As political borders close while free market principles continue to promote a global marketplace, the movements of goods, people, and capital across borders increases, consequently raising the demand for trafficking. For some countries trafficking correlates with the emergence of a middle class, with increased migration or even with the development and sustenance of industries like tourism. It is within this changing environment that much media reports and data has undertaken the explanation of trafficking, at times evading the complexity and level of trafficking work.

The connections between transnational migration and the sexual exploitation of *women and children* (Enloe 1989) has become somewhat *spectacularly* visible through the predominance of media reports and regional and international anti-trafficking campaigns, headed up by such organizations as the United Nations (UN) (i.e., the Blue Heart Campaign), the International Organization for Migration (IOM), the Global Alliance Against Traffic in Women (GAATW), and the Coalition Against Trafficking in Women (CATW).

This spectacularization of cross-borders human trafficking, however, has had the effect of obscuring systems of power that render some bodies more vulnerable to exploitation. Rendered invisible are gendered and racialized systems of power structured through and by colonial histories that put some bodies into the position of dependency on “smugglers” or “traffickers” in order to make their movement a possibility (Agathangelou 2004; Sharma 2003: 60). There is of course a marked difference between the definitions of human trafficking, smuggling, and migration. According to the European Union, “Trafficking is different from irregular migration or the smuggling of irregular migrants. Once having crossed the border, a trafficked migrant is at times further exploited in coercive or inhuman conditions.

Some, for instance, migrants are trafficked for the purpose of sexual and labour exploitation or the removal of organs. Women and children are particularly affected: women and girls represent 56% of victims of forced economic exploitation and 98% of victims of forced commercial sexual exploitation. Children are also trafficked to be exploited for begging or illegal activities, such as petty theft” (http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings/index_en.htm). These distinctions underlie gendered and racialized logics, conflating at times different forms of trafficking (trafficking for sex) and exploitation, neglecting core issues of trafficking such as migrations (Ditmore 2005:107), and failing to attend to the structuring relations of power that shape them. At times, much of the conflation in the media and campaigns leverages a focus on the assumed agency of male migrants who enter into illegalised assisted migration, whereas female migrants who make their migrations possible through domestic work are assumed to be victims of exploitative, coerced, and forced migration.

These problematic confluences disenable us from addressing the materiality of decisions made by human trafficked subjects. Distinctions underlying the classification of migrants as “trafficked” or “smuggled” are important on a number of levels, not least because cross-border work is often conflated with “trafficking”, and yet, they do not provide us insights into the migrant working body and the specificities of the challenge that such migrant *workers* pose to transnational systems of power, situated as they are along the lines of national borders, and structured as they are through regimes of im/migration that serve to create not only bodies external to the nation-state, but also *internal* “others” who may live, work, and die within a geopolitical zone without ever being formally recognized by the state as members of its citizenry (Chan and Sharma 2006).

EU trafficking data seen (Eurostat, Methodologists and Working Papers Trafficking in Human Beings, 2013 http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130415_thb_stats_report_en.pdf) alone suggest that men are the majority found in labour trafficking, also known as forced labour, and only women in sex trafficking. In fact, although trafficking for sexual exploitation predominantly affects women and girls (Global Report on Trafficking in Persons, 2014), men and boys are also subjected to sex trafficking, while there is growing evidence that women and girls are also subjected to labour trafficking in increasing numbers. These assumptions and stereotypes are problematic because they evade efforts to identify and provide services to women trafficked for the purpose of labour exploitation, to target prevention strategies within industries where women are susceptible to labour trafficking, and to integrate labour trafficking into gender-based development work. Women’s concentration in informal labour sectors without legal protections and their gender-specific vulnerabilities suggest that women face labour trafficking much

more than is reported, and, that women are just as, if not more, invisible within labour trafficking. According to the International Labour Organization's (ILO) 2011 Global Employment Trends Report, women constitute half of the globally employed, generally divided among the services, industrial and agricultural sectors. More women than men work in the services sector (46.8% to 40.7%) with this gap having grown over the past decade. Migration can also push women into the informal labour sector, thereby increasing the likelihood of exploitation and labour trafficking. Women comprise 49% of the world's migrants. In the past, women migrated primarily to reunite with family members, but women and girls are increasingly migrating for work reasons to escape gender inequality and gender-based violence, or in the search of fulfilling dreams for a better life. Migrant women seek to improve their circumstances through new economic opportunities, often to support themselves or family members as the sole breadwinner. Yet destination countries offer legal, temporary migration opportunities that are predominantly positions for men in construction and agriculture. Education and financial requirements also prevent more women than men from meeting requirements to migrate lawfully. As a result, legal migration for women can and is often limited. They are left to pursue unlawful migration, which, according to the ILO, then pushes women migrants into the informal sector, leaving them susceptible to exploitation, abuse and trafficking.

Domestic workers are a growing population. They are nannies, elder care workers and house cleaners. Ninety-five percent are women, most are women of colour, and many are immigrants. Despite this, migrant domestic workers are left out of most policy frameworks relating to immigrant integration, violence against migrants, trafficking in human beings (THB), or exploitation, and therefore they tend to be invisible at all levels. These invisible workers often endure long hours, low pay, and health and safety issues that include violence and sexual assault. Worldwide, all domestic workers have one thing in common – an unregulated workplace without inspection and out of the public's view. The situation is ripe for labour exploitation and at the extreme, human trafficking. A major global trend is the migration of women to Gulf States and the Middle East for domestic worker positions as childcare providers, elder caregivers, cooks and cleaners in private homes. Recruitment agencies are largely unregulated, which makes it easy for terms and conditions to be misrepresented. Agencies and informal recruiters charge exorbitant fees to the workers and often the employers, who then pass those fees on to the workers. The workers must pay off this massive debt with relatively low wages.

Migrant domestic workers mostly live in their employer's house, and many, according to studies by the International Labour Organization, report physical, psychological, sexual abuse, and exploitative work conditions. They are often overworked, underpaid, have their personal documents confiscated, and report restrictions in freedom of movement, poor

working conditions, and isolation from family and friends. Such exploitation, however, is severely under-reported and authorities do not necessarily recognize these situations to be cases of trafficking. However, trafficking in women may occur if the employee has been deceived, or if her dependent status and vulnerability has been abused in order to subject her to exploitation. Some employers psychologically shackle their domestic workers so they are not free to end their employment without devastating consequences, crossing the line into domestic servitude, a form of human trafficking.

FRAMES/CONCEPTUAL CATEGORIES/STEREOTYPES OF TRAFFICKING

There is growing evidence that domestic workers are victimized by human trafficking more than any other group of workers in the European Union (Bogers et al. 2013). Worldwide, traffickers, using threats and coercion to exploit migrant women in domestic work, rake illegal profits of nearly \$8 billion a year (Gerry 2015).

The work that was done under the auspices of the University of Nicosia makes an important contribution to thinking about the lives of thousands of women; the four resulting research reports reenergize the possibility of a national and regional conversation on domestic labour and the trafficking of humans for labour exploitation. The project assessed the changes and dynamics of trafficking and labour exploitation in the EU. It shows that the types of research work and their results can have a direct impact on designing and implementing new policies and evaluating existing ones on labour relations and the trafficking of human beings especially within the domestic work sector.

As mentioned above, the phenomenon of trafficking in women for the purpose of exploitation in domestic work is a relatively new research area at both the EU and other international spaces. While some research studies have been conducted on THB for the purpose of labour exploitation and have identified some instances of trafficking in women for domestic work, there is still a considerable gap in the knowledge of and research on the scope of the problem, and the measures required to tackle it. Consequently, policymakers have not yet been very proactive, but the current research can hopefully guide them towards developing appropriate measures and formulating policies to address this issue, specifically at the EU level.

In focusing on Cyprus, Greece, Spain and Lithuania, this research programme systematically analysed and chronicled the experiences of labour exploitation and trafficking of persons from the point of rules and legal procedures, the recruitment for work, forced

labour victimization, attempts to bring exploitation and victimization into court, victims' escapes and attempts to receive help, and efforts of NGOs and victims to seek justice through civil or criminal cases. Focusing on the stories of migrant domestic workers, bringing to the fore their voices and experiences, all four reports find the landscape within which trafficking takes place, the procedures or lack thereof, the separation of powers of government offices responsible for labour disputes and trafficking, and the legal loopholes and lax law enforcement that make the question of labour exploitation and trafficking a complex issue demanding further research to understand the ways these converge and diverge and at what moments.

Timing is a crucial element in such distinctions. Deliberation of how international and multilateral political, legal, and practical initiatives against labour exploitation and human trafficking should be high on the political agenda of the United Nations, the OSCE, the European Union, and the Council of Europe. While these organisations have developed a series of programmes and action plans in different countries, this project points to the fact that they are not evenly designed and implemented. However, indeed the European Commission shows strong political will to fight trafficking in Human Beings with the appointment of the EU Anti-trafficking coordinator and the adoption of the EU Strategy in Human Beings 2012–2016 with specific and targeted actions. While the work of organizations like the OSCE, the International Labour Organisations, the International Organization for Migration (IOM), and the EU addresses the four pillars of labour exploitation and human trafficking (prevention, prosecution, and protection, and partnership), this work requires more attention to the spaces within which a range of activities take place, from the formal signing of labour contracts, the methods both sending and receiving countries employ in recruiting domestic workers, the circuits of movement, the work of relevant government departments and offices, as well as the legal/normative procedures in place.

A matrix of distinctions between labour exploitation and trafficking of persons is apparent when looking at the four different sites. While legal frameworks, such as the EU directive on THB (2011/36/EU), the UN Palermo Protocol on Human Trafficking, and the Council of Europe Convention on Action against Trafficking in Human Beings, are pivotal tools in combating and preventing trafficking in human beings and in ensuring the support and protection of victims, more needs to be done to disentangle the relations between the concepts of labour exploitation and the concomitant trafficking in persons.

The research findings bring to the fore whether labour exploitation in the domestic sector is connected with trafficking. In addition, through a series of interviews with stakeholders in both labour exploitation and trafficking, the researchers found these two spheres are not

always connected, unless domestic workers report being trafficked. This finding suggests the burden of proof lies with the domestic workers, rendering their position even more precarious in the receiving country. The reports contain some important insights on the need to think about and understand empirically the relations between labour exploitation and trafficking of persons.

The Palermo Protocol's definition of trafficking notes the purpose is exploitation (prostitution of others, sexual exploitation, forced labour or services, slavery or practices similar to slavery), but this definition is more about the intention of the perpetrator. With trafficking, as with other crimes, intention, or *mens rea*, is highly subjective and difficult to prove in court. The Palermo definition of trafficking is further complicated by the lack of a standard definition of exploitation. All researchers in the four countries pointed to this issue in interviews. While the ILO's definition of forced labour is useful as a starting point, it still limits the range of cases to the most severe forms of exploitation (ILO Convention No. 29 (1930). The ILO definition focuses on (1) menace of penalty, and (2) the notion of consent, which is useful, but it raises questions about consent and penalty. How is one to understand consent when workers are not in a position to make an informed, consensual decision, especially if they do not know all the structural barriers they may face on their way?

The interviews revealed the complexity of the situation, especially when there was no direct connection between movement, recruitment, and final employment. We can distinguish between non-trafficked victims of forced labour and trafficked victims of forced labour. While this is more of a social distinction, it raises questions about legal ones. Different scenarios became apparent in the process of the research as well; interviewing multiple actors revealed the need for more elaborate interviews and discussions about empirical scenarios to highlight the multiplicity of actors (i.e., smugglers, employers, recruiters etc.) as well as sites of smuggling, employing, recruiting etc. The research further highlighted that profit from the vulnerability and exploitation of domestic workers is happening at different registers, especially with irregular migrant work, isolation in the destination country, and lack of viable alternatives. Some have argued that all actors mentioned above could qualify as traffickers; this may be a good option, but it raises other questions about institutions and harmonization policies. To achieve clarity, more research is required to show how different stakeholders understand their position and to uncover other viable paradigms to permit a more democratic approach to labour exploitation and trafficking.

WHAT DID THIS PROJECT/RESEARCH PROGRAMME OPEN FOR US IN TERMS OF CONVERSATION?

One of the most important issues raised as a result of this project, is the role of the state in trafficking relations, complicating the notions of legality and illegality. While a number of scholars posit that the sovereignty and the specificity of nations has been transformed by the forces of globalization and transnational migration (e.g. Appadurai 1996; Ong 1999), others argue that the nation-state remains central to political economy and the ways in which global capitalism continues to expand its emerging domination (e.g. Hardt & Negri 2004; Agathangelou 2004, 2002 Agathangelou and Ling 2003). Neo-liberal discourses of “globalization” suggest that borders are dissolving, that the world is getting smaller, as if a global community united by the language of capitalism and a shared love of consumption has already emerged.

As Agathangelou (2004) has argued, the state is implicated in the literal production of a pool of thus-called *migrant workers* required for regional and global restructuring. Agathangelou’s research demonstrates that one of the crucial ways that higher income states contribute to global capitalism is through im/migration and border security regimes that actively produce citizens and non-citizens, “migrants” and undocumented workers, such as ‘illegal’ migrants (2002; 2004). The state, in regulating and categorizing the movements of labouring bodies (particularly racialized Agathangelou 2004: 34), and in producing bodies that are *outsiders within* the space of the nation, attempts to secure its own legitimacy as a geopolitical entity, as though borders of “security” were natural, inevitable, necessary, and therefore justifiable.

The global landscape within which women move for labour is itself unevenly produced at both the register of the materiality of labour and also the materiality of sensibilities making possible what is deemed actionable ethicality. Global hierarchies of access to hope, opportunity, and the realization of dreams are more deeply hierarchized than ever before, theorizations of how it is even possible for bodies to be thought of as “migrant” or as “other” are entangled with new aesthetic modalities of knowledge and power around issues of exploitation. This research has brought to the fore that humans who are trafficked are also constantly articulated as “foreigners”, “outsiders”, “husband thieves”, “lazy”, and “vulgar”, making the migrant domestic body the site where collective and multiple meanings coalesce, and taking repose about work, naturalized reproduction and fears. The methods and mechanisms through which this coalescence takes place is at times invisible, leaving apparent the implications of trafficking and at times casting migrants and trafficked workers out as they unsettle what supposedly works to secure national identity and subjectivity (Agathangelou 2004).

It is within these elaborate defenses and debates that the research has brought to the fore that in all four countries, definitions of trafficking and exploitation are informed by the legal, juridical, and procedures/mechanisms in place, whether these are informed by international legal and policy instruments or by locally developed policies and procedures.

Most trafficked women in the study worked in domestic service, although some worked in agriculture. Social networks in the women's home countries usually recruited women those who hoped for opportunities for themselves and their families. Recruiters who operated through third- and fourth-party employment agencies used deceitful means in their recruitment. Most women entered destination countries on lawful visas. Labour trafficked women often paid a recruitment fee higher than their country of origin's per capita income. Women's journeys most often originated in Europe, as well as in Asia, Latin America, and Africa. Most travelling to Cyprus, Greece, and Spain arrived by air. Women frequently obtained legal visas, and experienced routine, uneventful interactions with embassy and border officials. Some women experienced force, fraud, and coercion. The threatening tactics included document fraud and withholding, sexual abuse, discrimination, torture, murder (in the case of Cyprus), and violence and threats against family members. In addition to being paid less than the minimum wage or less than they were promised, many women also faced in addition to being paid less than the minimum wage or less than they were promised, civil labour exploitation, such as wage theft and illegal deductions, or longer hours of work beyond the contract stipulations.

Many of the women rushed to escape. They primarily escaped on their own. Some escaped with the help of community members, friends, or law enforcement. Some were unauthorized at the time of escape, and some were arrested or placed in detention centres or in deportation proceedings, most often because of immigration violations. Civil damages and criminal restitution are rarely awarded to labour trafficking survivors. Survivors often suffered psychological disorders, and they tended to remain in the industries in which they had been trafficked.

The process through which women challenge their status is through criminal and civil justice processes. Interviews with officials show law enforcement agencies do not prioritize labour trafficking cases and often believe they do not have enough evidence to corroborate "victim" statements. Officers are often reluctant to help victims obtain authorization to legally remain in their destination countries. In some domestic servitude cases we encountered, however, law enforcement played a critical role in helping victims escape and access services. According to the available evidence, fewer than half of suspected traffickers are ever arrested. Department of Labour officials were not proactively involved in identifying

labour trafficking cases in the study sample, and the data revealed no information on the decision-making capacity of the labour departments to fine traffickers.

Examinations of national penal codes in the different countries has revealed their importance as well as the need to amend them to define trafficking as a criminal offence. It is of utmost importance that adequate sentences and guarantees are established in support of the trafficked and exploited women. Protection services that include shelter, nutrition, decent living conditions, health care, psychological support, legal aid, translation, as well as voluntary repatriation in cases of illegal entry of the victim ought to be available to migrant workers at all times. Finally, it is important to recognize that the divisions of some departments (i.e., Department of Labour) may prevent asking more questions about the process of arriving to a country, her recruitment, and employment as a domestic worker. For example, the research revealed that when a domestic worker files a complaint with the Labour Department for a “labour dispute” the relevant officer will focus on the labour dispute and will not ask any questions about her process of recruitment and arrival in the destination country. It may be important to raise the question of institutional boundaries when dealing with a problem that cuts through different institutions. The governance, therefore, needs to be rethought.

CONCLUSION

In a regional world dominated by the striated territories of nation-states and discourses of citizenship as belonging, migrant female domestic workers are the bodies through which the family and the nation-state re-articulates its borders. Without the non-citizen “other”, the nation-state would unravel, or burst at the seams. The situation of female migrant domestic workers who are trafficked for work in households, hotels, and corporations is further exacerbated through affective and heteronormative regimes of power. The fact that domestic work *as* work evades the fact that these workers may be trafficked thereby rendering them vulnerable to exploitation is still hotly debated both within and outside the feminist literature, speaks to a refusal to acknowledge that work and trafficking are integral to how both economies and heteronormative reproduction works in societies, not external to it (see Agathangelou 2004). The refusal by some feminists to recognize the trafficked working bodies’ work *as trafficked labour* (and not simply as “exploitation”) gestures towards a failure and a denial to delve into the complexities of power relations. Racialized migrant, non-citizen bodies are often put into the position to make difficult, even “unseemly”, decisions not just because they are poor and unemployed in their countries but rather, resulting from the ways an expanding global capitalism functions and works.

The trafficked working body that moves illicitly across the borders of nations, as well as the borders of morality and proper bodily containment, puts pressure on our thinking and policy making hats. A major recommendation about thinking of labour and exploitation together demands that we recognize that these bodies may spill and transgress, and in so doing, threatens to displace notions, imaginations, and desires about borders. These marginalized bodies, cast as "in need" of containment or protection, have come into being as *bodies that matter* in affective and geopolitical ways, and have been constituted as *threatening* precisely because they transgress and simultaneously reveal transnational and intimate borders of "security" – of subject, family, nation, and region, thereby pushing us to consider trafficking, labour, exploitation and violence otherwise.

This project has brought to the fore some important insights as well as recognition that new modalities of knowledge and power are profoundly transforming the way mainstream democratic sensibilities are shaping that which is deemed actionable ethicality. This is happening through a range of knowledge, legal, media and other technologies that are contributing to the spread and consumption of interwoven images about domestic workers and their "victimhood". Such new formations are simultaneously providing us with a new template for thinking about the primacy of the senses of justice around the issues of labour exploitation. They call on us to consider how new democratic forms of participation ought to be mobilized and recontextualized to address such exploitations and violences. These are some things to consider when thinking about safety and justice (see for instance, the National Domestic Workers Alliance, 2015).

Human trafficked-domestic workers survivors are self-determined.

In addition to living many identities, they are also organizers moving beyond just survival and into visionary leadership.

Systemic problems require systemic-level solutions

Human trafficking is a systemic issue, thereby demanding analyses beyond criminalization and speculation. The effects of globalization, trade, migration, gender, race, and inequality are equally important, and an analysis of them is necessary for the design of interventions that fully address and prevent human trafficking. Piecemeal solutions like criminal justice approaches are not enough.

Human rights, safety and justice ought to be the priority

A focus on economic, labour, and immigration policies that protect the human rights of workers is a must, as forced migration resulting from such policies puts people at risk for gender-based violence, trafficking and exploitation. Grappling with such inequalities in these

policies addresses the problem at its root, also preventing “push factors” for migration of work. Migrants ought to be safe, allowed to migrate at will and safely, as well as change employers when so desired.

Governments, agencies, and employers should be held accountable

When people are trafficked for labour they should be able to receive the same services that are provided to other migrants or workers. Traffickers, including agencies who are involved in trafficking, should not be shielded and protected. On the contrary, governments, agencies and employers should be held accountable. The governments should prioritize the redressing of unsafe conditions and human rights violations in the asymmetrical relation between employers and domestic workers.

Connected domains: Self-determination, organizing, and social services

Self-Determination, organizing, and social services should not be thought and addressed as separate domains. Law enforcement and social service programmes should emphasize self-determination and choices that help restore the integrity of workers’ lives. Labour organizing and leadership development ought to be on the top of any training programme and ought to be recognized as key to self-determination and change of imbalances of the migration and working relationship. Building partnerships with community-based organizations is key and ought to be at the forefront of any social service programme.

Only a movement-building approach can dismantle enslavement exploitation

A movement connected and in solidarity with other people’s movements is key to fundamentally changing the unequal transnational and domestic relations. Organizing around root causes that address both short-term safety from violence and exploitation as well as the long term ending of human trafficking is key to also changing societies to being fundamentally just and safe.

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INVESTIGATING TRAFFICKING IN WOMEN FOR LABOUR EXPLOITATION IN DOMESTIC WORK: THE CASE OF CYPRUS

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INTRODUCTION

In 2000, the Cyprus government passed the Combating of Trafficking in Human Beings and Sexual Exploitation of Children Law (3(I)/2000), making trafficking in human beings (THB) illegal.¹ In the last two decades, policies to address trafficking in human beings focused primarily on trafficking in women for sexual exploitation largely due to the so-called artiste visa² and the existence of the large number of cabarets around the country where sexual exploitation of women was systematically taking place. Although trafficking in women for sexual exploitation is still a reality in Cyprus, other forms of THB have surfaced, such as trafficking for labour exploitation.³

Available statistics show that the majority of *identified* victims of trafficking for labour exploitation are men; however, women are also victims of the specific form of exploitation, especially those who come to be domestic workers. According to the 2013 report "Trafficking in Human Beings"⁴ and the Cyprus Police's Anti-Trafficking Office (personal communication, April 2014), the competent body for the identification of victims of trafficking, in 2008 there were 18 female victims of THB for labour out of a total of 20, in 2009, four female victims out of total of 88, and in 2010, 12 female victims out of total 17. In 2012 there were 37 identified victims of labour exploitation, of which five were female domestic workers, and in 2013 there were no recognized victims of domestic work but there were 30 identified victims in total. Available data demonstrates that women are increasingly victims of trafficking for labour exploitation, and particularly for domestic work.

1. This law was replaced with the Combating of Trafficking and Exploitation of Persons and the Protection of Victims Law of 2007 [N. 83(I)/2007], and it came into force on 13/7/2007. The latter was recently replaced with 60(I)/2014 which came into force in April 2014.

2. Artiste visas were issued to migrant third country national women to enter Cyprus for three months to work in high risk entertainment establishments, and there was a possibility of renewing them for another three months in order to work in high risk entertainment establishments. Not all women who worked on "artiste" visas could be identified as victims of trafficking. Indeed, some women were aware of the fact that they would be expected to engage in prostitution, and, although they were exploited, they are not in fact "trafficked".. On the other hand, there were women who, although aware they would engage in prostitution in Cyprus, were ignorant of the conditions of slavery that awaited them.

3. Press and Information Office, Republic of Cyprus, *Trafficking in Human Beings: Learn – Escape – Help!* (Nicosia: Press and Information Office, 2010). Available at [http://www.moi.gov.cy/moi/CRMD/crmd.nsf/All/9B419168E6E60F1EC2257D2A003B5C20/\\$file/TRAFFICKING%20IN%20HUMAN%20BEINGS.pdf](http://www.moi.gov.cy/moi/CRMD/crmd.nsf/All/9B419168E6E60F1EC2257D2A003B5C20/$file/TRAFFICKING%20IN%20HUMAN%20BEINGS.pdf).

4. European Commission, "Trafficking in Human Beings", (Eurostat Methodologies and Working Papers, Luxembourg: Publications Office of the European Union, 2013) https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings_-_dghome-eurostat_en_1.pdf; and

Domestic workers are one of the most disadvantaged groups amongst the migrant population since their workplace is confined to the privacy of their employer's home, and this makes them "invisible". Although they are visible in our everyday lives because they can be seen in the streets and parks, especially on Sundays when they have their day off, when it comes to their protection in employment and access to other services, domestic workers are invisible exactly because they work in a home which is protected under the right to privacy. This invisibility, the privacy of the home, is unfortunately used by the authorities to justify the complete lack of control mechanisms to ensure the implementation and observance of a domestic worker's employment and living conditions, which has resulted in very few victims of trafficking for labour in domestic work being identified. This situation leaves them extremely vulnerable to exploitation and abuse. The vast majority of documented domestic workers reside in the house of their employer and their dependency on their employer is extremely high. For those who work on an undocumented basis, the issue of invisibility is even more profound.

The exploitation of domestic workers in Cyprus has been examined, to a limited degree, by non-governmental organizations (NGOs), academics and policymakers, and there is a general admission that, indeed, they are one of the most vulnerable groups of migrants not enjoying their employment and civic participation rights. However, given the problematic migration model and policies for domestic workers' entry to and employment in Cyprus, which will be discussed and analyzed below, questions have been raised as to whether migrant domestic workers will fall victim not only to exploitation but also to trafficking for labour exploitation in domestic work.

METHODOLOGICAL FRAMEWORK A HUMAN RIGHTS AND FEMINIST APPROACH

Traditionally, feminist scholars and activists have addressed trafficking in women and conditions of domestic workers, the former falling primarily within the frames of research and advocacy concerning sexual exploitation of women and the latter falling within the frames concerning the care economy and unrecognized and non-remunerated domestic labour traditionally performed by women. Because of the application of gender-specific methodology developed by those scholars, both topics came to the attention of policymakers who addressed them at policy levels. The intersection of trafficking and domestic work is a relatively new and much less explored phenomenon where application of feminist methodology can be seen as a natural continuation in feminist scholarly research and advocacy.

Feminist research is about challenging the social construction of women's roles and positions in society and challenging inequalities. Critical theory forms the foundations of feminist research which studies the social conditions of women and informs the general society about the structural "sexist practices and the gender-blindness of government and community practices, and academia that displaced, ignored and silenced women and led to an unequal and discriminating social order."⁵

The data collected for this report came principally from fieldwork, and more specifically from qualitative, semi-structured interviews with public administration bodies, trade unions, NGOs, and domestic workers themselves. A literature review revealed that although there are some studies on migration in Cyprus, studies on trafficking for domestic work in Cyprus are nonexistent. The interviews conducted were supplemented by statistical data, legislation, policy documents, contracts of employment of domestic workers, as well as reports written by the Commissioner for Administration.

Sixteen interviews with domestic workers were conducted over a period of three months. The interviewees were identified and reached using the snowball approach through NGO support centres, individuals engaged with the domestic worker community, and informal networks of domestic workers. Whether a domestic worker identified herself as a victim of exploitation or trafficking was not a prerequisite for interviews. The interviews were based on an interview guide designed according to feminist concepts of research and specifically for the project, and they addressed the following areas of research: a) recollections of recruitment, transportation and experiences in the destination country; b) perceptions and awareness of elements, definitions and legislation on exploitation and trafficking; and, c) resistance and coping strategies and external support. The semi-structured interviews were open-ended to encourage the women to narrate their stories themselves, and they were conducted in a one-to-one, face-to-face manner, by a trained female interviewer, in settings familiar to interviewees (community centres, private homes and cafes). All but one of the interviews were conducted in a spoken, conversational level of English. The interviews were voice-recorded and 15 were further transcribed.

While most women found it relatively easy to share their experiences, those who had experienced recurrent and severe exploitation and violations expressed frustration, fear and difficulties in telling their stories. One interviewee, who was an identified victim of trafficking, found it particularly difficult to talk about her experience and cried repeatedly throughout the interview.

5. S. Sarantakos, *Social Research* (Basingstoke: Palgrave Macmillan, 2012), 66. Available at: <http://www.palgrave.com/sociology/sarantakos/docs/chapter3.pdf>.

By the end of the interviews most women expressed satisfaction for being listened to and being able to share their stories, and some identified the significance of that experience in terms of dealing with trauma and frustration caused by the circumstances they had lived through.

The following section is separated into two parts. The first deals with legislation and policy, and the state's role in the possible trafficking of women for labour exploitation in domestic work. The second part focuses on the experiences domestic workers spoke about during the interviews, and our attempts to understand the factors that pushed them to migrate, the process they followed to come to Cyprus, the fees paid, whether they face any form of exploitation, and whether domestic workers in Cyprus are at risk of being trafficked for labour exploitation in domestic work.

HISTORY OF DOMESTIC WORKERS AND THEIR REGULATION THROUGH LEGISLATION AND POLICY

We will first discuss the migration model in relation to domestic workers to understand how policies on domestic work evolved and how they were framed, and then to understand how trafficking legislation and policies deal with trafficking for labour exploitation in domestic work.

Cyprus has traditionally been a country of emigration, mostly to the UK and to a lesser extent to other destinations. It became a country of net migration well after the Turkish invasion in 1974⁶ and the economic miracle⁷ which followed. Emigration from Cyprus continued and it was only during the 1980s and 1990s that significant flows of migrant labour to Cyprus gathered pace. According to the former Minister of Interior: “The migration policy in Cyprus changed during the 90s so that migrants could be temporarily employed in the country in order to face the labour shortages”.⁸ As a result, the policy was aimed at

6. It should be noted that because of the de facto division of Cyprus, this report covers only the area under the control of the Republic of Cyprus.

7. For a detailed analysis see A. Theofanous, *Anatomy of the Economic Miracle 1974-1994* (in Greek), in *Anatomy of a Metamorphosis: Cyprus After 1974*, ed. N. Peristianis and G. Tsangaras, (Nicosia: Intercollege Press, 1995), pp. 13-33, and D. Christodoulou, *Inside the Cyprus Miracle. The Labours of an Embattled Economy*. (Minneapolis: University of Minnesota, 1992).

8. Former Minister of Interior Neoklis Sylikiotis (speech presented at conference on “Migration in the 21st century”, organized by the Geopolitical Institute Daedalos, 15 December 2006).

creating a regime of short-term contracts for migrants that were restricted to specific sectors of the economy.⁹

Today migrant domestic workers constitute the largest group of third country nationals employed in Cyprus. According to the Civil Registry and Migration Department, as of April 2013 there were 30,952 documented domestic workers living in Cyprus, which constitutes a total of 45.35% of the migrant population. The majority of domestic workers come from the Philippines (10,580), Vietnam (8830) and Sri Lanka (8774).

In 1990, Civil Registry and Migration Department, in collaboration with the relevant Committee of Ministries, set the monthly salaries of domestic workers at 257.07 euros, without allowances for an increase in the cost of living (COLA) or a 13th salary. However, the employment contract stipulated that there would be an annual pay increase of 5%. The salary remained as such until 2010 when there was an effort to increase domestic workers' salary by 10%.

The Minimum Wage Order of 2012, which came into effect from 1 April 2012,¹⁰ revised the minimum monthly wage for a newly recruited employee to €870, while the minimum monthly wage for employees who have completed a six month period of employment with the same employer was revised to €924. Interestingly, those wages apply to the occupations of shop assistants, clerks, child-care workers (assistant baby and child minders), and personal care workers (nursing assistants), which are occupations for which the majority of, if not all, migrant domestic workers are employed in Cyprus. The hourly rate of pay for newly recruited cleaners is €4.55 and upon completing six months of employment at the same employer, it is increased to €4.84. The minimum wage is revised annually by an Order of the Council of Ministers and comes into force on 1 April of each year. However, when it comes to migrant domestic workers, "the gross minimum wage... [for] domestic workers is, as from 01/07/2013, €460. After deductions of 15% for food, 10% for accommodation and 7.8% for social insurance, the net wage is €309 per month. The employee's health insurance is paid for equally by both sides."¹¹ A few of the interviewees described these terms as scandalous and exploitative.

9. N. Triminikiniotis, "New Migration and Racism in Cyprus. The Racialisation of Migrant Workers," in *Into the Margins: Migration and Exclusion in Southern Europe*, ed. Floya Anthias and Gabriella Lazarides (Avebury, UK: Ashgate, 1999), 139–178.

10. Ministry of Labour and Social Insurance, "Frequently Asked Questions," 2011-2015, no. 1. Available at http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/faq_en/faq_en?OpenDocument&print#1.

11. Ministry of Labour and Social Insurance, "Frequently Asked Questions," 2011-2015, no. 42. Available at http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/faq_en/faq_en?OpenDocument&print#42.

The status of domestic workers, specifically third country nationals, falls under the general legal framework of the Aliens and Migration legislation of 1972-2013 which regulates the conditions of entry, registration, residence and deportation of migrants. Migrant labour was always intended to be a short-term affair. Therefore, policymakers in Cyprus treat migrants as “guest workers”, meaning that their stay and employment in Cyprus are clearly seen as temporary, and they are linked to a specific employment sector and a specific employer. As a matter of fact, the Aliens and Immigration Law defines the term “migrant” as “an alien who, without being permanently resident in the Republic, legally enters it with the aim of residing there permanently,”¹² a definition which excludes migrants entering the country to work for a limited period of time (currently set at a maximum period of four years). This puts the migrant in a rather vulnerable position against the state as well as the employer, rendering the protection of his/her rights almost impossible. On one hand the pre-supposed temporary nature of a migrant’s stay in Cyprus is used by the state to justify the complete absence of integration strategies for them, and on the other hand the employment rights of migrants cannot be secured if they are not allowed to participate freely in the local labour market. As a result “the vast majority of migrants are excluded socially, financially and politically, they are taken advantage of and are discriminated against in the entire spectrum of their lives (employment, housing, social services, education).”¹³

The status of domestic workers is regulated by Cabinet decisions that were made in 1991. The regulations were updated in 2008 after an agreement was reached with social partners (mainly trade unions), and the strategy for the employment of migrants in Cyprus was approved by the Cabinet in 2007. Moreover, the employment of domestic workers is regulated specifically by the Council of Ministers’ decisions which were based on suggestions made by the Ministerial Committee.¹⁴ The regulations declared that the responsible body for the employment of migrant domestic workers in Cyprus is the Aliens and Migration Department of the Ministry of Interior. This decision was made two decades ago with the argument that the employment of domestic workers does not affect the labour market. In practice, this means that all processes required for domestic workers to enter, stay and work in Cyprus are performed by the specific department.

12. Aliens and Immigration Law 2007, Chapter 105, Article 2(§) of 8(1) of 2007 (author’s translation).

13. Mediterranean Institute of Gender Studies, *Integration of Female Migrant Domestic Workers: Strategies for Employment and Civic Participation* (Nicosia: Mediterranean Institute of Gender Studies, 2008).

14. The members of the ministerial committee are the Ministry of Interior (coordinator), the Ministry of Labor and Social Security, the Ministry of Justice and Public Order, the Ministry of Finance and the Ministry of Commerce.

Employment contracts for other categories of foreign workers are approved by the labour department, which examines whether the conditions agreed to are in line with labour law. The Ministry of Labour, Welfare and Social Insurance also looks to see if there were any previous complaints against the employers and will conduct inspections at the workplaces at anytime. However, labour inspections are prohibited at households because they are private domains even though domestic workers live and work there. This policy only confirms the persistence of policymakers to treat domestic workers as guest and temporary workers. A status that immediately puts domestic workers in a vulnerable position, as will be discussed below.

In 2010 the Cyprus Government made a few unsuccessful efforts to try to improve the status of domestic workers and to provide them with access to their rights and to recognize domestic work as a profession. Before 2010, domestic workers in Cyprus were called "domestic helpers" (οικιακές βοηθοί) but the Ministerial Committee decided to call them "domestic workers" (εργαζόμενες) trying in this way to recognize the specific sector as an important labour activity. The new policy would include a number of changes, such as:

- Prospective employers must submit a medical certificate to prove they have a disability of illness, thus showing they have a real need to hire a domestic worker.
- Both the employer and employee must pay a bank guarantee so that the employer will not bear all the costs, and, in cases of deportation, the employers will not be the only party losing their money.
- Domestic workers should have at least a basic knowledge of Greek or English and at least one-year experience in similar positions. The salaries of domestic workers would be increased by 10% to 484 euros gross (net 326 euros), and domestic workers would be entitled to a cost of living increase every year.

Right after the above changes were proposed, Cyprus's economy went into recession, and although there was an increase in domestic workers' salaries for a period of time, the new government that was elected in 2013 decided to reduce the salary to 314 euros, and since then they decreased it further to 309 euros. Because of the economic crisis, those Cypriots lucky enough not to have lost their jobs and who could afford to employ a domestic worker needed to work longer hours, and so they needed a domestic worker even more so. Parliament voted against asking domestic workers to contribute to the bank guarantee, claiming that domestic workers do not have the money to do so and they would be more vulnerable to debt bondage with employment agents and employers. This was clearly an unsuccessful move by the state to redefine the care system. Cyprus could of course redefine the care system by, for example, encouraging Cypriot citizens to take this form of employment, since many are unemployed because of the economic crisis, but for reasons that we will discuss below, any move to change migration policy has never taken place.

DEMAND FOR “FLEXIBLE” THIRD COUNTRY NATIONAL DOMESTIC WORKERS

One of the objectives of this research was to examine the internal conditions in Cyprus’s labour market that might, and indeed do, contribute to the demand for migrant domestic workers, which, in turn, may lead to cases of trafficking for the purpose of exploitation in domestic work. Beyond the immediate “demand” from Cypriot households, there is a wider context of labour, migration and gender-equality policies, or the lack thereof, that create the legal and moral environment within which the demand for cheap, imported labour is generated.

The push and pull factors that drive trafficking in women are similar to those that drive women to migrate. These include poverty, lack of educational opportunities, social exclusion, underemployment and political instability,¹⁵ as well as the demand for cheap labour and the demand for sex as a result of persisting gender, racial and ethnic discrimination, and patriarchy.

Previous research of the Mediterranean Institute of Gender Studies,¹⁶ as well as this research, found that the reasons for the increased demand to employ live-in female migrant domestic workers are the following:

1. A growing number of Cypriot women are entering the labour market, and domestic workers are now doing what used to be unpaid work in the house (and they earn a minimum salary, because housework has never been considered to be formal work); however, this has not changed the conventional gender roles but has rather helped in their perpetuation and reinforcement.
2. The lack of a comprehensive state welfare system for the elderly, children and disabled persons make it necessary for many households to employ a live-in, full-time housekeeper. Domestic workers came in place of a welfare state, acting to reconcile the professional and private lives of Cypriot couples. It is important to note that the state is also acting as the employer of domestic workers in some cases. For example, when it comes to the older people or people with special needs who are dependent on social welfare income, the domestic worker’s salary is included in the income a person receives from the state, making the state “the direct employer of many domestic workers”.

15. T. Loar and L. Ardito, “Women’s Leadership in the Fight Against Human Trafficking,” in *Gender and Women’s Leadership, A Reference Handbook*, Volume 1, ed. by Karen O’Connor, (Thousand Oaks, CA: SAGE Publications) 260–270.

16. Mediterranean Institute of Gender Studies, *Integration of Female Migrant Domestic Workers: Strategies for Employment and Civic Participation* (Nicosia: Mediterranean Institute of Gender Studies, 2008).

3. Employing a live-in female migrant domestic worker in Cyprus has become a kind of "symbolic capital",¹⁷ and a way of exhibiting the economic superiority of the household in a position to employ one. Although in periods of economic crisis one would expect a decrease in the employment of domestic workers, the number in Cyprus has stayed the same. However, there are suspicions, as one of the interviewees mentioned, "of an increase in undocumented domestic workers or to more exploitation (where a domestic worker might work in many different houses – i.e, neighbours and relatives of the employer without extra remuneration).

Agathangelou points out, "Migrant women are bearing the burden of violence, exploitation and the "flexibility" of deregulation of peripheral economic states' easy-hiring, easy-exploiting labour markets because many migrant women and their female employers must find the way not to neglect their family / communal / national obligations."¹⁸

Further, Gregoriou,¹⁹ in the book *Integration of Female Migrant Domestic Worker: Strategies for Employment and Civic Participation*, notes that:

Research suggests that the demand for female migrant domestic workers is changing in kind not only in degree. Employers are not looking to hire third country nationals as professional domestic cleaners and care takers. They are not looking for 'domestics' either. They are looking particularly for migrant female domestic workers. 'Those' are more likely to live-in, more likely to accept extended and uncomfortable work hours, more likely to be available around the clock and more likely to provide both cleaning and caring services. Domestic and care labour has been traditionally cheap labour because it has been feminized labour and also irregular and unregulated labour. In today's global economy of migrant labour, however, feminized domestic labours are also regarded as a constitutive characteristic of the domestic's job.²⁰ Female migrant

17. P. Bourdieu, *Distinction: A Social Critique of the Judgment of Taste*, 1979. Cambridge Massachusetts: Harvard University Press

18. A.M. Agathangelou, *The Global Political Economy of Sex: Desire, Violence, Insecurity in the Mediterranean Nation States* (New York: Palgrave Macmillan, 2004), 115.

19. Z. Gregoriou, "Gendering Migration and Integration Policy Frames: Female Migrant Domestic Workers as "precarious workers" and as "reconciliators", in, *Integration of Female Migrant Domestic Workers: Strategies for Employment and Civic Participation* (Nicosia: Mediterranean Institute of Gender Studies, 2008), pp. 17-18.

20. For example, Bridget Anderson's research in the UK points out that some employers use "national characteristics" to indicate who they would like or not like in their homes, construing as positive employee qualities characteristics which are covertly racist: "caring", 'warm', 'docile', 'natural housekeepers', 'happy'" (B. Anderson, "A Very Private Business: Exploring

domestic workers become preferable candidates for cleaning/caring jobs not only because they are “willing” to take up low status jobs for low wages but because they are more “flexible”. This flexibility, however, capitalizes on the precariousness of these workers and their de facto adjustability to the demands of the job that normalizes its exploitative terms and conditions under the pretense of its indefinable nature. The flexible labour of female migrant domestic workers is located in a zone of indistinction, between home and workplace, between regularized labour (by labour laws) and unregistered domestic work, between cleaning and caring, between working for wages and working for one’s “boss”.

TRAFFICKING FOR THE PURPOSE OF LABOUR EXPLOITATION IN DOMESTIC WORK

Legislative framework

Cyprus has been on the international radar in relation to THB for the last 15 years. This was mainly due to pressure on the state to abolish the artiste visa regime for the entry and employment of female third country nationals. Such attention intensified following the death of Oxana Rancheva²¹ and the decision of the European Human Rights Court (EHRC). Cyprus was very often placed in Tier 2 of the US State Department’s watch list,²² and was also closely monitored by the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW) Committee²³ and the Group of Experts on Trafficking in Human Beings of the Council of Europe (GRETA).²⁴ These international monitoring systems quite rightly focused on trafficking in women for sexual exploitation as it was on the rise and still is.

the Demand for Migrant Domestic Workers,” *European Journal of Women’s Studies*, vol. 14 (Aug. 2007), p. 253) In some cases not only the nationality but also the precarious legality of migrant workers was framed as a desirable employee quality:

They’re foreign and they are illegal and they’re scared and timid and so they’re not going to take up space. They’re going to be very very small, and that is generally easier to live with than someone who feels that this is their home. They’re in really bad situations... They’re terrified. (Employer interview, from Julia O’Connell Davidson and Bridget Anderson, *Markets for Migrant Sex and Domestic Workers 2002-2006*, p. 19; quoted in Bridget Anderson, 2007, p. 261).

21. *Rantsev v. Cyprus and Russia* (2010). “In 2004 Mr. Nikolay Rantsev, a Russian national, filed an application with the Court claiming several violations of the human rights of his daughter Oxana Rantseva, who had travelled to Cyprus to work in a cabaret and died in strange and unexplained circumstances having fallen from a window in 2001.” Council of Europe, “European Human Rights Court – Gender equality” (Fact sheet, Strasbourg: Council of Europe), 3.

22. Trafficking in Persons Report (TIP Report), US State Department. Available at <http://www.state.gov/j/tip/rls/tiprpt/>

23. Convention to Eliminate All Forms of Discrimination Against Women (CEDAW). Available at <http://www.un.org/womenwatch/daw/cedaw/>.

24. Group of Experts on Trafficking in Human Beings of the Council of Europe (GRETA). Available at http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/GRETA_en.asp.

Specifically, GRETA's first report urges the government to focus on labour exploitation and domestic work and to "take due account of Trafficking in Human Beings risks including prevention measures such as information in the revised policy on domestic workers and labour disputes as well as step up the proactive investigation of potential cases of THB, including by labour inspectors, in sectors such as entertainment, tourism, agriculture and domestic work."²⁵

Throughout the years, activists, professionals from civil society, and governmental officers acquired expertise on the issue of trafficking in human beings. As a result, actors, such as the police and NGOs, are in the position to identify other forms of exploitation, especially labour exploitation. Under pressure from civil society, a few governmental offices, such as the anti-trafficking unit of the police, and specific Members of Parliament, as well as the European Commission, Cyprus has finally transposed into national legislation the EU directive²⁶ on preventing and combating trafficking in human beings and protecting its victims.

For the purpose of this project, the research team uses the definition of THB as provided by the EU Directive as it provides the most comprehensive definition to date to address the issue:

The recruitment, transportation, transfer, harboring or reception of persons including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud of deception of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation

Furthermore, the Cyprus legislation, The Prevention and Combating of Trafficking and Exploitation of Persons and the Protection of Victims Law of 2014, N. 60 (I) / 2014, differentiates the forms of trafficking in human beings and includes a specific article on each form of exploitation, including labour exploitation:

25. Group of Experts on Action Against Trafficking in Human Beings, "Report concerning the implementation of Council of Europe Convention on Action against Trafficking in Human Beings by Cyprus, First Evaluation Report, p. 5" (Strasbourg: Council of Europe, September 2011). http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2011_8_FGR_CYP_en_final.pdf.

26. Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, [2011] OJ L101/1. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>.

“Any person who traffics a person for the purpose of exploiting his or her labour or services, submits him or her to forced labour or services, or any form of slavery or similar practices or servitude, on his own account or the account of another person and in the work done there is a clear difference in the working conditions with a person performing the same or similar work through:

1. threats, and/or
2. the use of force or other forms of coercion, and/or
3. kidnapping, and/or
4. guile or fraud or deception, and/or
5. abuse of power or capacity for the exploitation of a position of vulnerability, and / or
6. giving or receiving payments or benefits to achieve the consent of a person having control over another person, and/or
7. a fictitious debt;

shall be guilty of a felony and, on conviction, be liable to imprisonment not exceeding six years and, in case the person is a child, to imprisonment not exceeding ten years.”²⁷

It is important to note that the National Action Plan on Combating Trafficking in Human Beings (NAP 2013 – 2015) does not include any description of actions to be taken to identify victims of trafficking for labour, and therefore the Ministry of Labour, Welfare and Social Insurance will not get involved unless a specific case of labour exploitation is uncovered. However, the NAP includes specific actions to deal with labour exploitation and domestic work under more general actions to raising awareness. Although the plan does not specify which form of trafficking the actions address, stakeholders involved could choose which they will focus on.

Further, the NAP provides four specific measures to eliminate trafficking for labour exploitation. The first one falls under Objective 1: Information and awareness of the Trafficking in Human Beings II.12:

Systematic awareness raising and awareness raising seminars on Trafficking in Human Beings for private employment agencies. The responsible groups should be the Labour Department, who is the coordinator, the Ministry of Interior, the Police and NGOs.

The other three actions falls under Objective 2: Information for migrant workers:

- Revise/ prepare awareness leaflets on the current procedures for obtaining entry visas, temporary residence permits and employment, and distribute them to migrant workers

27. As translated by the Cyprus government.

including domestic workers. One of these leaflets shall be about trafficking in human beings. These notices should be available in the the migrants' native languages, at least the languages spoken by the majority of migrant workers. Responsible stakeholders should be the Civil Registry and Migration Department, as the coordinator, the Ministry of Labour and all of its departments. The budget is not specified.

- Continue to distribute informational leaflets on the rights and obligations of migrant workers. These leaflets are available in the native languages spoken by most migrants (especially Vietnamese and Tagalog).
- Translate the employment contract into languages spoken by the majority of migrants who are considered to be at risk for exploitation, and evaluate the content in order to remove the elements that make an employee so dependent on the employer. An Annex for both parties to sign should provide them with clear information on trafficking in human beings. This should be done for the purposes of awareness and prevention. The supervising institutions should be the Labour Department and the NGOs

The NAP actions on trafficking for labour exploitation contradict, or at least do not reflect, the realities of Cyprus, as the introduction of the NAP states: "Experience shows that sexual exploitation and labour exploitation are the most common forms of exploitation in Cyprus." The NAP measures are very general and vague and do not address the specific needs of possible female victims of trafficking for labour exploitation in general and domestic work in particular.

EXPLOITATION OF DOMESTIC WORKERS

Whereas "trafficking for labour exploitation" is a commonly used term, the International Labour Organization (ILO) has, in its entire history, never defined "labour exploitation". Arguably, all of its 189 Conventions, and throughout almost a century of their legal interpretation, have in fact been one continuous effort to define what constitutes labour exploitation, an interpretation that indeed needs constant revision and updating to respond to changing realities. In practice, it is difficult to draw a clear line separating exploitation as a violation of labour rights from forced labour or human trafficking specifically. In some European countries, a narrow definition is used while in others the concept of trafficking for labour exploitation is broader. A number of international and EU instruments, such as ILO Convention on Forced Labour and the EC Directive on THB, mention the term "exploitation" both in reference to the *purpose of trafficking* and beyond it. On the other hand, the very definitions of "exploitation" differ contextually from county to country, and are bound to national labour codes that set the national labour standards. Labour standards in

most economic sectors are set in reference to international labour instruments and the one which explicitly sets standards for domestic work is ILO Convention 189. Since writing this report (2015), none of the countries participating in the project have ratified this convention, and, among all the EU member states, only three did (Germany, Italy, and Finland). Therefore, what is and what is not considered exploitative domestic work is still largely at the discretion of national states, and that depends on whether domestic work, as a labour category, is covered by national labour legislation and policy.²⁸

The analysis of the recruitment of domestic workers, in the following section, shows that most domestic workers employed in Cyprus arrive in the country after they have been deceived by agents who abuse their positions of power by taking advantage of the workers' vulnerability. This vulnerability continues once they are in Cyprus and after they sign the contract of employment.

Contract and conditions of employment

The employment contract for migrant domestic workers is a standard contract drafted by the Civil Registry and Migration Department of the Ministry of Interior in collaboration with the Ministry of Labour, Welfare and Social Insurance. The contract is available in Greek and English despite many domestic workers being unable to read English, let alone Greek.

The contract of employment as it stands raises a number of questions and, as we will see from the interviews with domestic workers and other stakeholders, it is exploitative. The Ministry of Interior admits that "the employment contract for domestic workers provides the minimum standards for the employment of domestic workers", which means it is at the employers' discretion how they will treat their employees. Therefore, domestic workers are vulnerable to being exploited.

According to the report by the Commissioner for Administration:²⁹

28. C. Rijken, ed., *Combating Trafficking in Human Beings for Labour Exploitation*, p. 471. Available from: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_155937.pdf.

29. Α. Τσιάρτας, Θέκλα Δημητριάδου & Δέσποινα Μέρτακκα, "Τοποθέτηση Επιτρόπου Διοικήσεως ως Εθνική Ανεξάρτητη Αρχή Ανθρωπίνων Δικαιωμάτων αναφορικά με το καθεστώς των οικιακών Εργαζομένων στην Κύπρο." (Nicosia: Independent National Authority of Human Rights, 2 July 2013), Available at http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/presentationsArchive_gr/presentationsArchive_gr?OpenDocument.

The criteria for issuing work permits to aliens and the general terms of employment in Cyprus were included in a political decision made in 1991. The department of labour, in cooperation with the social partners, prepared the 'General Contract of Employment' for migrant workers based on the criteria. The Civil Registry and Migration Department considered to be necessary to draft a more modified contract for the special category of domestic workers, and, therefore, the department adjusted it, creating the 'Employment Contract' for migrant domestic workers, which is in use almost unaltered, until today.

In the same report, the Commissioner for Administration also states that the "Civil Registry and Migration Department made the adjustments and printed the contract without substantial consultation with the Department of Labour." More specifically a few of the clauses related to the responsibilities of the employee are as follows:³⁰

Article 2(a)

Shall not be allowed to change Employer and place of employment during the validity of this contract and his temporary residence/ work permit.

Articles 2(b)(h)

(b) shall work 6 days per week, for 7 hours per day, either during the day or the night and shall perform his duties or any other duties relevant to his employment according to the requirements of the Employer, and shall obey all orders and instructions given by the Employer or his authorized representatives and shall cooperate with the rest of Employer's staff and contribute to the utmost of his abilities in promoting the interest of the Employer to protect its property from loss, damage, etc. and without delay inform the Employer or his responsible representative of any such loss, theft, etc. that may come to his attention.

(f) shall not at any time be guilty of any act or conduct which may cause damage, according to the judgment of the Employer, to his property/ interest or reputation, and shall in all respects and all times conduct himself with propriety and decorum, and in particular shall obey and comply with all the law and regulations for the time being in force in Cyprus.

(g) shall not be entitled in any way and for any reason to any increase of his fixed salary, unless it is provided under this contract or it is considered appropriated by the employer.

30. Ministry of Interior Civil Registry and Migration Department, "Contract of Employment". Available at [http://www.moi.gov.cy/moi/crmd/crmd.nsf/447C9F246384E0F0C2257D230031D0C9/\\$file/DOMESTIC%20WORKER%20ContractOfEmploymentEN.pdf](http://www.moi.gov.cy/moi/crmd/crmd.nsf/447C9F246384E0F0C2257D230031D0C9/$file/DOMESTIC%20WORKER%20ContractOfEmploymentEN.pdf).

(h) shall not engage contribute or in anyway, directly or indirectly take part in any political action or activity during the course of his stay in Cyprus and observe faithfully the laws governing the conduct and behaviour of aliens.

The employer's responsibilities include providing the employee with free food and suitable accommodation, opening a bank account for the employee, providing industrial accidents and health insurance and contributing to the social insurance scheme, among others. The employers are prohibited from deducting from the employee's salary any recruitment fees or airfare.

According to an officer of the Commissioner for Administration, "This contract of employment was created without any consultation with the employee at the time when the first domestic workers were arriving in Cyprus... the specific contract was structured with different criteria: regulating a recognized nonprofessional sector which is cheap help for women in the house (so was the domestic helper definition). As a result, a contract was created that instead of clearly and adequately defining the labour rights and duties...it treats the employee in a derogatory manner, paternalistically...and imposes an absolute connection between the residence and work permit with the one specific employer...and in total, it maintain a status of fear and subordination." As it can be seen from the restrictions imposed in the contract, it leaves a domestic worker with just one freedom, which is the freedom to either accept the conditions laid out in the contract or not accept them. About this contract, Agathangelou writes, "The domestic worker is free to sell her labour power and the freedom to be exploited in the way she chooses...and the employer is free to exploit in the way s/he chooses."³¹

EXPLOITATION AS PERCEIVED BY STAKEHOLDERS

In our interviews, we asked stakeholders to define "exploitation" as they understood it. We received various answers: for example the trade union representative explained:

Since your work is not being paid as much as you produce then this is exploitation... exploitation can happen to the director of a big company who is working from the morning until late at night... When discussing domestic workers, one needs however to take into account that if comparing them to any recognized labour positions, whether this is a

31. A.M. Agathangelou, *The Global Political Economy of Sex: Desire, Violence, Insecurity in the Mediterranean Nation States*, (New York, Palgrave MacMillan, 2004) 82.

director or cleaner at a restaurant, is the position of vulnerability female domestic workers are placed in from the moment they leave their countries.

Furthermore, representatives of the trade union and the NGOs concurred that the exploitation that takes place could be described as institutional since the contract is drafted, formed and established by the state, with no input from domestic workers. However, it is worth mentioning that according a representative from the NGO KISA, "The contract of employment... is drafted after consultation with the social partners which also includes trade unions." The KISA representative described the contract as a document where "the provisions of the contract...define a slavery relationship between the employer and the employee...and it is clear that the state does not recognize domestic work as a form of employment and this is why they are not protected." The same interviewee also discussed the specific clause of the contract which states that domestic workers have no right to organize or be politically active, and he described this as a form of exploitation. The representative from the Department of Labour Relations³² stated that "if a *kopela* (κοπέλα³³) is working for 13, 14, 15 hours per day for 7 days a week within the 365 days per year [that] is exploitation!...When a *kopela* comes to work as [a] care provider of an older person and at the same time cleans the house of his children, or his neighbours, without any extra payment, this is not allowed normally." The representative of the Department of Labour Relations also explained that "the reason there is exploitation is because the workplace of the domestic worker is the private home... and because the private home is her accommodation as well, it creates a lot of problems and...the only competent authority that can intervene in a private house is the police after issuing of a warrant by the court." What that representative mentions brings us to another issue: that there is a lack of labour inspections. It is the only sector of employment where inspections cannot take place, leaving domestic workers invisible when it comes to labour relations and exploitation.

An officer with the anti-trafficking unit of the police pointed out another dimension of exploitation. "Exploitation can be understood in different ways: more working hours without getting paid for it, or proportionate days off, withholding their private documents (residence permit, passport etc.), they are not allowed to contact their families or have their own mobile phones, or have freedom of movement right after the working hours."

32. The Department of Labour Relations of the Ministry of Labour and Social Security accepts complaints in relation to the any labour disputes between a domestic worker and her employer.

33. "Κοπέλα" (*Kopela*) is a term that means "girl". The term is also frequently used for domestic workers or women in prostitution, no matter their age, in a condescending way, and it has been normalized in the general public. One way to use the term is by saying: "I found a *kopela* to work at my place", or "... a *kopela* to clean my house", etc.

Taking note of the statements made by key stakeholders who are dealing with domestic workers' issues on a daily basis, it is clear that there is no consensus on a legal definition as to what exploitation shall mean, and therefore the meaning of exploitation remains at the discretion of the different governments. However, it should also be concluded that, according to the definitions provided by the interviewees, they all agree that exploitation of domestic workers is a reality, and it is understood that indeed the employment contract for domestic workers is exploitative in itself or at least, and as the Commissioner of Administration rightly puts it, "It treats the employee in a derogatory manner, paternalistically,... and it imposes an absolute connection between the residence and work permit with the one specific employer,...and finally, it maintains a status of fear and subordination."

This and other research studies, as well as the experience of NGOs, reveal that most domestic workers living and working in Cyprus are exposed to exploitation because of their contract and because it is the employer's discretion how he or she will treat the employee. To justify this kind of contract, the representative of the Ministry of Interior mentioned during the interview that "the contract provides the minimum standards of the employment conditions, and the onus is on the employer and employee to (re)negotiate the terms." To the question as to whether the employers or employees are aware of this, the reply was, "Well if they ask, we will inform them." That attitude takes away the responsibility of the state to adequately inform its citizens about this as well as to protect migrant workers by informing them of such a possibility, thus leaving them in the margin and treating them as unequal actors in an employment relationship that is directly linked.

Based on these responses, we could therefore conclude that indeed the contract places domestic workers in an exploitative situation. There are cases where the employers strictly adhere to the contract, whereas others withhold their employee's passport, make their employees work more than seven hours a day, as well as on Sundays, do not pay their employee, or even perpetrate the most extreme form of exploitation. None of these cases necessarily means that domestic workers are trafficked for the purpose of exploitation. What is safely concluded here is that the state of Cyprus does not protect domestic workers from exploitation. The migration legislation and the model of "guest workers" followed by Cyprus leave domestic workers vulnerable to exploitation. Therefore, through its legislation, the state promotes domestic workers' exploitation. This however does not absolve employers who, either by following the contract or not, exploit domestic workers.

Another issue that came up throughout the research is that when a domestic worker files a complaint at the Department of Labour about a labour dispute, the officer will focus on the labour dispute and will not ask the domestic workers any questions about their recruitment

or how they arrived in Cyprus. Thus, an opportunity is missed to check to see if a domestic worker is a possible victim of trafficking. Therefore it is important that the anti-trafficking unit of the police train other authorities on identifying possible victims of trafficking for labour exploitation in domestic work. This was also one of the concluding remarks of the GRETA's first round report:

In addition, all relevant officials and professionals in contact with victims or potential victims of THB, including law enforcement officials, prosecutors, judges, labour inspectors and social workers, should be adequately informed and trained about the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Anti-Trafficking Convention and the case law of the European Court of Human Rights.³⁴

Characteristics of interviewed domestic workers

The sample interviewed included three women from India, one from Vietnam, one from Sri Lanka, one Kenyan, one Nepalese woman, and nine women from Philippines, aged between 25 and 53. All arrived in Cyprus under a documented status to be employed in domestic work. Over 50% of the women had higher education, with degrees ranging from social work and nursing to accounting and management. About half of the sample had at least one child and other family members in their native countries whom they had to provide for. The duration of their stay in Cyprus ranged from four months to eight years, and, at the time of the research, over 50% of the interviewees were regularly employed in domestic work, while the rest were in the process of looking for a new employer and were no longer living at their former employers' homes. They either stayed in a shelter offered by a community support centre or they were hosted by someone in their social networks. One woman we interviewed had a degree in social work and had been identified as a victim of trafficking for labour exploitation and was also a victim of rape.

Analysis of interviews with domestic workers

Following the interviews, analysis was done taking into account two dimensions of the project. The first one is the focused dimension of THB, analyzed by the application of indicators developed by the Delphi Survey, and which are also implemented by the International

34. Group of Experts on Action Against Trafficking in Human Beings, "Report concerning the implementation of Council of Europe Convention on Action against Trafficking in Human Beings by Cyprus, First Evaluation Report" (Strasbourg: Council of Europe, September 2011), p. 5. Available at http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2011_8_FGR_CYP_en_final.pdf.

Labour Organization and the European Commission.³⁵ The second one is a more general analysis of conditions and practices, identified through the interviews, that are either exploitative or facilitate exploitation.

It has to be noted that, the indicators used by the Cyprus Anti-Trafficking Police department for THB victim identification, are also largely drawn from the EC/ILO indicators. However, due to the legislation and policies regulating migration, as well as the Ministry of Interior that currently oversees the regulation of domestic work in Cyprus, and because the employment contract's terms are exploitative, it is especially difficult to apply these indicators. Therefore, it is also very challenging to distinguish between cases of trafficking in women for labour exploitation in domestic work and cases of labour exploitation only.

Based on the results of the ILO/EC survey (for a detailed explanation of the indicators used with the Delphi methodology see Annex I³⁶), six operational indicators of trafficking for labour exploitation were applied in the analysis of all interviews. Each of these indicators were then analyzed separately in order to understand whether and to which degree the elements of THB can be identified in the interviewed sample. Those indicators are:

- Deceptive recruitment (or deception during recruitment, transfer and transportation): 10 indicators
- Coercive recruitment (or coercion during recruitment, transfer and transportation): 10 indicators
- Recruitment by abuse of vulnerability: 16 indicators
- Exploitative conditions of work: 9 indicators
- Coercion at destination: 15 indicators
- Abuse of vulnerability at destination: 7 indicators

Indicator - Deceptive recruitment: Deceived about conditions of work; Deceived about housing and living conditions; Deceived about legal documentation or obtaining of legal migration status; Deceived about the nature of the job, location or employer; Deceived about wages/earnings.

All the interviewed women reported that they had been, to various degrees, misinformed about the working conditions, remuneration, or legal procedures, as well as the role of

35. International Labour Office, "Operational Indicators of Trafficking in Human Beings", (ILO, 2009) Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_105023.pdf.

36. Details of indicators for labour exploitation http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_105035.pdf

the recruiting agents, in terms of their future employment in Cyprus. The misinformation included misleading information to the women regarding their duties (referring to housekeeping only, without mentioning care work or shopkeeping), the scope and hours of work, number of households and family members, holiday and rest period arrangements, their salary including extra-hours pay, and not telling the women about the possibility to change their employer and how the agent could protect the employee should she encounter difficulties with her host family. Some women from the Philippines reported that Cyprus was presented as an ideal place of "transit employment", from where it would be easy to find a job in Canada.

Several interviewees reported to have received very little information regarding their future work, and most of them had no direct contact with their prospective employers. For those who had, the Skype or phone interview in the country of origin was very brief, and it was structured in such a way that left the women with little or no opportunity to ask questions and clarify details regarding their future work and stay in Cyprus. Some of the interviewees had been advised and even warned by the recruiting agents to not ask the employer any questions at the time of the interview. Some agents also strongly encouraged the women to comply with whatever demands an employer might have and to never raise any questions during her employment:

[I]n the agency, what they did it's like, they don't really tell you a lot and they force you, in my agency, because you have to act like very low and not complain. (PH/26/9)

Others reported that they did not want to ask anything themselves, so as to not discourage the employer from hiring them – the fear was predicated by their urgent financial needs. The absence of clear or complete information about the conditions of prospective work was a pattern observed even when a domestic worker looked for a new employer in Cyprus. This is explained by the fact that the period within which a woman is expected to find a new employer, once she receives "a release" from the previous one, is only around three weeks. If she does not find a new employer within this period, her residence permit is revoked; she enters an undocumented status and becomes subject to immediate deportation. Thus, one interviewee reported having been very satisfied with her first employer, however she was released because the family could not afford to pay her, and then she fled the second employer because of the exploitative conditions. As she explained, she could not have foreseen the exploitative situation in the second household because she had had no time to make any inquiries or get to know the family within the two weeks she had to sign a new contract:

I must find a new employer... because if I don't find another employer I'm going to go back, so I grab (an opportunity with a new employer) without asking questions or asking my friend where, what people are they, because I am afraid to go back, I grab immediately. (PH/33/2)

Overall, not one woman reported the recruitment interview and the information presented to be fully clear, transparent or conducted on equal terms. The imbalance of power between the employee, on the one side, and the employer with the agent, on the other side, appeared to be a pattern set from the very start of the recruitment process, leaving domestic workers very little margin for negotiation. The same pattern appeared to be further replicated in the employer–employee relationship, once the women arrived to Cyprus.

The biggest discrepancies between the information provided by the recruiting parties and the actual conditions of employment appeared to be between the tasks of care and house-keeping, and between housekeeping, shopkeeping, and farming.

In the Philippines the job was 'caregiver'... No, after a few months the visa arrived here and I see 'domestic helper'. (PH/45/4)

I started the work whereby in my contract I was not told that this place is a business place... The house, it's very big, downstairs they have a shop, tourist shop, whereby the tourist come in buses, they sell monuments [mementos], you understand, for tourist, whereby sometimes when I start my job I have to work for the shop, I have work for the house too. (KE/32/10)

Beyond the actual exploitation that occurred as a result of the women having been misinformed about the work conditions, the mismatch between the expected and actual duties was particularly negatively perceived by the interviewees who had higher education. Their actual duties not only deprived them of the possibility to apply their skills and qualifications but subjected them to losing their skills and also affected a “downgrade” record on their career documents.

When I seek this job, I mean, because when I was in Philippines actually I was working at a hospital as a volunteer nurse... I thought I was applying as a caregiver and when you arrive here, a housemaid, it is really a bit different in that, right? (PH/40/13)

I applied as a caregiver here, as I know that my job will be a caregiver.....the elderly, bedridden, they cannot walk, they are in the wheelchairs...that is what I expected but, why I am here.³⁷ (PH/33/2)

Most interviewed women stated that they arrived in Cyprus on a three-month entry visa, which was later replaced by a "pink-slip" (temporary residence permit issued to TCNs in Cyprus) issued by the immigration authorities. Getting the temporary residence permit was done by either the agent alone, when the domestic worker's presence was not required, or jointly by the employer and agent, or jointly by the domestic worker, the agent and her employer. Most women did not know, and were not informed about, the exact procedures required to obtain work and residence permits, and they assumed that the three-month entry visa was an official probation period set by the Cyprus government. Some believed that it was legitimate to not have a work permit while on a probation period, which could last up to 6 months:

[W]hat a pity to an applicant that sometimes after 3 months...your boss is, you are still on probation and they did not make you the proper registration, because I knew of someone she is five months here, she was sent back home because she asked for a release but unfortunately in one month time she could not find an employer, so she went back home. (PH/53/6)

Other types of misinformation domestic workers received concerned their salary, the remuneration for the hours of extra work, their working hours, their employment benefits and the protection of their rights by the recruiting agents. None of Filipino and Indian women interviewed had been informed that the social contribution they were to pay in Cyprus would not be remitted to their countries of origin.³⁸

Indicator – Coercive recruitment: Debts accrued for recruitment and transportation resulting in debt bondage at destination.

All the women were asked about the debt they incurred throughout the recruitment process that they subsequently had to repay during their employment in Cyprus. There were two common ways a woman would go into debt. One was when a domestic worker would

37. When interviewed PH/33/2) had just left her employer, with whom she used to work as domestic worker

38. At the time of producing this report, no bilateral agreement exists between Cyprus and Philippines or between Cyprus and India regarding the transfer of social contributions paid by domestic workers. As a result, the social contributions are fully withheld by the Republic of Cyprus.

mortgage her property back home to pay the agent's "placement fee". The other was when she borrowed the money from friends and relatives to cover the placement fee, which she would have to repay once she is employed. The placement fee ranged from €1500 to €4800, and differed in terms of what it covered: in some instances the placement fee would include an air ticket, while in others it was the amount charged exclusively for the recruitment agency's services. When there was an intermediary agent in Cyprus, the placement fee was reported to be split between the two agents.

One woman reported that she had to carry an envelope with the €1800 to give the receiving agent in Cyprus. She was also instructed by the sending agent not to declare this amount to the police, in case she was interrogated:

We were four women, and each carried €1,800 (euro)...The agent told me, "This money, you put in your pocket, but in the airport, when the police checks you, you don't tell them about money, but look well after this money." (NL/37/3)

It can only be speculated what kind of treatment this woman would have been subjected to if she had lost the money or if this amount had been stolen; however, what is clear in that case, is that a domestic worker arriving in Cyprus was used as a vehicle to transfer undeclared income between the two agents.

When the women had to mortgage their property in order to pay a "placement fee", the repayment of the loan was arranged in such a way that it was deducted directly from the domestic worker's monthly salary once the employer deposited it in her bank account. In case the domestic worker had taken out a private loan, she would send the instalments to the country of origin herself via bank transfer or cash-transfer companies.

All respondents said that whichever way they had to repay the placement fee, it was considerably higher than their capacity to repay the debt. This caused the women to be indirectly dependent on their employers, and thus it increased their risk of being exploited and abused. It would take a domestic worker between four months to 1.5 years to repay the debt, leaving the women with little or no means to subsist in those periods and in a situation of indirect economic bondage through which they would feel obliged to comply with any orders the employers might impose. Those women who eventually left the employer because of exploitation and abuse also saw their debt increase, because, before they were granted official release papers and they could find a new employer, they were unable to work, and to continue to repay the loan.

Even though the interviewed women were not in direct debt bondage, their indirect debt bondage³⁹ dramatically impaired the domestic workers' labour mobility and limited their rights, while it increased their chances of being exploited and abused.

Overall, the degree of agents' involvement in the recruitment process appeared to impact all the stages of recruitment, from the interviews in countries of origin, to the negotiations of salary, and to the reporting of violations while the worker is employed. Most interviewees perceived the agent's role negatively, and reported that they would prefer an unmediated communication with their prospective employers; however, they also recognised that only the agents were in the position to compile their supportive documents (insurance, training certificate, tickets, visa) to enable a them to travel to Cyprus.

Indicator – Recruitment by abuse of vulnerability: Abuse of lack of education; abuse of lack of information; difficulty to organize the travel; economic reasons; false information about law, attitude of authorities.

Most interviewed women had either very little or no knowledge about Cyprus, including its laws, its cultural environment and the general situation with regard to domestic work. This could be considered the greatest factor of aggregated vulnerability that immediately exposed the applicants for domestic worker positions in Cyprus to various risks of deception and exploitation. Some women reported that the information they had known about Cyprus was only through advertisements that generally described Cyprus as a perfect destination for employment in domestic work, comparable to Canada or Germany. The women expressed disillusionment with their actual experience and disappointment in the fact that the information they received from the recruitment agents did not represent the reality of work they were applying for. Specifically, several interviewees emphasised that their expectations did not match at all to what they were promised:

(I thought) Cyprus is also a one way step towards to Canada but I was wrong, money is also too tight here and with the placement fee 4,000 something and then the salary is not enough.... Everything turned out to be not what I wanted, what I expected... only one house, but then I am working 2 or 3, is like that... It's the amount of work and yes...more work, less money. (PH/45/4)

39. In a situation of direct debt bondage, a domestic worker would owe money to the employer or the agent. In the interviewed sample, technically, DWs did not owe anything either to the employer or the agent, however, they had to repay the debts to third parties (banks, friends, relatives), and therefore, were indirectly bonded to their current employers.

The following sets of indicators, exploitative conditions of work and coercive employment, appear to score the highest of all trafficking indicators.

Indicator – Exploitative conditions of work: Excessive working days or hours; Bad living conditions; No respect of labour laws or contract signed; Low or no salary; No social protection; Wage manipulation; No access to education.

Excessive working hours and work overload

All but one of the women interviewed reported their working hours to be significantly longer than the daily seven-hour schedule stipulated in their contracts. The minimum reported overtime was three hours per day, with a maximum reported hours of work to be from 5.00 a.m. until 2.00 the next morning on certain days:

They have business next to their house and every time they have party we are there to clean and all the people in their company we serve it...you will wake up 5.00 in the morning and you will sleep 2.00 in the morning, without any extra pay....Every week, three to four times they had party, and you spend your time there and in the morning you have work, you wake up 5.00 until 2.00 in the morning also. You sleep how many hours? Three, two? And then in the morning you will wake up what time? (PH/33/2)

In the contract it says seven hours, is what I really had in mind, like ok, I will go for that, I am going to work for seven hours, like six days a week and I am fine, and when I got here, I was like, "Oh, my God!", I've been working like double, like twice the specific hours stated in the contract, 14-15 hours, yes, it's pretty tiring. (PH/26/9)

For many women, especially those who were restricted from leaving the households on their days off, the overwork gradually resulted in them having a number of psychosomatic symptoms, such as physical exhaustion, weight loss, sleep loss and anxiety. The overwork factor scored the most significant in the indicators of labour exploitation, as well as the most significant reason for domestic workers to decide to ask their employer to release them from the contract in order to apply for a position with a new employer. Several of the interviewees reported that they had tried to negotiate the workload with their employers, but it did not change the situation:

I try to communicate to my employer, she said to me it doesn't matter, the time doesn't matter, after all you came here to work, your work it's to work, you are not supposed to tell me anything, if you want I will call for your tickets, you go back If you are indifferent

to the work. I said to her I am not indifferent to do the work, I come to work, purpose I am here in Cyprus, but she said to me I don't care, I don't mind you have to work. (KE/32 /10)

Round-the-clock work and unregulated (or absence of) rest periods

Round-the-clock duties were another exploitative element that added to the excessive working hours. While the majority of the women had fixed working hours during the day, which would last on average from 7.00 am until 8.00 pm, some women reported working on call. The nature of a domestic worker's tasks contributed significantly to the regulation of working hours: compared to women who had to do cleaning and cooking tasks only, those women performing the duties of care (for older adults and children), as well as nursing (for people who are older or have disabilities), reported having their work distributed around the clock and being asked to work any time during the day or night. That left the women always on call, depriving them of rest periods at all. Thus, one interviewee (NL/37/3) reported that she had to be available at any point during the night, as apart from housekeeping duties, she also had to take care of a 96 year-old grandfather, whose bedroom was next to hers. Because, she arrived in Cyprus to be a domestic worker, effectively she had to work as such during the day, and as a nurse during the night.

It is stipulated in the employment contract under "*Domestic worker shall work 6 days per week, for 7 hours per day, either during the day or the night*". This wording, firstly, makes it unclear whether the work period should be limited to either "during the day" or "during the night" only, and secondly, it leaves it up to the employer to decide how to distribute the domestic worker's labour during 24 hours. These are exploitative terms in that there is no negotiation between employer and employee to agree on when work will be done and when the employee will have a rest period.

According to one interviewee:

You start in the morning [at] 5 o'clock [and] you will prepare the kids for school. [Then] you will finish at 7 o'clock, you will start cleaning the house, ok; after that 10 or 9 you must cook the food, cook ok 12 you finish, and you will set the table, 1 o'clock or 2 they will eat, after 2 o'clock they will finish eating, of course you will clean again to wash the dishes, everything, and then after that will do the homework of the children. Ok how many hours you will spend doing the homework of the children? How many subjects do they have? Ok, not only one, I handle everything, and then after that, ok start half past five you will start again cooking for dinner. How can you rest?" (PH/33/2)

Multiple households

Half of the interviewed women reported to have worked in multiple households, among which only one was the household of their contractual employer (with the other ones belonging to the relatives of the employer, most often parents and children). Sometimes the work duties in different houses were distributed among the official working hours, and sometimes they were extra hours (exceeding seven hours per day) for which only some of the interviewed women were remunerated. The multiple households significantly added to the interviewees' overwork, and it was another factor that influenced their decision to change employer.

At that time when I arrived, I worked with a family: one "papous" (grandfather, and therefore the elder), there were two sisters, one of them has two daughters and I worked in three houses....It was written in the job order that my employer is the daughter of the papou, but I needed to work in the papous' house and it's not written.... So I work for the three houses, but the other sister she pays me every month." (PH/33/2)

Unspecified or unregulated work tasks

About half of the sample did not receive any written (and/or mutually agreed) description of their job, and had to arrive in Cyprus "blind-folded" to discover what their actual work-duties were. For other women who received a "job-order", the tasks indicated in it did not often correspond to what they were expected to do. Overall, the job tasks seemed to be largely up to the employer to interpret, and the domestic worker had to rely their goodwill. While some women reported they had quite conscientious employers, others stated that their employers would use their labour to cover for the widest possible needs of their households: housekeeping, gardening, farm working, shopkeeping and customer care, and taking care of children and older family members.

They have three houses, papous,... and every time they had vacations you have to be there to clean. They have also farm, and you are also responsible to go there to clean, so you don't have peace of mind, your mind is full of loads, you cannot concentrate to it, so you are just thinking without doing, but still you are tired. (PH/33/2)

Additionally, some reported that the tasks they had to perform changed over time, which most often indicated the expansion of their duties towards increased exploitation. This was specifically evident in the case of a woman who was an identified victim of trafficking:

About 3-4 months because I started feeling, my body was becoming weak because the time I came in Cyprus I was 67 kg but I started feeling my body going down, going down...

the condition come worse and worse, my body generally become, start becoming weak of which a start feeling dizzy I start feeling like, like I cannot work anymore. (KE/32/10)

The undefined and unregulated nature of domestic work is stipulated in the domestic worker's work-contract, which states that a domestic worker "shall obey all orders and instructions given by the Employer or his authorized representatives." Some employers seemed to specifically invoke this clause by stating, "You have to obey my order" (IN/36/16), thus implying that all orders by the employer are non-negotiable.

Bad living conditions

Most women said they were satisfied with their living conditions, however some reported the lack of privacy and having to share accommodation with other domestic workers. One woman had to live in a common room used by family visitors, without any privacy at all:

(My room was) like a hallway. They could also wait in the other (room), in the main door, but because our room is close to their company so all the people wait in our room, so we don't have any privacy to take some rest. (PH/33/2)

Wage manipulation, low or no salary

Although most women reported they were not satisfied with their wages, this was not due to the low salary per se, but, as they explained, it was because the wages they received did not correspond to the hours and/or nature of work they had to perform. Most interviewees stated that initially they had believed the salary indicated in the contract would be sufficient, because the recruitment agents in the country of origin had promised that any extra hours of work would be remunerated. As it turned out, most women said the salary they received had to cover all hours of work, therefore making it insufficient. The dissatisfaction with the salaries was also explained by the fact that many women had to buy their own food and they received no Sunday allowances, even though it was indicated in the contract. Combined with very long working hours, this considerably decreased their expected salaries. Additionally, several of the interviewees reported wage manipulation in the form of delayed salary:

The salary, sometimes she paid me after 2 months, sometimes after 3, but she used to pay me, sometimes she said to me "relax, after, don't mind, I will pay in future." (KE/32/10)

No interviewee reported that their wages were completely withheld by either the employer or agent, but two women said that for the first three months their salary was transferred directly to the agent's bank account (to cover the loan), bypassing the domestic worker herself. This left the women without any money at all and completely dependent on their employers.

The interviewees believed that such a procedure of direct money transfer (employer to agent / employer to bank) was legitimate, however they confirmed it had not been agreed upon and they expressed frustration because they had been left without any means for several months. As mentioned before, several women reported delays in salaries, no allowance on Sunday, as stipulated in the contract, and salary cuts, according to the ministerial decision, about which they had not been warned and which was not reflected in their contracts. All women except one reported that they received no extra payment for working extra hours in the households of their designated employers, except when they worked extra on their day off.

Indicator Coercion at destination: Detained; Forced tasks; Confiscation of documents; Debt bondage; Isolation, confinement or surveillance; Threat of denunciation to authorities; Use of violence; Withholding of wages.

Several interviewees reported their employers had threatened to revoke their contracts and deport them. This was specifically apparent in the cases when women tried to negotiate their working conditions and their rights under the contract in the first three months when their status was “visitor” and the final work permit had not yet been issued from the immigration authority:

They keep me in their house without paper and if you want to go away you cannot, no. You cannot complain whether your salary is given to you or not. You cannot complain because you don't have paper, and they will scare you to send to the immigration, to call the police. (PH/33/2)

Additionally, three of the interviewees reported their employers used physical violence on them and also verbally assaulted and threatened them. They explained that the violent incidents occurred when the women tried to negotiate their working conditions and eventually led them to flee their employers. None of the three women reported the violence to the police. Instead they wanted to seek help and informal support from migrant women's communities and/or NGOs, in order to change the employer without having to deal with the police.

Withholding personal documents

All but two of the women reported that their personal documents (passports, work and residence permit, and insurance) had been withheld from them, either by their employers or the agents. The women received no justification for these documents to be withheld and most believed that it was a legitimate right of the employer to do so. Some women expressed understanding their employers and explained that they knew the employers were afraid a domestic worker would leave, and therefore it was in their best interest to take the woman's passport.

Those women who ran away from their employers either subsequently regained their documents after negotiation or had to report them as lost to the police and embassies.

Other elements of violence and discrimination

a) Sexual violence

Even though sexual violence was not a subject of this study and no questions on that subject were included in the questionnaires, drawing on the results of the recently concluded Commun-AID research project,⁴⁰ as well as the research conducted by Agathangelou,⁴¹ it is clear that exploitation in domestic work often intersects with other forms of violence against women, with sexual violence being one of the most serious and most hidden gender-based crimes within this sector. In the process of conducting the interviews, the research team learned from the informants that a number of the interviewees had also been subjected to sexual violence, but they did not want to address this subject in the interviews. The fear of disclosing the instances of sexual violence within the wider experience of exploitation appeared to be a deterring factor that made some women reluctant to narrate their stories in-depth. Only one woman, who was an identified trafficking victim, presented her full story, that included explicit elements of severe sexual violence (rape), and it is understood that her willingness to talk about it was due to the fact that she had been granted protection and full access to legal help.

b) Racial and ethnic discrimination

A climate of racial discrimination and disrespect towards domestic workers was reported by all of the interviewees either in reference to their personal experience or in describing the general treatment of domestic workers in Cyprus. Some women emphasised that discriminative attitudes had direct impact on their relationship with the employer, their work performance and their decision to leave the job. Others referred to it as an inevitable part of the host-country's culture that they had to accept and find ways to deal with:

It's very hard to accept. [It] is very hard that other people treat us like that, you know. They cannot believe that in your struggle in life, that you finished your degree and that when you come to other nations like this they will treat you like a slave, and more than that. (PH/33/2)

40. Commun-AID project "Increasing the capacity of domestic workers to respond to sexual violence through community based interventions". Available at <https://www.teicrete.gr/communaaid/?q=content/home>.

41. The widespread problem of sexual violence, as an additional gendered element of domestic workers' exploitation, was described by Agathangelou in the research she conducted in 2001-2003: "Domestic workers are always at risk of sexual violence from the husbands and sons of the bourgeoisie. Many domestic workers I talked to brought up the issue of sexual violence and violation" (Agathangelou, Anna M.. *The Global Political Economy of Sex: Desire, Violence, Insecurity in the Mediterranean National States*. New York: Palgrave MacMillan, 2004, p.80)

Other people from here, like when they know you are a domestic helper like they look at you like, I know some other will treat you like a piece of shit, they treat you like that, I don't know why is that? (PH/26/9)

Purpose of exploitation

One of the main elements in the definition of trafficking in the EC Directive on THB, as well as in the CoE Convention and the Palermo Protocol, is the purpose of exploitation for which a victim has been trafficked. This means the recruiters, traffickers, as well as the party who hires the victim, deliberately and premeditatedly design to exploit the person. The purpose of exploitation is what distinguishes trafficking from other types of crimes related to the movement of people, such as, for example, smuggling of migrants. Compared to trafficking, the purpose of smuggling is to gain immediate financial or other material benefit by moving people across international borders, and it is a crime against the state, rather than the individual.

From the sample interviewed, only two women had been brought to Cyprus by an agent who had a clear, premeditated plan to exploit them. The recruiter was the employer herself. One woman (VT/ 32/15), recruited through another domestic worker, rather than an agency, was interviewed directly by her future Cypriot employer who misinformed her regarding the working conditions as well as the legal arrangements. Consequently, the employer exploited her and violated her rights and freedoms by withholding her passport, limiting her freedom of movement, as well as verbally and physically abusing her. This case appeared to present all the elements of THB, however, as reported by an NGO representative who handled that case, it was not recognised as such by the police.

In all other cases where both deceptive recruitment and exploitation were present, it cannot be concluded with any certainty whether the premeditated design to exploit existed in the first place, or, whether the final exploitation, that was also preceded by fraud, misinformation and/or abuse of vulnerability, was the result of negligence on behalf of the recruitment agencies and the lack of state regulations of domestic work. The factors that are part of the wider context of domestic work in Cyprus (conditions of domestic work, live-in status, exclusion from labour protection, role of agents, contract terms, and the migration policies that are unfavourable to migrant workers) create a *de jure* exploitative environment, and it can be said these factors create a purpose of exploitation. It is difficult, however, to limit this purpose to any specific party involved in bringing women for domestic work to Cyprus. Rather, it can be described as a set of unfavourable and exploitative conditions that when

combined act as a trigger (and a purpose) for what eventually, in certain instances, can be defined as trafficking for exploitation in domestic work.

Awareness, reactions and coping strategies of domestic workers

Even though the interviews with domestic workers did not include questions with explicit definitions of trafficking and exploitation, it can be concluded that all interviewees had a solid degree of understanding of what would be defined as exploitation and/or their de jure work obligations. When expressing their dissatisfaction with the conditions of work and the treatment their employers gave them, most women mentioned the work contract as a concrete reference to their rights and duties, as well as the obligations of their employers. Specifically, in terms of multiple households, excessive hours of work, and days off, all the interviewees were aware that those diverged significantly from the conditions outlined in the contract. They also referred to the employers' obligations to provide food and to cover for basic necessities, which many employees failed to do:

They are responsible. They are responsible for our needs because it belongs in our contract. (PH/33/2)

At the same time, almost all women mentioned their personal responsibility in choosing and continuing the work, thus also emphasising their individual agency, that they believed was important:

[I have] nothing to regret because this is my choice, but as I arrived I was amazed that is like, it's not different from the Arab countries. (PH/33/2)

You just can't say, "Mum, I wanna go home, I am tired." You just can't because you made a decision, it was all mine, so I have to stand for it, I am going to make it." (PH/26/9)

The self-perceived agency of a domestic worker vs. the inbuilt exploitative conditions within which she is bound to exercise her agency is an important dynamic in terms of identifying and addressing both trafficking and exploitation. Research on women victims of domestic violence, gender-based violence and prostitution, points out that the women who experienced violent conditions often tend to diminish the degree of abuse and to emphasize their personal agency in the face of various acts of discrimination to which they have been subjected.⁴² Nevertheless, the obvious contradiction between understanding the situation

42. See Lenore E. Walker, *The Battered Woman*. (New York: Harper & Row, 1979) and Dee L.R. Graham, with Edna I. Rawlings and Roberta Rigsby. *Loving to Survive: Sexual Terror, Men's Violence, and Women's Psychology*. (New York: NYU Press, 1994).

of violation and the personal choice to be subjected to this violation, further highlights the grey boundary between the legal and the illegal in domestic work that persists for no other reason than the lack of the regulation in this labour sector.

Conclusions

In order to uncover and understand the trafficking for purposes of exploitation in domestic work, it is important to scrutinise the wider context of domestic work in Cyprus, as well as the wider context of exploitation of female migrants and the migration policies that regulate their condition in Cyprus. Trafficking in migrant women for domestic work can be characterised as one of the most severe forms of exploitation, however, not all exploitation taking place in domestic work necessarily entails trafficking. While only a few cases of the interviewed sample appeared to exhibit all THB elements, the majority of the interviewed women presented a number a trafficking elements with no easily identifiable purpose of exploitation.

The indicators of THB, developed by the ILO and the EC, were further applied in a pilot test to a sample of returned migrant workers in Moldova, and several categories of migrants were identified:

- Successful migrants (no deception, no exploitation, no coercion)
- Exploited migrants (exploitation without deception or coercion)
- Victims of deception and exploitation (without coercion)
- Victims of trafficking for forced labour (deception, exploitation and coercion)

Thus, in line with the ILO/EC Protocol, and following similar categorizations, it can be said that at best most of the women interviewed can be defined as victims of exploitation and coercion through recruitment that involved various degrees of deception, in other words deceptive recruitment exploitation.

Even though the purpose of this research was not to identify victims of trafficking, and the interviewed sample does not allow one to draw general conclusions about the prevalence of trafficking of women for the purposes of exploitation in domestic work, the research results strongly suggest that elements of trafficking, specifically deceptive recruitment and exploitation, are present and easily identifiable in the domestic work sector in Cyprus. Whether these two elements are also indicative that the purpose of exploitation exists, and whether, indeed, trafficking for domestic work presents a greater problem than exploitation in domestic work and unregulated recruitment procedures are the questions that arise from the results of this study.

Migration in Cyprus has certain specific characteristics, such as it was inherited from British Colonial migration law that relied heavily on labour performed by migrant domestic workers, and recruiting agencies (in both Cyprus and the sending countries) are unregulated and play a major role in the process. These make it particularly difficult to draw clear lines between cases of trafficking and cases of exploitation. This is a problem at the policy level because of the legal deficit in the area of labour regulation on the one hand, and excessive migration control, that monopolizes regulation of domestic work, on the other. Consequently, this legal deficiency is used by recruiting agents whose main objective is immediate profit. While their work is supposed to facilitate the process of recruitment and also to protect the interest of domestic workers, in reality, they appear to only complicate and financially burden this process, place domestic workers in the situation of near-debt bondage, impede their direct communication with the employer, provide no protection to domestic workers once they arrive in Cyprus, and, at times, act as exploiters themselves. Driven by the purpose of immediate financial gain – rather than exploitation that would generate further profit – the agents appear to contribute to the chain of events, that in certain instances lead, or potentially lead, to trafficking. At the same time, the exploitative conditions of work – set de jure in the Ministry of Interior's contract, and de facto unregulated by the Ministry of Labour, Welfare and Social Insurance – foster the environment in which domestic workers' rights and freedoms are abused, and blur the lines between trafficking and exploitation even further.

What is significant in terms of addressing THB is that the negligence of the state, combined with the unregulated engagement of mediators in the recruitment process, creates the environment in which the cases of trafficking might not easily be identified, and, in some instances, might be completely overlooked. This, in itself, exacerbates the vulnerability that any domestic worker has to being trafficked, and, should they become victims, it places their rights to justice, protection and support at risk.

At the same time, there is no effective labour protection for domestic workers in Cyprus, and the measures offered under the anti-trafficking legislation, specifically under the newly transposed EC Directive on trafficking, appear to be the only adequate mechanisms through which potential victims of labour exploitation may be able to access justice. This is an extremely problematic situation, as it is evident that very few victims of labour exploitation, and only in the cases of severe abuse, will be able to enjoy protection under the trafficking law. Therefore, it may be concluded, that as long as the regulation of domestic work in Cyprus remains the Ministry of Interior's responsibility, and as long as no serious steps are taken to regulate the work of the agents, the real cases of trafficking that might exist within the sector, are at risk of being invisible.

As it can be seen from the above analysis, most violations the interviewees experienced could have been prevented and/or redressed if Cyprus had created the legal mechanisms to deal with labour protection and regulation of domestic work. If this was the case, elements of trafficking, such as exploitation and coercion at destination, would be addressed under the labour rights, while the elements of deceptive recruitment could be tackled through bilateral agreements and strict regulation of the work done by recruiting agents both in Cyprus and in the countries of origin. In the absence of either conditions, and, in the context of all other exacerbating factors in Cyprus (weak or non-existence state welfare, persistently gender-based labour segregation, and weak measures to integrate migrants), the indicators of THB, indeed, might appear to be the most adequate frames applicable for the instances when violations are identified.

It is apparent, however, from the above discussion, that relying on those indicators is neither adequate nor realistic. Rather than extending the anti-trafficking measures towards the victims of labour exploitation, what needs to be done, is to create better labour and migration regulations – based on gender-equality principles and enshrined into the human rights framework – that would prevent, address, and redress the violations of domestic workers' human rights and worker's rights that are widespread within the sector. To achieve this, the government of Cyprus must take concrete and immediate steps, in line with a number of international instruments, to which the Republic of Cyprus is already a signatory.

Recommendations

Legislative

1. Introduce gender mainstreaming into migration policy and include domestic workers as a group in all integration measures.
 - Female migrant domestic workers constitute the largest part of the migrant population in Cyprus. However, as such, they are consistently invisible across a range of migration policies. The gender-determined risks of violence and exploitation, their gender-specific needs and their rights should be clearly defined and accounted for in the NAPs on Migration and Integration.

2. Introduce migration mainstreaming into gender equality and social inclusion policies.
 - The needs and rights of domestic workers should be acknowledged and accounted for, without bias against their migration status, in the NAP on Gender Equality and in measures on Violence against Women, Sexual and Reproductive Rights, Access to Justice and Equal Treatment in Employment.

3. The residence permit and the work permit should be disconnected.
 - The binding relationship between the two permits can be considered one of the gravest risk-factors, because domestic workers who are exposed to exploitation in their employers' household do not and cannot report violations and seek justice. It has been emphasized numerous times in the past, and brought to the attention of Cyprus's government, that disconnecting the two permits will alleviate domestic workers' exposure to exploitation and will afford better regulation of the sector. It will also decrease the dependence of domestic workers on recruiting agents, who, currently, maintain the power in negotiating a new work and residence permit for a domestic worker who seeks to change her employer.

Coherent legal framework

As was demonstrated above, the instruments on THB on their own will not be effective in addressing THB in the domestic work sector. There is a need for a comprehensive and gender-sensitive legal framework, comprised of the following gender, migration, labour and THB instruments, to address the problem:

1. Urgent Ratification of ILO Convention 189 on Domestic Work
 - The Convention is the only international instrument that sets explicit labour standards for all documented domestic workers. Its ratification will imply a number of legislative changes, including the transference of the domestic worker sector to the Ministry of Labour and modification of the current employment contract. So far, adoption of this convention has faced reluctance from the government of Cyprus.
2. Ratification of the Council of Europe's Convention on Violence against Women and Domestic Violence
 - The Convention, the only comprehensive framework on prevention and elimination of violence against women, regardless of their status, has the potential to ensure DWs have access to justice in cases of THB, as well as exploitation and deception.
3. Transposition and implementation the Directive 2012/29/EU establishing minimum standards of rights, support and protection for victims of crime.
 - Together with the Council of Europe Convention on Violence against Women, this directive provides a domestic worker access to justice and protection should she be a victim of THB, regardless of her migration status.
4. Correct implementation and monitoring of the Directive 2011/36/EU on THB
 - The recently transposed directive sets clear standards and obligations in the areas preventing and combatting THB and offering victim protection, taking into ac-

count the gender perspective (Article 1). The state obligations listed under the directive are: installing a coherent inter-agency framework for identification (Article 18.3), assisting (Article 11) and protecting victims of THB (Article 12), providing access to existing schemes of compensation to victims of violent crimes of intent (Article 17), not prosecuting victims (Article 8), and monitoring and gathering of statistics (Article 19). It also provides a framework for punishing those who incite and aid in THB (Article 3) that can be used to address recruiting agents suspected of abetting THB. Similarly, it sets the standards for punishment for persons who might employ domestic workers who have been trafficked, which includes revoking the right to recruit a domestic worker.

Regulation of domestic work as labour category

1. Full and complete transference of regulation of Domestic Work from under the Ministry of Interior & Migration Department and the Council of Ministers to under the Ministry of Labour

2. Strict regulation and licensing of recruitment agents
 - The proliferation of recruiting agents who benefit from domestic workers' vulnerability and their low levels of awareness of their rights is one of the factors that contributes greatly to the risk of trafficking and exploitation in this sector. There is an urgent need to set clear requirements, as well as penalties for non-compliance with such, for recruiting agents who operate in Cyprus and also maintain offices in the sending countries.

3. Insure access of labour inspection to a domestic worker's place of work
 - Privacy of household, within which a violation may occur, is one of the strongest factors permitting the exploitation and coercion within the sector. The government of Cyprus needs to take concrete legislative steps towards providing transparency of domestic workers' employment conditions and employers' accountability.

Contractual

1. Make the contract modifiable and flexible, with reference to labour rights, collective agreements and minimum wage standards, that would grant equal negotiating powers to both employee and employer with regards to conditions of work and remuneration.
2. Introduce into the contract differentiated and clearly defined labour categories which include job duties, under which a domestic worker is employed in a private household: (a) household maintenance, (b) care of sick and disabled people, (c) childcare, and (d) care of old age people.
3. Clearly define within the contract the employers' responsibilities and penalties for not adhering to them or for violating the rights of domestic workers.
4. Set specific and clearly defined rules, standards and checklists for persons hiring a domestic worker under a live-in status. Those standards should be designed with reference to labour codes of Cyprus, ILO Convention on Domestic Work, as well as the Cyprus Constitution and European and international human rights instruments, to ensure the domestic workers' rights, such as the right to privacy, dignity and freedom of movement.
5. Provide and ensure access to labour benefits that are available to other categories of workers, such as maternity leave and maternity benefits, annual leave and comprehensive health insurance.
6. Change from "temporary worker" status to "migrant worker" with the possibility to apply for long-term residency.

While theoretically DWs have the right to apply for a long term residency in Cyprus under long-term residency Directive 2003/109/EC the migration status of Temporary Worker that a domestic worker receives deems her ineligible for long-term residency.

7. Access of domestic workers to labour unions and ensuring their rights for self-organisation should be respected within the contract.

Awareness-raising and training

1. Train professionals from different agencies who might come in contact with potential victims of THB for DW, including the labour relations department, police, migration department.
2. Distribute information to employers to raise their awareness regarding the standards of decent employment of domestic workers.
3. Distribute information to domestic workers already working in Cyprus to raise their awareness about their rights in employment, the rights of victims of THB and standards

of decent employment. This could be done in the forms of workshops, training sessions and handing out printed media.

Relationship with sending countries

The Cyprus government should take concrete and pro-active steps in regulating the movement of domestic workers between the sending countries and Cyprus, at the intergovernmental level and through a series of bilateral agreements. These should include monitoring recruitment practices (including deceptive recruitment) in the sending countries; asking Cyprus's embassies in the sending countries to take a proactive role; entering bilateral agreements on transference of the social contributions of domestic workers; and running information campaigns for potential domestic workers in sending countries.

ISEC THB ANNEX IDENTIFIED INDICATORS CYPRUS

6 Sets of indicators	Identified Indicators (S) – Strong, (M)- Medium, (W)- Weak						
Deceptive recruitment (or deception during recruitment, transfer and transportation): 10 indicators	(M) Deceived about conditions of work	(M) Deceived about housing and living conditions	(M) Deceived about legal documentation or obtaining of legal migration status	(S) Deceived about the nature of the job, location or employer	(M) Deceived about wages/ earnings		
Coercive recruitment (or coercion during recruitment, transfer and transportation): 10 indicators	Identified Indicators in the interviewed sample (n15): 5 out of 10 (M)4; (S)1						
Recruitment by abuse of vulnerability: 16 indicators	(M) Debt bondage (debts accrued for recruitment and transportation resulting in debt bondage at destination)						
Exploitative conditions of work: 9 indicators	Identified Indicators in the interviewed sample (n15): 1 out of 10 (M)1						
Coercion at destination: 15 indicators	(M) Abuse of lack of education (language)	(M) Abuse of lack of information	(W) Difficulty to organize the travel	(M) Economic reasons	(M) False information about law, attitude of authorities		
Abuse of vulnerability at destination: 7 indicators	Identified Indicators in the interviewed sample (n15): 5 out of 16 (M)4; (W)1						
	(M) Bad living conditions	(S) Excessive working days or hours	(W) No access to education (language courses for DWs)	(M) No respect of labour laws or contract signed	(M) Low or no salary	(M) No social protection (contract, social, insurance, etc.)	(M) Wage manipulation
	Identified Indicators in the interviewed sample (n15): 7 out of 9 (W)1; (S)1; (M)5						
	(M) Forced tasks	(S) Debt bondage	(S) Isolation, confinement or surveillance	(M) Threat of denunciation to authorities	(M) Threats of violence against victim	(M) Under strong influence	(S) Violence on victims
	Identified Indicators in the interviewed sample (n15): 9 out of 15 (S)4; (M)5						
	(M) Dependency on exploiters	(M) Difficulty to live in an unknown area	(M) Economic reasons				
	Identified Indicators in the interviewed sample (n15): 4 out of 7 (M)4						

ISECTHB DW ANNEX LIST OF INTERVIEWEES DWs

	Country of Origin	Age	Family status	Education	Years in CY	Interview date	Code
1	Sri Lanka	40	Married/1 child	Secondary + cert	8 months	05/05/14	SR/40/1
2	Philippines	33	Single	Higher	6 years	11/05/14	PH/33/2
3	Nepal	37	Married/1 child	Secondary	9 months	29/05/14	NL/37/3
4	Philippines	45	Separated/2 children	Higher	4.5 years	11/05/14	PH/45/4
5	India	45	Married/2 children	Primary	4.5 years	25/05/14	IN/45/5
6	Philippines	53	Married/2 children	Higher	10 years	01/06/14	PH/53/6
7	Philippines	46	Single	Higher	8 years	1/06/14 and 15/06/14	PH/46/7
8	Philippines	31	Single	Secondary	1 year	08/06/14	PH/31/8
9	Philippines	26	Single	Undergraduate	2 years	08/06/14	PH/26/9
10	Kenya	32	Single/1 child	Higher	3.5 years	13/06/14	KE/32/10
11	Philippines	33	Single	Higher	3.5 years	15/06/14	PH/33/11
12	India	27	Married/1 child	Secondary	4 months	16/05/14	IN/27/12
13	Philippines	40	Married/1 child	Higher	5 years	24/05/14	PH/40/13
14	Philippines	37	Single/one child	Higher	1 year 4 months	24/04/14	PH/37/14
15	Vietnam	32	Single	Secondary	8 months	21/04/14	VT/32/15
16	India	36	Married/2 children	Secondary	10 months	28/04/14	IN/36/16

ANNEX III

List of interviewees stakeholders

- Ministry of Interior
- Labour Department of the Ministry of Labour, Welfare and Social Insurance
- Office for Combating Trafficking in Human Beings, Cyprus Police
- Commissioner for Administration and Human Rights
- Pancyprian Federation of Labour (PEO)
- Action for Support Equality and Antiracism
- Caritas Cyprus

Information was gathered from legislation, policies, strategies

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ΚΥΠΡΙΑΚΗ



ΔΗΜΟΚΡΑΤΙΑ

ΥΠΟΥΡΓΕΙΟ ΕΣΩΤΕΡΙΚΩΝ
ΤΜΗΜΑ ΑΡΧΕΙΟΥ ΠΛΗΘΥΣΜΟΥ ΚΑΙ
ΜΕΤΑΝΑΣΤΕΥΣΗΣ

ΣΥΜΒΑΣΗ ΑΠΑΣΧΟΛΗΣΗΣ

MINISTRY OF INTERIOR
CIVIL REGISTRATION AND
MIGRATION DEPARTMENT

CONTRACT OF EMPLOYMENT

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CONTRACT OF EMPLOYMENT

Agreement made on the between
 Name
 Address
 Telephone
 Employer's Registration Number (Social Insurance)
 (hereinafter called "THE EMPLOYER") on the one part

and

Name
 Nationality Sex
 (hereinafter called "THE EMPLOYEE") on the other part, covering the following:

1. (a) The Employer shall employ the Employee and the Employee shall work exclusively for the Employer to the post/occupation at his residence. The present agreement covers the period of months from the day the Employee begins work according to this contract.
- (b) The Employer shall deposit with the Civil Registry and Migration Department a bank Guarantee of € as security for travel expenses of possible repatriation of the Employee. In case the Employer is a Diplomat, he shall provide a letter to the Civil Registry and Migration Department acknowledging acceptance of financial responsibility to repatriate the Employee (not applicable if the employee is a EU citizen or citizen of an acceding country).
- (c) The Employee's entry residence and employment shall be subject to the provisions of the Aliens and Immigration Laws and its relevant Regulations.

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- (d) The Employee shall undergo a medical test, at the time of his/her arrival in order to provide a certificate that he/she is free from contagious diseases. Medical expenses shall be paid by the Employer.

2. The Employee

- (a) Shall not be allowed to change Employer and place of employment during the validity of this contract and his Temporary Residence/Work Permit.
- (b) Shall work 6 days per week, for 7 hours per day, either during the day or the night and shall perform his duties or any other duties relevant to his employment according to the requirements of the Employer, and shall obey all orders and instructions given by the Employer or his authorized representatives and shall cooperate with the rest of the Employer's staff and contribute to the utmost of his abilities in promoting the interest of the Employer, protect his property from loss, damage etc. and without delay inform the Employer or his responsible representative of any such loss, theft, etc. that may come to his attention.
- (c) Shall obey and comply with all orders and instructions of the Employer and faithfully observe the rules, regulations and arrangements for the time being in force for the protection of the Employer's property and in general the good execution of the work.
- (d) Shall produce work of the highest standards and in no way inferior in quality and quantity to the work produced by skilled or unskilled workers of the same specialization/occupation in Cyprus.

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- (e) During his employment, shall not, in any way (except so far as may be proper in the ordinary course of his duties) divulge or make known any information relating to his employer or his business or any of his customers or any other information which may come to his knowledge.
- (f) Shall not at any time be guilty of any act or conduct which may cause damage, according to the judgment of the Employer, to his property/interest or reputation, and shall in all respects and all times conduct himself with propriety and decorum, and in particular shall obey and comply with all the law, rules and regulations for the time being in force in Cyprus.
- (g) Shall not be entitled in any way and for any reason to any increase of his fixed salary, unless it is provided under this contract or it considered appropriate by the Employer.
- (h) Shall not engage, contribute or in anyway, directly or indirectly take part in any political action or activity during the course of his stay in Cyprus and shall observe faithfully the laws governing the conduct and behaviour of aliens.

3. Emoluments and Fringe Benefits

The Employer shall pay the following emoluments and fringe benefits to the Employee during the course of the above employment.

- (a) The amount of €..... per month, for 42 hours work per week.
- (b) The Employee shall be entitled to 24 working days annual leave with full pay. Also the Employee shall be entitled to the following 9 official holidays with full pay: 1st January, 6th January, Easter Saturday, Easter

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Monday, 1st May, 15th August, 1st October,
25th December and 26th December.

P.S. The transfer of money outside Cyprus is subject to the provisions of the Exchange Control Law, Cap. 199, and to any additional conditions which may be required by the Central Bank of Cyprus.

4. The Employer

- (a) Shall provide to the Employee suitable accommodation and food free of charge, or pay an equivalent amount for these expenses in addition to the salary fixed in paragraph 3(a) above.

- (b) Shall provide Industrial Accidents and Health Insurance, for hospital (min coverage € 8,543 per year) and non-hospital treatment, respectively. The cost of the Insurance shall be equally divided between the Employer and the Employee (50% the Employer and 50% the Employee).

- (c) Shall open a current bank account denominated in Cyprus pounds. This account must be credited with net salary of the Employee at the end of each month. Copy of the said account should be submitted to the Civil Registry and Migration Department and/or the Immigration Service of the Cyprus Police and to the Ministry of Labour & Social Insurance, whenever is required.

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- (d) Shall not deduct from the Employee's salary directly or indirectly.
- a. any part of the fees paid/to be paid to the Government of the Republic of Cyprus for the issue of the Employment Permit,
 - b. any part of the Employee's travelling expenses to and from Cyprus.
 - c. any part of fees paid to an Employment Agency.
- (e) Shall be obliged to contribute regularly to the Social Insurance Scheme the sum, for the benefit of the Employee, in compliance with the provisions of the relevant Social Insurance Legislation. The Employer undertakes to make the necessary arrangements with the District Labour Office (Ministry of Labour and Social Insurance) at the address of residence of the Employee.
- (f) Shall pay all contributions which are provided by the Cyprus Laws.
- (g) Shall provide sick leave for days according to the Cyprus Legislation.
- (h) Shall have the right to terminate the services of the Employee and shall make arrangements for his repatriation in case where the Employee is absent from work due to illness, not attributed to accident coverable under the Industrial Accidents Act, for more than one month. In such a case the Employer shall have no other commitment or responsibility towards the Employee.

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5. General Terms

- (a) Any dispute in respect of this contract shall be governed by the Law/Regulations applicable and in force. The decision of the arbitration shall be binding on both parties. During arbitration a member of the Embassy/Consulate in Cyprus may be present. In case of disciplinary proceedings, the Employee will be given an opportunity to explain his case.
- (b) If the Employee at any time disobeys or neglects or refuses to carry out or comply with all lawful instructions given to him by the Employer or his representatives on the basis of this contract, or if he is found guilty of consumption of alcoholic drinks, or gambling, or unjustified absence from his work, or if he violates the Laws of the Cyprus Republic, the Employer may immediately dismiss him from his work by giving him written notice and he shall be repatriated.
- (c) Breach of any of the clause of this contract will automatically cause the termination of this contract as well as the validity of the Employment and Residence Permit.
- (d) Each party may cancel this contract under the terms and Conditions provided by the Termination of Employment Law, 1967, giving at least one month's notice to the other party. In such case the Employer shall pay to the Employee all arrears of salary and the Employee shall accept the same in full discharge of all claims whatsoever. If any of the parties to the present contract violates any of its terms and conditions, the other party has the right to claim damages.

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- (e) This contract shall be null and void if the Director of the Civil Registry and Migration Department refuses to grant a Temporary Residence (Employment) Permit to the Employee as provided by the Aliens and Immigration Legislation applicable in Cyprus.

- (f) The conditions included in such Permit shall form part of this Contract and shall be binding on both parties.

In witness thereof the parties here have set their signature in the presence of witnesses, on the date first above mentioned.

Witnesses

The Parties

1.

1.
The Employer

2

2.
The Employee

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3

DOMESTIC WORK AND TRAFFICKING IN HUMAN BEINGS IN GREECE: A CROSSROADS IN THE DARK?

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INTRODUCTION THE GENDER OF MIGRATION IN CONTEMPORARY GREECE

Greece has been traditionally known as a major emigration country. From the mid-1970s, however, the migration balance became positive and never ceased to be positive until today. The inflow of migrants was initially based on the return of Greek emigrants, while migrants of foreign citizenship started to appear in significant numbers after the mid-1980s. From the mid-1990s onwards, migrants with foreign citizenship outnumbered those with Greek citizenship, establishing the contemporary pattern of immigration to Greece.

Inflow of immigrants, 1960-2011



Source: Hellenic Statistical Authority (EL.STAT.), 2011 Population and Housing Census: Migration, Piraeus, 5 September 2014.

Women have played and continue to play a significant role in the short history of contemporary immigration: among the people who migrated to Greece during the five years prior to the 2011 Census, 47.8% were women; more particularly, among non-Greek migrants this percentage rose to 48.3% (ELSTAT 2011). Apart from the quantitative verification of the feminization of migration, the *Gender of Migration* (Vaiou and Sratigaki 2009) implies also and redefines all qualitative aspects of embodied experiences of both women and men migrants, in both sending and receiving countries.

Female immigration to Greece has been thoroughly discussed and researched, particularly during the last decade. Several publications on domestic work, and more particularly on

female migrant domestic workers have appeared.¹ In fact, domestic work seems to be the main pattern of female immigration to Greece, not only in the case of individual immigration for economic reasons, but also when it comes to family immigration. Even in the case of women who enter the country through the legal path of family reunification, as dependents of their male partners who had previously immigrated, most of them find domestic work a plausible way to contribute to the household income.

The study of the European Regional Office of the United Nations Human Rights, Office of the High Commissioner, based on ILO database of labour statistics, estimates the number of domestic workers in Greece, in 2008 to be 68,100 persons.² Most if not all are women and are coming from several countries, of which the most important are Albania, the Philippines, Africa, Bulgaria, Moldova, Ukraine and Romania. Although migrant women have been predominantly working as domestic workers, blatant contradictions between legal framework and social realities remain. All reports and studies acknowledge first of all that the real numbers of migrant domestic workers are certainly higher, since “none of these statistical data (...) take into account the actual numbers of persons employed irregularly, within the ‘shadow economy’, in ‘atypical relationships’ outside any legislative framework.”³ Secondly, although domestic work is still for the most extremely flexible – and even informal – its regulation is still characterised by a rigid and tangible Fordist-like framework. Therefore, migrant domestic work and domestic work in general are regulated, as we mention below in the relevant section of the report, more or less by the general migration and labour legislation; there are few exceptions of provisions addressing specific problems of domestic workers that are related to the requirements for the renewal of residence permits in the case of migrants, e.g. decreased number of working days per year, or the effort to combat undeclared work through the introduction in 2011 of a voucher system which includes employers’ social security contributions in the case of all domestic workers.

1. See among others Tastsoglou, E. & Maratou-Alipranti, L. (eds), “Special Issue Gender and International Migration: Focus on Greece”, *The Greek review of social research*, 110, 2003; Kambouri, N., *Gender and Migration. Volume II: Everyday life of migrant women from Albania and Ukraine*, Athens, Centre for Social Morphology and Social Policy (KEKMOKOP), Department of Social Policy of Panteion University of Social and Political Sciences - Gutenberg, 2007 (in Greek); Psimemos, I. & Skamnakis Ch., *Domestic Work of Migrant Women and Social Protection. The case of women from Albania and Ukraine*, Athens, Papazissis, 2008 (in Greek); Parsanoglou, D. & Tsiamoglou, J., “National Report: The Case of Greece”, in Mediterranean Institute of Gender Studies (MIGS) – University of Nicosia, *Integration of Female Migrant Domestic Workers: Strategies for Employment and Civic Participation*, Nicosia, University of Nicosia Press, 2008; Papataxiarchis, E., Topali, P., Athanassopoulou, A., *Worlds of domestic work. Gender, migration and cultural transformations in early-21st century Athens*, Athens, Alexandria, 2009 (in Greek); Bellas, Ch.F. (ed.), *Domestic work and social integration of migrant women in Greece of economic crisis*, Athens, University of the Aegean Press, 2012 (in Greek).

2. U.N. Human Rights, Office of the High Commissioner, *Rights of Domestic Workers in Europe*, p. 8, (2010), Available at http://europe.ohchr.org/Documents/Publications/Study_Domestic_Migrant_webversion.pdf.

3. U.N. Human Rights, Office of the High Commissioner, *Rights of Domestic Workers in Europe*, p. 8, (2010).

In Greece, several studies and reports have shown that the most recurrent form of domestic work is that of live-out domestic workers with multiple employers. It is a precarious form of work, which does not involve official contracts, specific timetables and payment, but depends mostly on informal bargaining, agreements and arrangements between employers and employees. Although it is a very uncertain profession, since employers have the capacity to interrupt without prior notice the working relations, it often offers migrant women a sense of autonomy and control over their lives. On the contrary, the live-in domestic sector in Greece, which is equally precarious in terms of payment, working hours, tasks and rights, scarcely offers opportunities for autonomous and independent work.⁴

Our research showed that live-in domestic workers experience much more pressure to work overtime without extra payment, to offer additional services than the ones originally agreed as well as to accept degrading living and working conditions in order to secure a basic income. Thus, most of the cases of exploitation or over-exploitation by employers that we encountered during the research concerned migrant domestic live-ins. Factors such as the lack of social contacts and language competence, economic need, including the need to feed families at home, render these migrant women particularly vulnerable to exploitation by and dependency on employers.

Trafficking has also been a central theme within the migration-and-gender literature, but it has almost entirely focused on trafficking for sexual exploitation and prostitution.⁵ There are several studies based on empirical research, but they are mostly – either the academic ones or those drafted by NGOs – policy-oriented and refer generally to anti-trafficking policies and legislation. Possible links between trafficking and domestic work have not yet been an issue in Greece. In fact, trafficking in women for labour exploitation is an understudied – if not totally unexplored – subject in Greece, with the exception of one article on gender

4. Kambouri, 2007, Papataxiarchis et al, 2008.

5. For the issue of trafficking, see among others Lazos, G., *Prostitution and transnational trafficking in Greece*, Athens, Kastaniotis, 2002. (in Greek); Amnesty International, "Greece: Uphold the rights of women and girls trafficked for sexual exploitation", Report EUR/25/002/2007, 2007, <http://www.amnesty.org/en/library/info/EUR25/002/2007>; National Committee for Human Rights, "Theses and proposals of the NCHR on matters of trafficking in human beings- the situation in Greece", 2007, http://www.nchr.gr/images/pdf/apofaseis/emporias_anthrwpwn/Apofasi_gia_trafficking.08.2007.pdf; Papayannopoulou, M. & Markoussis, I., *Guide of Consulting for Women Victims of Transnational Trafficking*, Athens, Research Centre for Gender Equality Issues, 2007. (in Greek); Abatzi, L., *Approaching the phenomenon of trafficking*, Athens, National Centre for Social Research, 2008. (in Greek); Drouga, K. & Papadopoulou, Th., *Guide for Consultants: "Trafficking-Illegal traffic and trade of women"*, Athens, Research Centre for Gender Equality Issues, 2008. (in Greek); Kambouri, N., "Gender, migration and violence", in Zavos, A., Kambouri, N. & Stratigaki, M. (eds), *Gender, migration, interculturalism*, Athens, Nissos, 2013. (in Greek); Kambouri N., 2013, "Migration, precarity and the gender violence of domesticity and care", *The Greek Review of Social Research*, in A. Athanasiou and G. Tsimouris, special Issue: *Migration, gender and precarity in conditions of crisis*, 140-141, B-Γ, pp. 105-117.

violence, trafficking and domestic work. Domestic work is also a marginal aspect in debates and policies on trafficking. There are only two reports that refer specifically to trafficking for labour exploitation: that of Papantoniou-Frangouli, prepared in the frame of the project “Combating trafficking in human beings - going beyond”, coordinated by the Churches’ Commission for Migrants in Europe⁶ and the national report on Gender, Migration and Violence of the “GeMIC - Gender, Migration and Intercultural Interactions” FP7 project, coordinated by the Centre for Gender Studies at Panteion University of Athens.⁷

In public discourse, trafficking has been linked mainly to foreign affairs and national security rather than to domestic work. Since the 1990s, when migration was framed as a problem of national security, issues of trafficking are interlinked with national security and considered primarily as a foreign policy domain. This is more broadly the general spirit of migration legislation: since the first contemporary Greek Immigration Law (1975/1991), passed 62 years after the previous one which entered into force in 1929, there were no long-term provisions for the regularisation of migrants who had started to massively enter the country while, as the title of the draft shows (“Entry-exit, stay, deportation of foreigners, procedure of foreign refugees’ recognition and other clauses”) the main concern was to respond to migration with defensive and policing measures.

Following the same logic, the voting of the first law on trafficking (3064/2002) responded to a generalized sense of insecurity over porous borders, criminality and migration that prevailed during the 1990s and early 2000s. Under the pressure caused by the publication of the 2001 and 2002 US State Department “Trafficking in Persons Report”, according to which Greece was ranked at the third tier in the fight against trafficking,⁸ the Greek Ministry of Foreign Affairs took responsibility for the coordination and financing of anti-trafficking initiatives. The decision to transfer the responsibility for trafficking to this ministry presupposed an understanding of migration as a “threat to security” in general, and migrant women as victims of *criminal transnational networks*. The policies that the Ministry introduced in response required YDAS (the foreign affairs unit responsible for foreign aid) to extend its mandate within the Greek territory in order to fund shelters for trafficked women and NGOs

6. Papantoniou-Frangouli et al., “Trafficking for Labour in Greece” (Report prepared in the frame of the project: Combating trafficking in human beings - going beyond, coordinated by CCME, Athens, February 2011. Available at http://www.ccme.be/fileadmin/filer/ccme/20_Areas_of_Work/10_Slavery_Anti-Trafficking/National_reports/2011-03-Greek_Report_GOING_BEYOND.pdf).

7. Helen Kambouri, 2010, “Greece: Thematic Study on Intercultural Violence,” <http://www.gemic.eu/wp-content/uploads/2010/10/Wp8-Violence-Greece.pdf>.

8. See US Department of State, 2001 and 2002, “Trafficking in Persons Report”, <http://www.state.gov/g/tip/rls/tiprpt/index.htm>.

dealing with the protection of victims, prevention and information in both sending and receiving countries. In its 2003 report, the Ministry of Foreign Affairs defined trafficking as one of the negative phenomena prompted by large “refugee” influxes that contributed to the “dramatic rise” in transnational criminal activities taking place in Greece. “Many people (mainly migrant women)”, the report explained, “in search of better living and employment opportunities are trapped and end up in prostitution”.⁹ This conception of trafficking has continued ever since. In this respect, it is indicative that on 15 November 2013, the National Rapporteur against trafficking was appointed to the Ministry of Foreign Affairs.

The framing of trafficking as a national security issue led to an overwhelming emphasis on criminality and prostitution rather than on domestic work. As a result, trafficking for domestic work has been silenced for many decades and the migrant domestic workers who had been trafficked to Greece during the decades of the 1990s and 2000s were neither documented nor protected. This explains why there are no statistics or analyses of this period and why there are no full studies of the phenomenon of trafficking in domestic work. With the exception of the testimonies of migrant domestic workers who survived these experiences, trafficking for domestic work seems to exist only at the margins of the historical accounts of immigration to Greece.

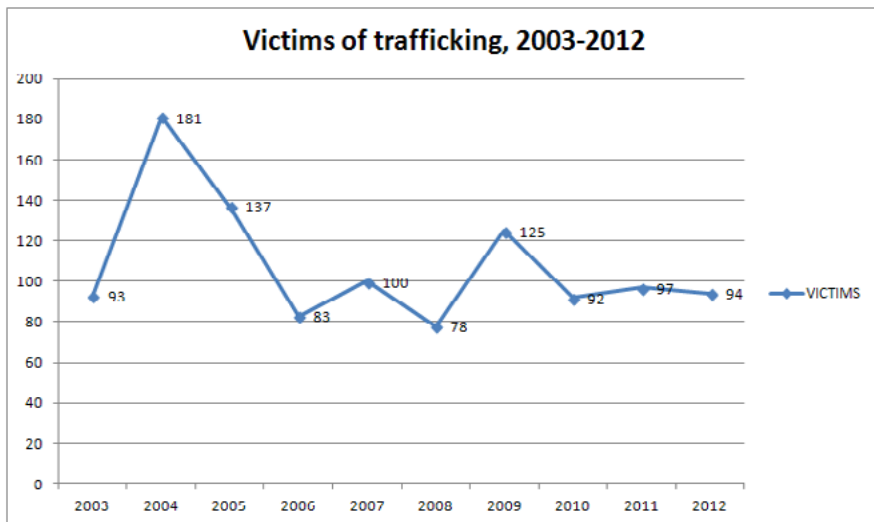
The only official statistical data are those kept by the Hellenic Police. Nevertheless, there is no harmonisation of data with regards to categories, e.g. gender for victims and for traffickers appears only in some years. In addition, the idea we get from the police data is that of cases identified as trafficking and that are somehow resolved; this means that no safe conclusions can be extracted by the evolution of numbers, neither as far as the extent of the phenomenon nor as far as tendencies are concerned. It has mostly to do with the ways and the efficiency with which police officers and the Anti-trafficking unit are dealing with the issue during time.

Another issue is that data concerns all cases of trafficking, both for sexual and labour exploitation. Therefore, the existence of or, more accurately, the identification of trafficking for labour exploitation is something that cannot be quantified through the available official data. There is however a distinction for one year of registration, and this is the year 2010, where we had 47 cases of sexual exploitation and 15 cases of labour exploitation. If we combine this information with the gendered dimension which is provided for years 2005 (21.2% of victims were men), 2007 (31.3% men), 2011 (28.9% men) and 2012 (19.1% men), where

9. Ministry of Foreign Affairs of Greece, 2003, YDAS Hellenic Aid, 2004, “Ετήσια Έκθεση της Ελληνικής Διμερούς και Πολυμερούς Κρατικής Συνεργασίας και Βοήθειας” (Annual Report of Greek Bilateral and Multilateral Interstate Cooperation and Aid), p. 35. Available at <http://www.hellenicaid.gr/frontoffice/portal.asp?cpage=NODE&cnode=46>.

male victims are more likely linked to labour than to sexual exploitation, we could deduce that trafficking for labour exploitation is not something non-existent in Greece. Besides, there are cases even in the media, from time to time, which are indicative of THB for labour exploitation, while some recurrent examples, such as Nea Manolada-Peloponnese and other agricultural regions throughout the country, constitute strong evidence of established networks of trafficking for labour exploitation. victims are more likely linked to labour than to sexual exploitation, we could deduce that trafficking for labour exploitation is not something non-existent in Greece. Besides, there are cases even in the media, from time to time, which are indicative of THB for labour exploitation, while some recurrent examples, such as Nea Manolada-Peloponnese¹⁰ and other agricultural regions throughout the country, constitute strong evidence of established networks of trafficking for labour exploitation.

If we compare the existing data, we can see that, with the exception of 2004, 2005 and 2009, the number of identified victims of trafficking ranges from 80 to 100 per year. This is estimated to be much lower than actual cases, which have not been reported (see among others the 2012 State Department report on Trafficking, at <http://www.state.gov/j/tip/rls/tiprpt/2012/192367.htm>).



Source: Hellenic Police (elaborated by authors)

10. The last incident was covered widely by the international press, while even a boycott Manolada strawberries was launched through social media. See among many others, Amnesty International's coverage on 22 April 2013, "Greece: Despair pervades camps after 33 migrant workers shot in Manolada". Available at <http://www.amnesty.org/en/news/greece-despair-pervades-camps-after-33-migrant-workers-shot-manolada-2013-04-22>.

It is interesting to see for how many cases, assistance and protection has been provided either by order of a Prosecutor, through the cooperation between the police and governmental and non-governmental organisations, through collaboration with embassies or consulates or through collaboration with the International Organisation for Migration (IOM). This particularly has to do with the legal framework valid until recently that required the collaboration of the victim with the authorities in order to receive all the protective privileges stipulated by law, along with probably contingent factors. The fact that in 2009, 121 victims out of 125 (96.8%) received some kind of assistance and protection cannot but be explained by specific factors that have to do with the character of the networks arrested. Almost for all the victims of this year, protection and assistance was provided through the collaboration with embassies and consulates and the IOM, which are stakeholders mostly responsible for the safe return of foreign citizens to their country of origin.¹¹

No cases of trafficking for labour exploitation in domestic work have been reported by the police. Cases of labour exploitation are linked essentially to agricultural work and to begging.¹² In the aforementioned report of Panatoniou-Frangouli and in the interviews we have conducted with representatives of the Ministry of Interior, the Anti-trafficking Unit of the Police, the National Centre of Social Solidarity (EKKA), the Labour Centre of Athens (EKA) and the NGO "The smile of the child", the cases which are reported belong mainly to the agricultural sector, while significant problems exist with children forced to beg.

Even if in the case of migrant women prostitution attracts most of the attention concerning trafficking, it is very difficult, if not impossible, to bring such cases to the court. As the information provided by the Labour Centre of Athens indicates, there are many violations of labour rights in cleaning subcontracting companies and in domestic work, but these are not reported or taken to court. There are reports of employers and agencies that withhold payments, and personal and travelling documents, and that act violently and deny food to the victims. Although the EKA representatives have received many such cases and wanted to take them to court, the victims felt threatened and refused to collaborate with the authorities and testify against the perpetrators.

11. It is important to note here that the International Organisation for Migration is the main organisation that operates projects funded by the European Return Fund; the responsible authority for the implementation of the National Programme of the Return Fund in Greece is the Ministry of Citizen's Protection and Public Order/Hellenic Police Headquarters/Finance Division.

12. For such an example, see http://www.astynomia.gr/index.php?option=ozo_content&lang=%27.%27&perform=view&id=18886&Itemid=957&lang=, and http://www.astynomia.gr/index.php?option=ozo_content&lang='.'&perform=view&id=30055&Itemid=1140&lang=.

Our research showed that it was mainly during the decade of 1990-2000 that trafficking linked to labour exploitation for domestic work reached its peak. Representatives of the KASAPI and Dewata, Filipino Women's Association, and the African Women's Organization – which are two of the largest and most active migrant women's associations in Greece and have been advocating migrant domestic workers rights for a decade – informed us of several cases of trafficking for domestic work that took place during this decade. Migrant women were recruited in their home countries usually with a promise to work in the tourist industry or paid domestic work and were brought to Greece without official documents only to be deprived in affluent households as live-ins for years or months without payment. In the case of the Filipino live-ins, they were trafficked and forced to work without payment as domestic workers by diplomats who enjoyed immunity because of their diplomatic status. After months of working inside diplomats' households, these Filipino live-ins managed to communicate with KASAPI, who helped them to escape. They were never recognized as victims of trafficking, and the case was never taken to court.

The second case is that of an African woman originating from Zimbabwe. She was brought in legally with a temporary visa by a family of Greeks from Zimbabwe who promised that she would work in the tourist industry. Once she arrived in Greece, she was locked inside a house, deprived of her travel documents and forced to work without payment. After a year, she managed to escape and sought help from immigrant street vendors who brought her in contact with other African women. She was never recognized as a trafficking victim or given protection by NGOs or the police.

Most of the stories that we collected during the fieldwork were of women who came to Greece in a period when both demand for domestic work was high and the legal framework for legal immigration and legalisation after entry were weak. Most importantly all the stories pointed to the fact that they were never identified as victims precisely because domestic work was not considered to be – and still is not – a trafficking issue. In the absence of regulatory mechanisms, employers and trafficking networks were able to put pressure and exercise violence on migrant women who were de facto illegal and were forced to work in domestic spaces without rights and recognition. The threat of deportation – much more than direct force – has played a pivotal role in forcing those women to accept their conditions of servitude. Most of them told us that they remained imprisoned inside these houses, working without payment or rights because they were too afraid that the police will catch them and deport them if they escaped. The fact that these women were never officially recognised or protected as trafficking victims also points out the lack of efficient procedures for the identification of victims of trafficking for domestic work.

While we try to avoid making broad generalisations, our fieldwork showed that trafficking for domestic work in Greece is related almost exclusively to live-in domestic workers, who are recruited either to provide care for the elderly or to care and clean for affluent families. In the cases that we were able to identify, being forced to work without payment and without rights occurs during the first stages of migration and is sustained through threats of deportation, but also through promises that payments will be made to the family back home or to bank accounts. After a period of psychological and physical isolation, the women that we encountered had managed to escape and sought assistance from migrant organizations rather than from NGOs formally involved and funded for anti-trafficking activities. The lack of contacts, networking and funding that migrant organizations that provide assistance to victims of trafficking for domestic work get from the government and NGO anti-trafficking sector are the main factors that undermine the efforts to implement effective anti-trafficking policies in the domestic work sector.

Moreover, the demand for domestic workers – which has diminished because of the economic crisis but which continues to be strong especially in the sector of live-in carers of the elderly and children – has not been met with policies promoting the legal migration channels and the legalisation of those already working in live-in domestic work. By failing to recognise the rights of migrant domestic workers in a way that takes into account their needs and demands continues to offer a fertile ground for the development of different forms of exploitation, which only start with trafficking. Unless efforts are made to ensure that migrant domestic workers are granted legal avenues to immigrate, reasonable working hours and payment, it is reasonable to assume that most cases of trafficking for domestic work will remain unidentified and the issue will continue to be silenced in public debates.

LEGISLATION ON DOMESTIC WORK AND ON TRAFFICKING: NO LINKS WHATSOEVER

It is true that domestic work has not been but partially addressed as a specific labour issue in national legislation. The main legal element has diachronically been the distinction between live-in and live-out domestic workers. The work of live-in domestic workers is enshrined in the Civil Code as “of specific character”, since it is provided “under specific conditions of trust and concern” from the side of the employer. Article 663 stipulates specifically: “If the employee has been recruited and lives in the employer’s house, he is obliged to provide for his space of residence and sleep, as well as for his health-care and his working and leisure

time, so that can be assured the employee's health and morale, as well as the exercise of religious and political tasks".¹³ (Civil Code, article 663)

Domestic work has been regulated mainly within the National General Collective Agreements, and signed between the General Confederation of Workers in Greece and the Employers' Association, i.e. the Hellenic Federation of Industry (called since 2007 Hellenic Federation of Enterprises), and the Collective Agreement for the Employees in the Private Sector. Nevertheless, live-in domestic work is exempted from the following labour regulations: a) working time, b) overworking and overtime work, c) work on Sundays and bank holidays, d) work during the night. However, other regulations, such as paid leave, holiday bonuses, compensation in case of firing are equally valid for live-in domestic workers.

Labour contract, remuneration and social insurance for both live-in and live-out, for those who have one or multiple employers are defined by several regulations within labour legislation. According to the Presidential Decree 156/1994 on "an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship,"¹⁴ the employer of any employee with whom he/she is connected with a contract or depended work relation is obliged to provide information at least for the following (art. 2, par. 2): (a) the identities of the parties; (b) the place of work; where there is no fixed or main place of work, the principle that the employee is employed at various places and the registered place of business or, where appropriate, the domicile of the employer; (c) the title, grade, nature or category of the work for which the employee is employed and a brief specification or description of the work; (d) the date of commencement of the contract or employment relationship and in the case of a temporary contract or employment relationship, the expected duration thereof; (e) the amount of paid leave to which the employee is entitled and the procedures for allocating and determining such leave; (f) the length of the periods of notice to be observed by the employer and the employee should their contract or employment relationship be terminated, according to existing legislation; (g) the initial basic amount, the other component elements and the frequency of payment of the remuneration to which the employee is entitled; (h) the length of the employee's normal working day or week; (i) the collective regulation governing the employee's conditions of work.

13. Ministry of Justice, Transparency and Human Rights. "“ΙΣΟΚΡΑΤΗΣ” ΤΡΑΠΕΖΑ ΝΟΜΙΚΩΝ ΠΛΗΡΟΦΟΡΙΩΝ ΔΣΑ ΣΤΟΙΧΕΙΑ ΝΟΜΟΘΕΤΗΜΑΤΟΣ". Available at <http://www.ministryofjustice.gr/site/kodikes/ΑΣΤΙΚΟΣΚΩΔΙΚΑΣ/tabid/225/language/el-GR/Default.aspx>.

14. This Presidential Decree transposed in the national legislation the Directive 91/533/E.C. of 14 October 1991.

It is, however, widely known that much of domestic work is performed within the informal economy. Therefore, domestic workers and particularly migrant women are vulnerable to exploitation regarding their wages, their rights or even their tasks in the workplace. For migrant domestic workers, another crucial issue concerns the limitations imposed by their legal status. In Greece, although since the Law 3386/2005, work permits have been merged into the residence permit, the issue and renewal of such permit is strictly linked to the proof of work. For a newcomer, an employment contract with a specific employer is required, while for the renewal of a residence permit proof of a specific minimum number of working days per year is required. Therefore, the issue of social insurance is of greatest importance, since social insurance contributions function as proof of work.

According to the Common Ministerial Decision 160/3-1-2006, which "determines the minimum number of working days or minimum time of social insurance per year" that are required for the renewal of residence permits, "third country nationals who are employed within salaried employment to more than one employer (construction workers, care and domestic workers)" are required to obtain 150 insured working days per year, instead of 200, which is the case for the rest of the migrants. In addition, the above categories can pay their contributions themselves as independent workers. Another specific regulation, "which concerns persons working in agriculture, in construction, in care and domestic services and having more than one employer, is that they are not required to present a labour contract in order to apply for issue or renewal of a residence permit" (Law 3536/2007, art. 6, § 1).

From January 2011, according to the Law 3863/2010 "New Social Insurance System and relevant clauses, regulations in labour relations" (Official Gazette, A 115/15.07.2010), a system of vouchers has been introduced in Greece, in order to set some rules in remuneration and social insurance of "specific forms of employment", among which is domestic work. The occupations mentioned in paragraph 1 of article 20 include "auxiliary services of family care (house cleaning, general housekeeping), gardening, isolated works that do not constitute construction works, private courses, child, baby, elderly and disabled persons' care and some other occupations added by the Law 4144/2013 ("Combating fraud in social insurance"). According to paragraph 3 of the article 20 "Remuneration and contributions of occasional workers", the procedure of payment of wages and social insurance contributions is described as follows: each competent social insurance body/institution – in the case of domestic workers, IKA-ETAM, the largest institution in the country – issues vouchers of a specific value, in which both wages and contributions are included. The employers can obtain the vouchers in the branches of social insurance institutions, in post offices and in Citizens' Service Centres. After paying the equivalent amount of wages and contributions in the name of the employee, the employer gives the employee one copy of the voucher and

keeps the other. The employees can cash their vouchers at post offices within four months after the issue of the voucher. By the end of each year, the employee receives a list of all payments made during the year.

Another issue that hinders effective protection of domestic workers is family asylum, according to which home is exempted from inspections by the Labour Inspectorate or the Social Insurance Institute or the trade unions, which are competent for that matter. Even if domestic work goes under general labour legislation, as far as defining working rights and exploitation is concerned, effective control of working conditions is not possible through traditional means. This is not only because trafficking for labour exploitation is not legally defined as violation of labour legislation, but as an *autonomous criminal act* that goes under the Penal Code, but also because of the very character of the specific work.

The fact that the domestic work sector is increasingly served by poor migrant women entails a combination of inequalities determined by gender, race, ethnicity and social status. These factors make migrant domestic workers a group which is very vulnerable to human rights abuses. These abuses range from economic exploitation (excessive number of working hours without adequate rest, wages far below the national standard, or, where applicable, legally set minimum wages) through degrading treatment and violations of human dignity, to violence. In some extreme cases, the exploitation and abuse may reach the intensity of slavery-like conditions and/or be linked with human trafficking. One of the main obstacles to combating domestic slavery and trafficking has been the fact that anti-trafficking legislation, which had been geared to penalizing trafficking for the purposes of sexual exploitation, has tended to penalize only the traffickers and not the actual employer (who may or may not be aware of the conditions under which the worker arrived in the country).

While the extent of such abuses is extremely difficult to evaluate due to the fact that they are concealed in private households, there is ample evidence that they do not constitute mere individual cases, but can be regarded as more or less systematic. The risks of human rights abuses are particularly high for migrant domestic workers with irregular or undocumented migration status or those who accept undeclared work. However, even migrant domestic workers whose migration and employment status are fully legal are usually in a weaker position than the national workforce in terms of the protection of their rights.” (OHCHR, 2010: 10)

The risks described above were the main reasons for the launch of an international campaign for the recognition of domestic work as work and the recognition and protection of domestic workers’ rights. This campaign, launched and promoted by migrant domestic

workers, mostly through the RESPECT Network (<http://www.respectnetwork.eu/>), led to the adoption by the ILO of the Domestic Workers Convention in 2011 (Convention No. 189: see full text at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189#A8). This document, which is binding upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office (art. 21), is in fact the first legal document of global scale that provides for an analytical definition and description of domestic workers' rights. Greece has not ratified yet the Convention on Domestic Workers.

Another legal tool that could serve the purpose of combating exploitation of migrant women domestic workers could be the Law 3488/2006 "Application of the principle of equal treatment between men and women regards access to employment, vocational training and promotion, terms and conditions and other relevant provisions" (Official Gazette A 191/11.09.2006). The law, which transposed the provisions of Directive 2002/73/EC, provides clear definitions of "direct" and "indirect discrimination", "harassment" and "sexual harassment", and sanctions for acts that fall under these categories. The Ombudsman, who since July 2011 is a woman, is appointed as the body monitoring the implementation of the principle; its competence was widened with Law 4097/2012 "Application of the principle of equal treatment between men and women during the exercise of an independent economic activity", which transposed in national legislation the Directive 2010/41/EU.¹⁵

In the 2012 annual report of the Ombudsman, a unique case of sexual harassment of a domestic worker is reported. A domestic worker denounced that her employer's father harassed her. The Ombudsman participated in the procedure presented in the Labour Inspectorate, asking the prosecutor to provide evidence. The domestic worker provided the testimony of a former employee who also claimed to have been sexually harassed by the same person. However, further evidence provided by the defendant and contradictions of the prosecutor led the Ombudsman and the Labour Inspectorate to deny the accusations (Ombudsman, case 150987/2012; see Ombudsman 2012 Annual Report, 2013: 127).

To sum up, according to the Ombudsman, gender mainstreaming in public social policy is still taking its first steps, since public administration and even civil courts are not sufficiently familiar with it. Moreover, there is no reliable statistical data which could be an important tool for the substantiation of discrimination on grounds of gender (Ombudsman, Press release for the publication of the 2nd Special Report on gender discrimination in employment, 2011).

15. See full text both in Greek and in English at <http://www.ilo.org/dyn/travail/docs/1513/GREECE%20NON%20DISCRIMINATIONACT%203488.pdf>.

Similarly, another law that could be used as a potential tool against exploitation based on race or ethnicity is the equal treatment principle as defined in Directives 2000/43/EC and 2000/78/EC, transposed in national legislation with Law 3304/2005 “Implementation of the Equal treatment principle regardless of racial or ethnic origin, religious or other convictions, disability, age or sexual orientation”. As one can see in the annual reports of the Ombudsman, which is the National Equality Body for the promotion of equal treatment principle, no cases of domestic workers have been reported. Even though cases of discrimination at the workplace on the grounds of race and ethnicity have been reported, and even if according to the Law the burden of proof is placed upon the defendant/employer, it seems quite difficult for domestic workers to act upon these legal provisions.

As far as the legal framework against trafficking in human beings is concerned, it was not adequately developed until the 2000s. As we have mentioned above, trafficking appeared from the beginning as a security issue, and for this reason the Ministry of Foreign Affairs had the responsibility for designing and implementing anti-trafficking policy. In 2002, under pressure from EU directives and international reports that ranked Greece as a major area where trafficking networks were operating, the penal code was amended and trafficking was recognised as a crime, while the state undertook the obligation to provide for the prevention and the protection of victims of trafficking. Since then, the main principle of the Greek approach to combating trafficking was that the granting of rights and legal status to victims should be premised on victims’ collaboration with the police and judicial authorities. This principle was in accordance with European law and policy on trafficking which serve as a model for Greek legislation. In order to receive the status of a trafficking victim and all the rights associated with it, including residence permits, victims had to testify against the perpetrators to the public prosecutor. As a result, the protection of victims came to be inextricably connected with police and judicial procedures for combating illegal trafficking networks. This approach is focused upon criminalisation. In official documents, it is often termed “holistic” because it involves extensive cooperation between NGOs and government agencies responsible for protection and assistance and the police and judicial authorities responsible for combating criminal trafficking groups and networks.

The first law that established trafficking both for sexual and labour exploitation as a grave criminal offense was the Law 3064/2002 (Government Gazette Issue A’248/15-10-2002) “Combating trafficking of persons, crimes against sexual freedom, pornography of minors and the financial exploitation of sexual life in general and providing assistance to victims of such acts”. The aim of the law was twofold: (1) to amend the Penal Code in order to define trafficking as a felony and establish severe punishment which included up to 10 years imprisonment and penalties of 10,000 to 100,000 euros for trafficking and milder penalties and imprisonment for clients using

the services of victims, and (2) to guarantee the basic protection and assistance to the victims that included shelter, nutrition, living conditions, health care, psychological support, legal aid, translation, as well as voluntary repatriation in cases where the victim entered Greece illegally. With this law the Greek legislation was harmonised with the Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings.

The Presidential Decree 233/2003 (Government Gazette Issue A'204/28-8-2003) "Protection and assistance to victims of crimes pertaining to articles 323, 323A, 349, 351 and 351A of the Penal Code, according to Article 12 of Law 3064/2002", issued a few months later, prescribed the conditions for the granting of protection and assistance to the victims. Provisions for victims include health and medical support, security, access to school and education for specific age groups, psychological and legal support guaranteed as long as the victims need them.

According to Law 3386/2005, which transposed the EU Directive 2004/81/EC (art. 46-52), victims that collaborate with the juridical and police authorities for the arrest and prosecution of traffickers are entitled to a one year residence permit without fee, renewable during the timeframe of the juridical process of the case. The residence permit gives access to the labour market since it is valid also as a working permit. After the completion of the juridical procedure, victims of trafficking must apply anew for a residence permit (granted for purposes of work, marriage, studies etc.). The law provides for a one month period for contemplation, during which potential victims enjoy the same rights as recognised ones (including access to secure housing, health and medical care, food, shelter, psychological and legal support), but no residence permit. This period is established in order to ensure the potential victims' willingness to fully collaborate with the juridical and police authorities against the traffickers. According to a subsequent amendment of Law 3386/2005 with the Law 3536/2007, victims of trafficking cannot be deported during the period of contemplation.

Law 3386/2005 also provides for the non-renewal and withdrawal of the residence permit: (a) if the holder has actively, voluntarily and in his/her own initiative renewed contacts with those suspected of committing the reported offences; (b) if the competent authority believes that the victim's cooperation is fraudulent or that his/her complaint is fraudulent or wrongful; (c) when the victim ceases to cooperate; (d) when the competent prosecuting or police authorities decide to discontinue the proceedings; (e) when an irrevocable court judgment has been delivered, which concludes the relevant procedure.

Heavier sentences and fines, as well as facilitated procedures, are established for the trafficking of children with laws 3625/2007 and 3727/2008, which ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution

and child pornography and the Lanzarote Convention of the Council of Europe on the Protection of Children against Sexual Exploitation and Sexual Abuse. Also, Law 3692/2008 ratified a bilateral agreement between Greece and Albania for the assistance and protection of child victims of trafficking and the improvement of the cooperation between the two countries in the repatriation of child victims.

Law 3875/2010 ratified the UN “Convention against Transnational Organized Crime” and its supplement “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children”. The so-called Palermo Protocol broadens the protection of law to include victims of migrant smuggling (art. 46-52 of Law 3386/2005). Moreover, it provides that “the consent of a victim of trafficking in persons to the intended exploitation [...] shall be irrelevant where any of the means set forth in subparagraph (a) have been used”. This provision presupposes that migrants who are working in areas where coercion is exercised, for example in prostitution, cannot be held accountable for participating in criminal activities. Moreover, the protocol provides for states’ assistance to enable “the views and concerns of the victims to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.” This clause addresses the difficulties victims of trafficking face in testifying against perpetrators in juridical proceeding. The Protocol also establishes the obligation of states to “ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered”. Finally, the new law increases the reflection period for trafficking victims from 30 days to three months for adults and five months for children. Also under the Protocol victims of trafficking are ineligible for deportation, and eligible for translation services and free legal aid.

Following these legal developments, Law 3907/2011 “Establishment of an Asylum Service and of a First Reception Service and transposition into Greek legislation of the provisions of the Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals” amended L.3386/2005. Accordingly, the victims of trafficking who do not cooperate with the authorities are also entitled to a residence permit on humanitarian grounds, if they are recognized, by act of the competent prosecutor’s office, as victims of trafficking in human beings (art. 44, par. 1 of law 3386/05).

Law 4198/2013 “Preventing and combating trafficking in human beings and the protection of victims and other provisions” transposed the EU Directive 2011/36/EU. The law amends the penal code and includes provisions that facilitate and encourage the collaboration of victims of trafficking with the police and the juridical authorities against trafficking networks, including (a) the suspension of criminal convictions for participation in criminal

activities, illegal prostitution and illegal migration for those who report that they have been forced into these activities by trafficking networks (according to Articles 187, 323A and 351 of the P.C.), (b) the banning of the deportations of and the granting of residence permits to illegal migrants who have reported to the police trafficking crimes against them until their case is finalised. In addition, the law extends responsibility for trafficking to organisations and private companies, including the implementation of fines and removal of commercial permits. There are also provisions for compensation to the victims. Moreover, the law provides for the participation of psychologists and psychiatrists (as well as child-psychologists for minors) in the juridical procedure. The reports of these specialists are treated as juridical evidence. Finally, the law grants the right to the victim to testify in camera or remotely. With the amendment of the existing legislative framework in 2011, the criminalisation approach has been challenged and victims of trafficking who decide not to collaborate with the police against the traffickers are entitled at least in principle to a residence permit under special humanitarian circumstances.

Finally, a new law was introduced in 2014, which established the Greek Migration Code. Part B of the new migration code (4251/ 2014) states that the period of contemplation for victims of illegal trafficking networks is up to three months for adults and up to five months for unaccompanied minors. The period of contemplation can be interrupted by a decision of the juridical authorities in those cases where public order and security are considered to be under threat. During the period of contemplation, victims are entitled to health and medical support, as well as all the necessary provisions to ensure normal living conditions.

The law also stipulates that the authorities responsible for trafficking victims, including the prosecution authorities, police and the social services should inform the victims that they are entitled to initiate a procedure for a residence permit (art. 50). In cases of unaccompanied minors, the responsible prosecution authorities are responsible to find the identity and ethnicity of the persons in question, to find and contact their closest relatives, to establish whether or not they are unaccompanied. Moreover, unaccompanied minors who are victims of trafficking are entitled to free legal representation in court (art 50). The emphasis here is on the obligation of authorities to identify and provide immediate assistance to victims in accordance with the EU trafficking directive and the recast Reception Conditions Directive 2013/33/EU. In the case of Greece, this is a very important issue, because of the low identification rates. However, it is important to note that the Greek Migration Code has not yet been effectively tested, since the period for its implementation is rather short.

FROM THEORY TO PRACTICE: IMPLEMENTING POLICIES

It has already been noted that in Greek legislation there is no clear distinction between trafficking for sexual exploitation and trafficking for labour exploitation; they are both addressed as criminal acts and similar sanctions are foreseen for both. In legal texts, there is also no clear gender distinction. Gender-specific policies are implemented in particular cases and by particular institutions/agencies, governmental or non-governmental. Although both types of trafficking have very strong gender dimensions and connotations, the latter does not seem to be of special interest in legal texts. So the distinction which follows is in fact an artificial one, and one must bear in mind that all three levels, which are described below, overlap each other.

In 2009, a National Coordinating Mechanism was established in the Ministry of Foreign Affairs to coordinate all the governmental and non-governmental agencies participating in the efforts to combat trafficking. In cooperation with the International Organisation for Migration, co-competent Ministries, NGOs, the Foreign Ministry's Special Secretariat for the Development of International Programmes and the General Secretariat for Gender Equality, the NCM is participating in a number of tenders within the framework of "Administrative Reform", "Digital Convergence", "Competitiveness" and "Gender Equality" being funded by the National Strategic Reference Framework (NSRF) for 2007-2013. Through EC funding, the NCM was expected to implement the following tasks:

- to create two databases on trafficking victims and on judicial cases and convictions (not yet completed)
- to provide support to the police authorities in order to trace more victims and convict more traffickers
- to encourage the participation of NGOs in the anti-trafficking efforts
- to encourage anti-trafficking campaigns in collaboration with the international, national and local media

In December 2013, these tasks have not been fully implemented although several schemes including information campaigns and training have been funded. On 15 November 2013, Greece appointed a National Rapporteur, Iraklis Moskof, at the Ministry of Foreign Affairs, as provided by article 6 of Law 4198/2013, in order to collaborate with the EU Coordination and Action Office, and the Head of the Anti-trafficking Unit of the Ministry. The national rapporteur is expected to assist with the completion of relevant databases, promote relevant campaigns and training and contribute to the creation of a national referral system for the victims of trafficking.

While different government departments undertook distinct policy tasks with regard to prosecution, a significant part of protection and prevention policies was outsourced to NGOs. In November 2005, a Memorandum of Cooperation on Combating Trafficking in Human Beings and Providing Assistance to Victims was signed between the eight secretaries-general of the ministries and members of the Special Law-making Committee and 12 NGOs and the IOM.

The Memorandum applies both to possible victims and identified victims and refers to cooperation in victim identification, accommodation, social and psychological support, information and counselling, legal assistance, free medical and health care, repatriation, as well as in providing trainings to competent authorities. To achieve better coordination of the NGOs, to avoid overlapping and to facilitate cooperation, an Addendum to the Memorandum of Cooperation was signed in February 2007. Repatriation programmes are implemented by IOM in cooperation with the Embassy and the respective IOM office of the victim's country of origin. The expenses of the victim's transportation are covered by IOM Athens and they are referred to the IOM office in the country of origin, which is responsible to receive the victims, assist them to reach their final destination and provide them with psychosocial and other necessary support.

The 2012 *National Action Plan* (NAP) emphasized the need for cooperation amongst different agencies in order to enforce a "holistic" approach to human trafficking. The NAP is organised along the three priority axes that inform most international policy documents:

1. *Prevention*, which refers mainly to the funding and promotion of public information and media campaigns against trafficking in human beings with the cooperation of International Organizations and NGOs. During the period 2008-2009 these include: UNICEF and the Ministry of Foreign Affairs public information campaign; leaflets distributed in public spaces, such as schools, churches, municipalities, means of transport, airports; training seminars for public servants and military personnel; training seminars in the school of public administration, training of police authorities and judicial personnel. The 2010-11 NAP envisaged training officials who are "most likely to encounter trafficking victims, such as the coast guard and border police, in trafficking victim identification and assistance procedures, with a view to increase the number of potential victims identified by the government" and "public awareness campaigns targeted toward a Greek audience, including potential clients of the sex trade and beneficiaries of forced labour".
2. *Policing/Prosecution*: The Greek Police plays a central role in the implementation of the "holistic" approach to trafficking in human beings and its efforts are mainly focused on large scale national and cross-border operations and involve the cooperation of the police task forces, prosecutors, law enforcement officials and NGOs. The police undertakes

multiple tasks, including identification of victims, referral, assistance, investigation and dismantling of criminal networks, and monitoring the phenomenon, with statistics.

3. *Protection*: The National Action Plan for 2010-11 envisages (a) the completion of a victim identification regime (a national referral mechanism), ensuring the proper application of victim protection measures, (b) sustained funding for anti-trafficking NGOs (c) ensured assistance and deportation relief and non-penalization for crimes committed as a direct result of being trafficked, (d) ensured specialised assistance for child victims and adequate protection for male victims.

The 2013 National Action Plan which details the anti-trafficking areas and activities intended for the period 2014–2016. The plan will also entail targeted actions that will be funded by National Structural Regional Funds (NSRF):

- a. Sensitisation and information activities addressing mainly civil servants and the general public
- b. The construction of a National Mechanism for the collection and assessment of qualitative and quantitative data on trafficking

Although there are several Ministries involved in anti-trafficking policies, the main institutions responsible for law drafting, coordination, policy-making and implementation of national plans are the Ministry of Public Order/ Protection of the Citizen (with the newly-elected government in January 2015, it is now part of the Ministry of Interior), the Ministry of Justice and the Ministry of Foreign Affairs. The central role of these ministries, especially the Ministry of Interior, in linking the protection of victims with combating large criminal networks can explain the relative lack of policies targeting trafficking for domestic work. Our research shows that trafficking for domestic work does not usually involve large criminal networks and illegal company operations, but small informal networks and households, and the interest of the national authorities in addressing the issue seems to have been limited. Trafficking for sexual exploitation, however, received much more funding and public attention and was explicitly addressed in most of the projects aiming at the implementation of anti-trafficking policies.

The Ministry of Labour has retained a relatively marginal role in the drafting of law, policy design and implementation. The Labour Inspectorate, which is the national authority responsible for the inspection of the implementation of labour law provisions, has the capacity to investigate trafficking. The labour inspectors, however, may examine cases of labour exploitation mainly during the inspections that they carry out in workplaces. Identifying victims of trafficking in domestic settings has been prevented because of the domestic asylum principle, which complicated the procedures for inspection.

According to the *National Report on Trafficking in Human Beings of 2009*,¹⁶ "the Europol estimation is that trafficking in women for sexual exploitation has not been reduced, while trafficking for labour exploitation has increased dramatically" (p. 5). Moreover, in a conference conducted in 2009, it was concluded that "trafficking for labour exploitation has increased" (p. 7). Although the majority of cases that are reported refer to trafficking for sexual exploitation, there are also two cases of trafficking for labour exploitation in agriculture and one for labour exploitation in domestic care work.¹⁷ A Russian woman travelled to Greece for tourism through a travel agency. A few days later, she was moved to Athens along with another foreign national. Her passport was removed and she was told that she had to repay a large amount for the travel to Greece. Through an employment agency, she was forced to work as an elderly care worker in a private house. After she was found and two members of the criminal network (one Greek man and a Russian woman) were arrested, she asked to be repatriated (p. 26).

The policies for the protection of and assistance to victims of trafficking almost exclusively target women and minors. Therefore, there is no shelter or structures providing specialized counselling and assistance to male victims of trafficking for sexual or labour exploitation. The General Secretariat for Gender Equality (GSGE) has included women victims of trafficking as special beneficiaries in the Project "Employment and Vocational Training", Action "Integrated Interventions in favour of women". The project aimed at improving women's access to and participation in the labour market, and was implemented in cooperation with the Greek Manpower Employment Organisation (OAED). Its actions include vocational training, Greek language courses, individualised support and supplementary services and subsidising or other means of supporting the integration in the labour market. Most significantly, since 2010, the GSGE provides protection and assistance to female victims of trafficking, including counselling and legal support, in its specialized centres as well as in its shelters for the protection of women victims of domestic violence. The extension of the GSGE infrastructures for the protection of women victims of violence includes the creation of 12 new counselling centres and 12 shelters all over Greece, which are also used for the protection of female victims of trafficking.¹⁸ Since the funding of many NGOs has been cut, the shelters of the GSGE including the EKKA shelters which are funded by the GSGE schemes against violence against women are the main structures for the protec-

16. For full text see <http://ec.europa.eu/anti-trafficking/NIP/Greece>.

17. Reference number 3007/38/240 of ΔΑΑ/ΥΑΟΕ/ΤΜΗΜΑ 3^ο ΚΕΑ.

18. Ministry of Interior, General Secretariat for Gender Equality, *Our Goal: Substantive Gender Equality: National Action Programme for Substantive Gender Equality 2010-2013*, (2009). Available at http://www.isotita.gr/en/var/uploads/HOME%20PAGE/NATIONAL_PROGRAMME_GENDER_EQUALITY_2010_2013.pdf.

tion of trafficking victims. Thus the GSSE plays a central role in continuing the funding of protection structures in a period of crisis.

During the past year, the issue of trafficking for labour exploitation has been brought to the forefront of public debate following the case of the trafficked agricultural workers (strawberry pickers) in the area of Manolada in the Peloponnese. After a violent incident, where an employer shot several of those workers who originated from Bangladesh, the case was brought to court as a case of trafficking. Although this is a widespread practice in the agricultural sector, this was the only case that was brought to the courts, partly because of the international media coverage. The workers were brought to Greece by trafficking networks to work in seasonal agricultural work, they lived in plastic tents without sanitary facilities or water and were denied their salaries. When they asked to be paid, their employer shot them. Despite the obvious injustice, the employer was acquitted by a majority decision because it was not considered to be a case of trafficking since the migrants were considered to have decided to work in this sector. This decision went against the position of the prosecution which was based on the claim that the employer took advantage of their vulnerable position as informal migrants in the agricultural sector. It is worth noting that during the period that they awaited the trial, the migrants who testified against their employer received temporary humanitarian status but no other assistance (shelter, protection, psychological support, financial aid).

This court decision is indicative of the problems and difficulties that victims and legal representatives experience in providing proof for trafficking for labour exploitation. On the one hand, prevailing intolerance and racist conceptions of illegal immigrants in Greek society – which are reinforced by the rise of the political group Golden Dawn and the ensuing predominance of the ultra-right wing positions in mainstream political parties and institutions – and, on the other hand, the continuing tolerance of the informal black labour market in migrant economic sectors, such as domestic work, agriculture or construction, prevent the human rights based approach to these problems. Because of these factors, victims are more likely to be portrayed and treated in court as taking advantage of the preferential treatment reserved for the “real” trafficking victims, and in fact they are only “faking” victimhood since they have taken a decision to work in these sectors.

As our fieldwork shows, trafficking victims in domestic work, like those in agriculture, are forced to accept degrading working conditions precisely because they are illegal, poor, unsafe and under threat. Once they enter the domestic spaces in which they work as live-ins, different forms of physical and mainly psychological abuse by employers take place in order to push them to feel dependent and to remain subservient. These forms of violence

cannot be quantified and are difficult to prove and evaluate in court proceedings. It is more likely that, unlike the case of agricultural workers, domestic workers will have no support from other co-workers, since as one interviewee explained "domestic work is a lonely work". Their testimonies will be respected only if they seem credible and if they are proven to have some validity, according to legal/penal criteria, vis-à-vis those of their Greek employers.

The interview with the Greek National Rapporteur has shown that there is a move towards a more "open approach to trafficking" than in previous periods. More specifically, he has emphasized the importance of labour trafficking, the role of the labour inspection authorities and envisages the creation of a directory of companies that respect labour rights and are against trafficking: "At the European level, a *European Business Coalition* has been established in order to monitor the extent to which employers respect human rights and check whether their suppliers do not use workers who have been victims of trafficking for labour exploitation or even victims of exploitation", as a sort of corporate social responsibility initiative.

Another problem, which is becoming more and more severe during the financial crisis, is that of the lack of funding. In 2013, according to the US Department Trafficking in Persons Report, "NGOs did not receive any government funding to serve victims of trafficking. The government continued to provide services to victims of trafficking through public health services, a short-term shelter and processing centre for victims of trafficking and other forms of abuse, and two long-term shelters. Thirty-four victims stayed in government shelters during the reporting period. Other shelters serving victims of trafficking were run by faith-based NGOs with support from international donors." In addition, most of the above mentioned NGOs were/are active in the protection of victims and the implementation of prevention campaigns and focused their work on female victims of trafficking for sexual exploitation. There are, however, a few NGOs in Greece that have worked with victims of trafficking for domestic work and that have been mostly working informally and without funding specifically aimed at combating trafficking for labour exploitation or domestic work. These are namely the *KASAPI*, the *Unity of Filipino Migrant Workers in Greece*, which has been very active in promoting the rights of domestic workers, fighting against employers who hold captive domestic workers in their homes, and supporting migrants who have escaped conditions of captivity, the *Migrant Centre of the Labour Centre of Athens (EKA)*, which has been very active in promoting the interests of migrant domestic workers and helping individual cases of trafficking victims for labour exploitation to combat labour exploitation in domestic environments, and the *African Women's Organization*, which is mostly working through self-help networks to enable African women who have been trafficked either for domestic work or for sexual exploitation to escape. It is important to note that these NGOs work closely together in joint projects and campaigns or ad hoc whenever a significant issue arises.

EVALUATING POLICIES

One of the main problems with Greek anti-trafficking policies is the lack of procedures for the identification of potential trafficking victims at the Greek borders. Since Greece is a transit, as well as destination country, this initial identification may prove to be crucial. Overall, as the reports of Amnesty International (AI) note, there is a lack of effective mechanisms for the identification of victims at the point of entry. Independently of the official legislation and formal commitment to anti-trafficking principles, border protection prevails over the human rights of trafficking victims. The 2007, 2013 and 2014 AI reports observe that the formal procedures for the identification of victims at the point of entry are not respected, signs of trafficking are ignored and the victims' access to judicial procedures are undermined by the lack of trust for official institutions, including the police, NGOs and judicial authorities on the part of immigrants who enter the country.¹⁹

Our fieldwork research has shown that the indicators used in order to identify victims of trafficking for labour exploitation vary among the different services. The Anti-trafficking Unit of the Police has been trained by FRONTEX, and they told us that they use indicators drafted by this agency. The National Centre of Social Solidarity (EKKA), as well as NGOs, such as the "Smile of the Child" and the Human Rights Defence Centre (KEPAD), which maintain hotlines through which victims of trafficking can contact them, use the indicators drafted by the European Commission through reference documents, such as the *Guidelines for the identification of victims of trafficking in human beings*.²⁰ A psychologist working for EKKA said that much of the work in identifying victims is based on "the intuition of the expert who is facing the person, whether he/she is a psychologist or a social worker in a public institution or in an NGO, or a Police officer in the Anti-trafficking unit." Although for some, such as social workers in KEPAD, this kind of flexibility does not pose a problem, the need for the harmonisation of indicators used by different stakeholders has been pointed by the National Rapporteur, who confirmed during our interview that this is one of his office's main objectives.

19. Διεθνής Αμνηστία, (2013), «Επικίνδυνη πρόσβαση. Ζωή σε κίνδυνο στην πύλη της Ευρώπης», http://www.amnesty.org.gr/wp-content/uploads/2013/07/Enter-at-your-peril_briefing.pdf; Διεθνής Αμνηστία, (2014), «Κράτος εν κράτει: Κουλούρα κακομεταχείρισης και ατιμωρησίας στην ελληνική αστυνομία», <http://www.amnesty.org.gr/recordings-of-amnesty-internationals-presence-support-structures-for-victims-of-trafficking-and-domestic-violence>.

20 European Commission, Guidelines for the identification of victims of trafficking in human beings, (Luxembourg: European Commission DG Home Affairs, 2013). Available at http://ec.europa.eu/dgs/home-affairs/e-library/docs/thb-victims-identification/thb_identification_en.pdf.

The Greek anti-trafficking legislation and policies have been evaluated also by the "Trafficking in Person's report" of the US department of State since 2001, when Greece was identified as a Tier 3 country. Today it is characterised as a Tier 2 country. The 2014 report noted that, although there were more convictions than in previous investigating periods and progress was made with regards to the identification of victims mainly in prostitution, the gap between estimated victims and criminals involved in trafficking was still significant.²¹ Also, it noted that the government identified a higher proportion of labour trafficking victims. Of the 99 victims, 30 were victims of sexual exploitation, eight were subjected to both forced labour and trafficking for sexual exploitation, and 61 victims were subjected to forced labour or begging, compared with 25 victims identified in 2012. Of the 99 victims identified, 43 received official victim status allowing them access to government provided care, compared with eight in 2012.²² The percentage of those trafficked for exploitation in the domestic sector is not available in relevant studies.

An additional persistent issue with regard to persecution was that of *police and government corruption*. The 2013 report observed that "the government did not investigate or prosecute any public officials for alleged complicity in human trafficking offenses, even though there were allegations of low-level police involvement in trafficking." The most recent report of 2014 also noted that, "Media reported a judicial officer was involved in the trafficking of women from Bulgaria who were exploited as domestic servants."²³ The low level of identification of victims has been a significant problem since 2001. In 2013, the Greek police was criticized for stopping pro-active investigations and relying solely on reports made by citizens and victims to investigate cases of trafficking. In this context, trafficking for labour exploitation and especially domestic work is mentioned as a problematic area because it is even more complicated than in prostitution to identify victims. The 2009 report mentioned that "there was also anecdotal evidence of trafficking in the domestic service sector"²⁴ and the 2011 report noted that "the police reported that labour trafficking cases remained diffi-

21 US Department of State, *Trafficking in Persons Report 2014*, Available at <http://www.state.gov/documents/organization/226846.pdf>.

22. US Department of State, *Trafficking in Persons Report 2014*.

23. US Department of State, *Trafficking in Persons Report 2014*.

24. Office to Monitor and Combat Trafficking in Persons, "Country Narratives – Countries D through K," *Trafficking in Persons Report 2009*, (Washington DC: US Department of State, 2009). Available at <http://www.state.gov/j/tip/rls/ti-prpt/2009/123136.htm>.

cult to investigate because evidence of force or coercion was difficult to uncover and because labour trafficking victims were reluctant to self-identify.” (p. 2)²⁵

Another significant and persistent problem with regard to protection was the funding of shelters and NGOs. Although since 2002 NGO funding was available, it was distributed with long delays and in many cases it was abruptly cut. After the recession began in 2009, the funds allocated to NGOs have been gradually reduced until 2012, when they were completely cut, which has led to a sharp deterioration in the services offered by NGOs for victim protection. Only government structures, such as EKKA and the GSGE, have continued to provide shelter, counselling, support, and health and medical care. Male and female victims of labour exploitation were especially hit by the lack of funding for protective mechanisms and structures: “NGOs reported that authorities temporarily placed victims of labour trafficking in jail due to lack of shelter. The government did not effectively grant victims of trafficking a reflection period time in which to recover before deciding whether to cooperate with law enforcement, and often ordered foreign victims deported.” Moreover, “there was a continued need for long-term care for victims of trafficking and shelter for male victims.”²⁶

Prevention was the area in which, according to the US reports, the Greek government continued its efforts with several anti-trafficking information campaigns having been implemented. However, the 2013 report concluded that most campaigns addressed trafficking for sexual exploitation and “the government did not demonstrate efforts to reduce the demand for forced labour during the reporting period” (p. 4). The 2013 CEDAW report observed that there was very little information available on the implementation of last National Action Plan to combat trafficking 2010-2012 or about future policy plans.²⁷

In general, the outcomes of the evaluations have been only partially used to promote policy change at the national level. While administrative and legal changes were introduced, issues pertaining on the implementation of policies, such as police corruption and the lack of

25. Office to Monitor and Combat Trafficking in Persons, “Country Narratives – Countries G through M,” *Trafficking in Persons Report 2011*, (Washington DC: US Department of State, 2011). Available at <http://www.state.gov/j/tip/rls/ti-prpt/2011/164232.htm>.

26. Office to Monitor and Combat Trafficking in Persons, “Country Narratives – Countries D through I,” *Trafficking in Persons Report 2013*, (Washington DC: US Department of State, 2013). Available at http://photos.state.gov/libraries/greece/38517/state_reports_001/TIP2013_Greece.pdf.

27. CEDAW, “Concluding observations on the seventh periodic report of Greece adopted by the Committee at its fifty fourth session (11 February – 1 March 2013),” (Geneva: Office of the United Nations High Commissioner for Human Rights, 2013) Available at <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW.C.GRC.CO.7.doc>.

NGO funding have not been addressed effectively. The protection of victims of trafficking continues to be undermined by the lack of funding and organization.

CONCLUSION: IN SEARCH OF BEST PRACTICES

One could argue that Greece has all the legal means to deal with the question of trafficking for both sexual and labour exploitation. The practical implementation of legal measures, however, and the actual outcomes of anti-trafficking policies seem to be less productive than expected. Institutions like the Labour Centre of Athens, which reported that they have received many cases of labour trafficking, primarily in the agricultural sector but also some cases in the past in the domestic sector, mentioned serious difficulties in enabling victims to testify in court. The overall system of protection seems to be unreliable, and most victims opt for tactics that get their employers to pay what they owe them rather than to take action to persecute them. This proves that the victims do not trust the Greek authorities, institutions and processes. As a result, most cases end up in compromises between workers and employers, which are made possible through the informal intervention of NGOs, trade unions or migrant groups.

However, unless the predominant corrupt, racist and intolerant attitudes towards illegal migrant workers change through the work of accountable institutions, especially those of civil servants, including police officers, judicial and administrative authorities, it is very unlikely that substantial progress will be achieved. In that respect, it seems that the efforts to address anti-trafficking issues in domestic work should address more broadly questions of corruption and racism.

To the extent that the domestic sector continues to be a "private sector", it is important to put pressure on responsible authorities to exercise more effective controls over alleged cases of domestic work, examining different forms of labour exploitation and abuse that may take place in private households. Migrant live-ins are the population that should be primarily targeted.

Our fieldwork showed, however, that migrant women forced to work in the domestic sector as live-ins are in such vulnerable positions mainly because they have pressing economic needs that force them to become illegal immigrants and to accept degrading working conditions. Providing for those women cannot be done solely by enforcing stricter controls upon employers, but also by giving those vulnerable women the chance to enter the Greek

labour market in more positive terms, in other words permitting migrant women to be able to work with decent salaries, to have normal working hours, respectable living conditions (including food, rest, security) and legal documents.

In that respect, the work of some migrant communities, most notably the Filipino KASAPI, DEWATA and United African Women's organizations, but also EKA, is exemplary: it includes informal self-help, advocacy and networking mechanisms, as well as strategies of exercising direct pressure on employers who are exploiting domestic workers. These strategies of migrant activists should be taken as examples of the ways in which trafficking for domestic work can be dealt with in order to enable migrant women to escape their conditions of vulnerability. Much more than any government funded organization, these organizations have managed to put pressure on individual employers to respect the rights of their members, and to prevent newly arrived migrants, as well as those who have been in Greece for some time, from falling victims to different forms of trafficking and labour exploitation. By acting as bridges between the 'host' countries and the countries of origin they were able to assist and protect many victims who were never officially identified. Future anti-trafficking policies in the field of domestic work are more likely to succeed if they take these examples into account and learn from them.

Legislative

1. Introduce gender mainstreaming into migration policy and include domestic workers as a group in all integration measures.
 - Female migrant domestic workers constitute the largest part of the migrant population in Cyprus. However, as such, they are consistently invisible across a range of migration policies. The gender-determined risks of violence and exploitation, their gender-specific needs and their rights should be clearly defined and accounted for in the NAPs on Migration and Integration.

2. Introduce migration mainstreaming into gender equality and social inclusion policies.
 - The needs and rights of domestic workers should be acknowledged and accounted for, without bias against their migration status, in the NAP on Gender Equality and in measures on Violence against Women, Sexual and Reproductive Rights, Access to Justice and Equal Treatment in Employment.

3. The residence permit and the work permit should be disconnected.
 - The binding relationship between the two permits can be considered one of the gravest risk-factors, due to the fact that domestic workers who are exposed to exploitation in their employers' household do not and cannot report violations and

seek justice. It has been emphasized numerous times in the past, and brought to the attention of Cyprus's government, that disconnecting the two permits will alleviate domestic workers' exposure to exploitation and will afford better regulation of the sector. It will also decrease the dependence of domestic workers on recruiting agents, who, currently, maintain the power in negotiating a new work and residence permit for a domestic worker who seeks to change her employer.

ANNEXES

Mandate of the National Rapporteur

Law 4198/2013, article 6:

“In the central service of the Ministry of Foreign Affairs, an Office of National Rapporteur is established in order to design, coordinate and implement a national strategy to combat human trafficking at the level of prevention, repression and prosecution of perpetrators, as well as protection of victims of trafficking; the office is appertains to the Minister of Foreign Affairs.”

Selected relevant stakeholders

National Coordinating Mechanism (ESYEM) (Ministry of Foreign Affairs)

The ESYEM is responsible for the coordination of governmental, NGOs, and international organizations participating in the implementation of anti-trafficking policies.

Hellenic International Development Cooperation Department (YDAS) (Ministry of Foreign Affairs) YDAS has been responsible for funding NGO anti-trafficking actions.

Hellenic Police Force Anti-trafficking Units – Departments for Fighting Human Trafficking at the Attica and Thessaloniki Police Divisions (Ministry for the Protection of the Citizen) Anti-trafficking squads are operating at both the central and the regional levels of the Hellenic Police.

General Secretariat for Gender Equality (Ministry of the Interior) In collaboration with Regions and Municipalities, the General Secretariat has created and enriched a network of Counselling Centres and Shelters for female victims of violence and their children, and provides services to assist victims of violence, as well as to prevent violence and to provide raise public awareness.

Migration Policy Directorate of the General Directorate of Migration Policy and Social Integration (Ministry of the Interior) The service of this office issues the residence permits for victims of trafficking that have been identified by the public prosecutor.

National Centre for Social Solidarity (EKKA) (Ministry of Health and Social Solidarity) Among its objectives is to protect minors and women victims of trafficking with the purpose of sexual or/and financial exploitation. It runs shelters and psychological and social support structures.

Office of Public Prosecutor of the Court of First Instance (Ministry of Justice) The Public Prosecutor is responsible for identifying victims and prosecuting the perpetrators of trafficking crimes.

The Greek Ombudsman (<http://www.synigoros.gr/>) The Ombudsman is the independent authority that promotes the principle of Equal Treatment. Although trafficking as such is not part of Ombudsman’s ‘scope of work’, cases of severe exploitation appear in the annual

reports of the authority, particularly when it has to do with discrimination on the grounds of gender or/and ethnicity.

ARIADNE Network The ARIADNE Network against Trafficking in Human Beings in South-Eastern and Eastern Europe is a regional network of 16 NGOs from 12 countries. The Network was established in June 2005 with its seat in Athens, Greece. The mission of the Network is to combat human trafficking through close and coordinated action among countries of origin, transit and destination.

"The Smile of the Child" is a non-profit voluntary organisation which implements the EU project VICTOR "Victims of Child Trafficking – Our Responsibility".

The European Anti-Violence Network was founded in November 2006, with its headquarters in Athens, Greece. The aims of European Anti-Violence Network is strictly scientific, educational and research oriented.

PRAKSIS offers social services to socially excluded groups including recognized and unrecognized victims of trafficking who have no access to public health services - social - legal support.

The Greek Council for Refugees (GCR) is a Non-Governmental Organization, which implements projects on trafficking and refugee movements and has taken action against labour trafficking in agriculture.

The A21 Campaign is a non-profit NGO that works to fight human trafficking. This includes sexual exploitation and forced slave labour. The Greek department is located in Thessaloniki and is operating a shelter for trafficking victims.

ARSIS Association for the Social Support of Youth specializes in the social support, advocacy and protection of children and youth including victims of trafficking. They are implementing projects on the repatriation of unaccompanied children (with IOM) and are running shelters for unaccompanied children including victims of trafficking.

DIOTIMA-Centre for Research on Women's Issues has implemented projects for research on trafficking and has published guidelines on counselling trafficking victims. Currently it is implementing a project for the integration of women, including migrant and trafficking victims, to the labour market. Moreover, DIOTIMA is running a network of NGOs and migrant organizations (DESTA), and has run a campaign against informal domestic work in Greece.

ACTUP-HELLAS is active in the protection of trafficking victims mainly for sexual exploitation.

NEA ZOI is a Christian association that, through street work, provides socio-psychological support and counselling to victims of trafficking in prostitution.

International Organization for Migration is responsible for the repatriation of trafficking victims, the implementation of several projects on anti-trafficking policies, and combatting trafficking networks.

4

DOMESTIC WORK AND TRAFFICKING IN HUMAN BEINGS: LITHUANIA AS A COUNTRY OF ORIGIN

RUGILĖ BUTKEVIČIŪTĖ AND DOVILĖ MASALSKIENĖ,
WOMEN'S ISSUES INFORMATION CENTRE, VILNIUS, LITHUANIA

INTRODUCTION

Lithuania is a source, transit, and destination country for women and girls subjected mainly to sex trafficking, as well as a source and destination country for men subjected to labour trafficking. Lithuanian children and adults are increasingly forced to engage in criminal activities, primarily shoplifting, in Nordic countries, France, the Netherlands, Spain, and the United Kingdom (UK). Observers estimate that 40% of identified Lithuanian trafficking victims are women and girls subjected to sex trafficking within the country. Lithuanian women are also trafficking victims in France, Germany, Italy, Ireland, the Netherlands, Spain, Sweden, and the UK. Lithuanian women and girls from orphanages and state-run foster homes, as well as women with mental or psychological disabilities, are especially vulnerable. It is a known fact, that a number of Lithuanian women work as domestic workers abroad, however there is no official data on trafficking in human beings for labour exploitation in domestic work. A small number of women from Russia and Belarus are transported through Lithuania en route to Western Europe, where they are forced into prostitution. Some Lithuanian men are subjected to forced labour in the Netherlands, the UK, and the United States, mostly working in agricultural sector. Men from Bulgaria may be subjected to labour trafficking in Lithuania. (US State Department, 2014).¹

Legislation

Lithuania prohibits all forms of trafficking through Articles 147 and 157 of its criminal code, which prescribe penalties ranging from a fine to 12 years' imprisonment. In general, domestic work is not seen in the legal regulation as a form of trafficking. Also, it is important to mention that there is no specific approach to gender as a variable in laws, policies or other legislative measures on trafficking in human beings for labour exploitation.

The definition of human trafficking was presented in 2000 when this issue was officially made an offence in Lithuanian Republic Criminal Code (V-bės Žn., 2000-10-25, Nr. 89-27. Nr. X-272). Legislation was amended in 2005, when Article 147 on exploitation for forced labour was included (V-bės Žn., 2005-06-30, Nr. 81-2945. Nr. X-272). One of the most important changes was the introduction of legal persons' liability for the human trafficking.

1. Embassy of the United States, Vilnius Lithuania, *Lithuania Country Trafficking in Persons Report 2014*. Available at <http://vilnius.usembassy.gov/news-events/trafficking-in-persons/lithuania-country-trafficking-in-persons-report-2014.html>. The annual Trafficking in Persons Report is published by the US State Department. Their rapporteurs regularly pay visits to Lithuania to meet with responsible persons and collect necessary information.

Article 147. Trafficking in Human Beings:

A trafficker is a person who sells, purchases or otherwise conveys or acquires a person, or recruits, transports or holds in captivity a person by using physical violence or threats or by otherwise depriving him of a possibility of resistance, or by taking advantage of the victim's dependence or vulnerability or by resorting to deceit or by paying or granting other material benefit to a person who actually has the victim under his control, where the offender is aware of or seeks, that victim, despite his approval, would be exploited in slavery or similar conditions, in prostitution, for pornography or other sexual exploitation forms, for forced labour or services, including begging, committing criminal offences or other exploitative means.

That person shall be punished by imprisonment for a term of two to ten years.

However, the definition of trafficking is very complicated, as it lists possible acts but does not define general indications of trafficking. Also there is a risk that one might assume that all of the elements should be applied together. Although the definition includes a contradictory notion of victim's consent, prosecutors claim that, in practice, the main criteria they use to identify a trafficking violation are a victim's vulnerability and if the victim has been forced into offering services or working.

In 2012, Lithuania took a number of measures to improve the legal framework for combating trafficking in human beings. The most significant amendments in the human trafficking legislation, which came into force on 13 July 2012, are the following:

- On 18 April 2012 the government adopted the decision regarding the procedures for dealing with possible trafficked victims, and it now grants victims a reflection period of 30 days, during which time a victim has to decide whether to cooperate with law enforcement authorities and the court.
- On 21 June 2012 the parliament ratified and adopted into law the Council of Europe Convention on Action against Trafficking in Human Beings of 2005. The law came into force on 4 July 2012. GRETA (Group of Experts on action against Trafficking in Human Beings) has not yet evaluated Lithuania's implementation of the convention.
- On 30 June 2012 the Republic of Lithuania amended the Criminal Code to redefine trafficking in human beings as a crime, to include more aggravating consequences, and to prosecute the users of forced labour and services (Articles 147, 147¹, 147² and 157).

The main Lithuanian Republic legislation related to human trafficking are as follows:

- **Constitution of the Republic of Lithuania** prohibits forced labour, Art. 48 (in English <http://www3.lrs.lt/home/Konstitucija/Constitution.htm>)
- **Criminal Code of the Republic of Lithuania** (hereafter the CC)
- **CC chapters XX** (crimes against human liberty) and XXIII (crimes and misdemeanors against a child and a family) outline criminal liability for human trafficking.
- **CC Articles 147, 147⁽¹⁾, 147⁽²⁾ 157²** (
- **Administrative Violations Code of the Republic of Lithuania** (Article 182⁽¹⁾) is on prostitution and usage of prostitution services

According to this article, a fine from 86 to 144 EUR may be imposed. If there are aggravating circumstances, the fine may be increased to between 144 and 289 EUR, or the person may be sentenced to administrative arrest of up to 30 days.

- **The Law on the Legal Status of Aliens** (Art. 130) establishes that an alien should not be expelled from Lithuania if he or she has been granted the reflection period, in accordance with the procedure established by the Lithuanian Government. Art. 49⁽¹⁾ transposes the Council Directive 2004/81/EC (on the residence permit issued to third country nationals who are victims of trafficking of human beings or who have been the subject of an action to facilitate illegal immigration). It provides that a temporary residence permit may be issued to an adult alien who is or has been a victim of human trafficking and who cooperates with the pre-trial investigation body or the court. The residence permit is for six months and can be renewed.
- **Legislation regarding domestic workers.** There are no specific laws or policies that deal with domestic work as a form of labour exploitation in Lithuania. Since 1 December 2012, the only article on domestic work is in the Labour Code of Lithuania, which is no longer valid.

A worker can only come to work in Lithuania if there is an employer established in Lithuania who can invite him or her, and if he or she meets the requirements of the market test (the vacancy has to be advertised for one month by the Labour Exchange Office). A third country national who comes to work in Lithuania may bring other family members, but a third country national who comes for domestic work may not.

2. For the English translations of Articles 147, 147¹ and 157 see Lietuvos Respublikos Leimas, "Law on the Approval and Entry into Force of the Criminal Code. Criminal Code." (Vilnius: Republic of Lithuania, 2011). Available at http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=366707. See also Art 147² which makes it a crime to use persons in forced labour or services is only in Lithuanian, Lietuvos Respublikos Leimas, "Baudžiamoji kodekso patvirtinimo ir įsigaliojimo įstatymas. Baudžiamasis KODEKSAS," (Vilnius: LIETUVOS RESPUBLIKOS, 2013). Available at http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=453631&p_tr2=2.

An exception is made for diplomats who wish to employ private servants. The head of mission needs to inform the Protocol department by sending a spoken note about their intention to employ a person. The Protocol department issues an accreditation card (C) for the period of the contract. These workers do not need to receive residence or work permits. It is possible for a third country national to employ other third country nationals as domestic workers, but the employees would have to obtain work and residence permits according to the general rules (thus the employment offer would undergo the labour market test).

Domestic workers in Lithuania are typically from Lithuania itself and they mainly operate on the “black” market. Lithuanians may go to other EU countries for domestic work, but it is not considered migration when EU citizens go to other EU countries for work.

On 20 June 2014, the US State Department presented its 14th international report on human trafficking, in which it was stressed that the government of Lithuania has demonstrated some anti-trafficking law enforcement efforts, and that the penalties in the Criminal Code of Lithuania are sufficiently stringent and commensurate with penalties prescribed for other serious crimes, such as rape. The report also states that there are “inconsistent articles in the criminal code and inadequate judicial understanding of trafficking” which has hindered prosecutions.³

Lithuania has convicted only a small number of persons for trafficking in human beings. Lithuanian authorities initiated 23 investigations in 2013, compared to 11 in 2012 and 21 in 2010. In 2013, authorities initiated prosecutions of 18 defendants, which was a decrease from 26 in 2012 and 37 in 2011. The government convicted 11 traffickers under Articles 147 and 157 in 2013, compared to seven in 2012 and 17 in 2011, and those 11 traffickers were all sentenced to time in prison, with terms ranging from three years and three months to 12 years. The Lithuanian government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking.

There is no specific data on victims of trafficking for labour exploitation in domestic work. According to police data, in 2012, Lithuania had in progress 44 pre-trial investigations on trafficking in human beings; 11 of them were started in 2012. The disclosed cases related to domestic and international trafficking in human beings and exploitation for forced labour.

3. Embassy of the United States in Vilnius, Lithuania. “14th international report on human trafficking in which Lithuania.” (Washington DC: US Department of State, 20 June 2014). Available at <http://vilnius.usembassy.gov/news-events/trafficking-in-persons/lithuania-country-trafficking-in-persons-report-2014.html>.

Efforts to address labour trafficking has lagged behind efforts to combat sex trafficking; the government did not begin any labour trafficking investigations in 2010 and 2011. However, in 2009 only two cases (out of 23) of trafficking for forced labour and just one case of exploitation for forced labour were brought to trial.

National strategy and action plan

The Lithuanian government has prioritized its effort to combat trafficking in human beings since 2002, and they have drawn up several action plans concerning the issue. The first action plan (active from 2002-2004) had a specific focus on trafficking for sexual exploitation and prostitution. The policy on trafficking in human beings for labour exploitation was introduced in the second action plan (active from 2005 to 2008), which had a broader focus, acknowledging different forms of exploitation (including trafficking in human beings for labour exploitation). The present multidisciplinary actions to prevent trafficking in human beings are incorporated into the Action Plan of the National Programme for Crime Prevention and Control 2013-2015 (adopted on the 14/11/2012).⁴

There is still no government policy on trafficking women, as a separate group for labour exploitation specifically.

In Lithuania, the Ministry of Interior has a coordinating role in the work against trafficking in human beings. The coordination system operates on three levels.

- The national coordinator oversees the entire effort to prevent and fight against human trafficking.
- An interdepartmental task force includes representatives from the Ministry of Interior and other institutions which are involved in the implementation of the national action plan.
- Ten police officers from major municipalities have been assigned to fight human trafficking in cooperation with other responsible institutions and NGOs (social workers, educators, etc.) at the municipality level.

The Ministry of Social Security and Labour is also involved in the mechanisms related to THB. For instance, it funded projects related to THB between 2010 and 2012. However, it is not part of the coordinated efforts handled by the Ministry of Interior.

4. Action Plan of the National Programme for Crime Prevention and Control 2013-2015 (in Lithuanian). Available at: http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=437628&p_query=Nacionalin%EBs%20nusikaltim%F8%20prevencijos%20ir%20kontrol%EBs%20programos%20%E1gyvendinimo%20tarpinstitucinis%20veiklos%20planas&p_tr2=2.

The National Coordinator was appointed in 2007, and one of the Deputy Ministers of the Interior was empowered to perform the duties: to coordinate the implementation of actions against trafficking in human beings; to support relations and cooperation between governmental institutions, NGOs and international organizations; and to report to the government as well as to the parliament on the situation of trafficking in human beings in Lithuania. The National Rapporteur is Ms. Reda Sirgėdienė, who is the head of the department of the Ministry of the Interior charged with combating trafficking in human beings. The Ministry of the Interior coordinates the work of the interdepartmental commission, which is responsible for the National Crime Prevention and Control Programme, including drafting the action plans for its implementation, observing their implementation, and reporting to the government.

There is no Anti-Trafficking Coordination Unit, but rather there are focal points at each responsible institution and organization performing coordination functions within their competence. The Trafficking in Human Beings Investigation Unit is based within the Lithuanian Criminal Police Bureau. It comprises 16 dedicated officers at the national and regional levels. The prosecutor's office has designated 32 prosecutors for anti-trafficking cases. In addition, each responsible public and private actor has at least one specialist involved in combating trafficking in human beings within the competence of her/his institution (organization).

The Republic of Lithuania had four programmes for the prevention and control of trafficking in human beings from 2002 to 2012. For the year 2013 there were no specific programmes for trafficking in human beings.⁵ Every year a progress report on the implementation of the national action plan is drafted.⁶

The US State Department's 14th international report on human trafficking in Lithuania placed Lithuania in the second tier of states that show significant effort in combating trafficking in human beings. Nevertheless, the US Government noticed that Lithuania implemented only part of the activities foreseen in the human trafficking prevention programme (action plan) 2009-2012. The report stated that Lithuania must provide effective training of police officers on the identification, referral, and appropriate treatment of victims, and integrate an anti-trafficking module into the police force's basic training.

5 National inter-institutional crime prevention and control action plan (2013-2015) (in Lithuanian) http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=437628&p_query=Nacionalin%EBs%20nusikaltim%F8%20prevencijos%20ir%20kontrol%EBs%20programos%20%E1gyvendinimo%20tarpinstitucinis%20veiklos%20planas&p_tr2=2.

6 Ministry of Interior of the Republic of Lithuania, *Report on Human Trafficking Prevention and Control* (in Lithuanian). Available at <http://www.vrm.lt/go.php/lit/Prekybos-zmonemis-prevencijos-ir-kontroles-programa/246>.

Lithuania must also ensure effective training of investigators and prosecutors on building trafficking cases and working with victim witnesses; improve judicial understanding of trafficking and sensitivity toward child victims of sex trafficking; consider amending the criminal code to remove the inconsistencies between Articles 307(3) and 308(2) and Articles 147 and 157; vigorously investigate and prosecute trafficking offenses, including labour trafficking offenses; sustainably fund NGOs to provide victim protection; intensify efforts to identify victims proactively, particularly victims of labour trafficking and children in prostitution; ensure that all victims are offered access to shelter and trafficking-specific assistance, particularly adult male and child victims; and intensify efforts to increase the public's understanding of human trafficking.⁷

Identification of victims of trafficking

In Lithuania there is no special official protocol for identifying trafficking victims, and it is usually done by a police officer, and they use a common protocol for identifying victims. According to representatives from Caritas in Lithuania (an NGO that works directly with victims of trafficking), most institutions (police, NGO, social services and etc.) have their own indicators of identifying victims of trafficking, but there is no joint, official protocol.

Role of NGOs

Several non-governmental bodies are specifically involved in identifying victims of trafficking for purposes of labour exploitation in domestic work. These NGOs that work with women who have been trafficked (no specific focus on purposes on exploitation in domestic work) are:

- International Organization for Migration Vilnius,
- Women's Issues Information Centre (trafficking in women specifically),
- Lithuanian Caritas, Missing Persons' Families Support Centre,
- Klaipeda Social and Psychological Services Center,
- Men's Crisis Centre.

⁷ Embassy of the United States in Vilnius, Lithuania. "14th international report on human trafficking in which Lithuania." (Washington DC: US Department of State, 20 June 2014). Available at <http://vilnius.usembassy.gov/news-events/trafficking-in-persons/lithuania-country-trafficking-in-persons-report-2014.html>.

THE ANALYSIS OF STAKEHOLDERS' INTERVIEWS IN LITHUANIA

Representatives from eleven institutions were interviewed. Five institutions were state-run organizations and six were NGOs. On average, each interview lasted approximately two hours. The vast majority of respondents were women. The interviews were conducted not only at the organizations' offices in Vilnius but also in other cities of Lithuania.

Three of the interviewees were executives, four were heads of units, two were social workers, and two were project managers. Their duties included leadership roles and being in direct contact with members of the target groups, supplying services, and disseminating information through social campaigns. Their work experience with their organizations ranged from two to 20 years.

Many of the NGOs interviewed specialized in providing services and assistance to victims of domestic violence, and human trafficking was not their main focus. The non-governmental organization Caritas has a network throughout the country and primarily focuses on women who have been victims of trafficking, but unfortunately no one from the organization agreed to answer the survey questions. The same can be said about some of the public institutions. An employee from the Ministry of Home Affairs even suggested that trafficking in human beings is not a problem in Lithuania.

Except for those, the survey involved the core institutions working in this field: the migration department, labour inspection department, research centre, municipal crisis centre and NGOs that provide services and assistance to victims of trafficking. We also want to emphasize that not all organizations are working directly with victims of trafficking, some of them are carrying out research or organizing social campaigns.

However, trafficking is most often done by Lithuanian citizens living abroad (push factors), and therefore this survey was more focused on that particular problem. Nevertheless, all respondents were asked what they know about the situation inside the country and how this problem is relevant now and how it might be in the future.

Push and pull factors, with an emphasis on pull factors

When respondents were asked what pull factors caused people to leave Lithuania, they reported economic factors were the most important, such as low wages and the high poverty rate. As a matter of fact, economic conditions were the main factor in all the interviews. One stakeholder commented that when a person goes abroad he believes that he's going

to make a lot of money. Having a low level of education, not knowing the language, not knowing the law all added to the risk of being exploited. Also, an interviewee with Kaunas Women's Employment Information Centre (NGO) said, "Not knowing the law. However, knowing the law can also be an obstacle. For example we taught a woman what her rights are, but the employee decided to fire her because she didn't agree to work extra hours and [she] was not afraid of his threats of not getting her salary paid. (Support Centre for Missing People (NGO))

Definitions: A fundamental understanding of the concepts and their application in Lithuania

We asked the stakeholders about their understanding of the concepts of trafficking of human beings for labour exploitation and illegal work. The responses included not following the contract, being transported by force, bad working conditions, lack of rest, uncontrolled working hours, inhuman behaviour, sexual exploitation, insufficient or no pay. However, the interviewee from Vilnius City Crisis Centre (budgetary institution) said that it is exploitation only when the workers are not paid a minimum wage. One respondent at the Ethnic Studies Institution said that there was no illegal transportation of workers to Lithuania, but there was from Lithuania. The types of cases that they said usually happen in Lithuania include sexual exploitation, illegal nannies, servants, cleaners, dog carers, and elder carers who have some medical training.

Also, Vilnius City Crisis Centre defines THB as working illegally, not getting paid, not getting paid the minimum wage, having no access to labour unions, warrants, and violating workers' human rights.

[It is] when you get transported somewhere and are told that you have to work here, [your movement is] restricted, no regulated hours, no contracts, exploiting the children of the victims, no pay, sexual exploitation. (Respondent from Vilnius City Crisis Centre)

It is clear that organizations have criteria that fit the definition of Trafficking of Human Beings even though there is no legislation criminalizing THB for labour exploitation in domestic work.

However, the respondent from Kaunas Women's Employment Information Centre mentioned that blackmailing is what distinguishes these cases, whereas, the interviewee from the Klaipeda Social and Psychological Services Centre (NGO) said that trafficking is a wider problem and exploitation is about labour. An employee at governmental institution Ethnic Studies Centre said that trafficking is harder to prove, and a representative from the labour

inspection department said they believe it depends if the person has agreed to it, and the interviewee from Klaipeda's City Family and Child Welfare Centre said that "trafficking victims go straight to the police."

Most respondents said that there was a language barrier between them and the migrant workers they were trying to help. They also said there was not enough discussion with the general public about this problem. The contact person from Klaipeda Social and Psychological Services Centre (NGO) said that "people don't identify this problem and there isn't a legal basis which would define this phenomena." The stakeholder from Klaipeda's Family and Child Welfare Centre said that there is a problem with society's mentality which results in possibly trafficked workers' victimization.

The national programme to reduce isolation doesn't work. This phenomena is talked about too little. There's not enough publicity. There are cases, but very little are sentenced. The society often doesn't know they were sentenced and think that it is just the law that doesn't allow it but it is fine in practice. (Respondent from Vilnius City Crisis Centre)

Identifying victims

According to Caritas in Lithuania (who are working directly with victims of trafficking), there is no official protocol or indicators for identifying victims of human trafficking in Lithuania and most institutions (police, NGOs, social services, etc.) have their own. However, the Constitution of the Republic of Lithuania prohibits forced labour.

The respondents had different answers when asked what the barriers were for identifying THB:

They are identified by the Ministry of Interior, the police, labour inspectorate, VRM. However, they are identified while [being] evaluating [for] services needed, as there isn't a questionnaire because it is a new phenomenon.

The respondent from the Women's Issues Information Centre said:

The departments working with human trafficking are the Ministry of Interior, the police, labour inspectorate. It is not an institution but a fact. The problem is that the victims don't contact us enough."

Victims or potential victims are usually afraid to ask for help.

Interviewees from Klaipeda Social and Psychological Centre and Vilnius County Police Headquarters said that identifying Lithuanian trafficking victims takes place before they depart. The representative from Women's Issues Information Centre reported that it happens

while documents are filled in, for example to get a certain status for the person arriving. Vilnius City Crisis Centre said that they identify victims when they come looking for help.

All stakeholders from these organizations agreed that they have a vital role and there were generally positive opinions about their work, but the interviewee from Klaipeda's Migration Centre mentioned that they just assume the fact. Vilnius City Crisis Centre also serves a vital role as it is responsible for ensuring good conditions are maintained in the work place.

Services offered to victims

Most of the NGOs we interviewed engage in activities for preventing THB, as well as for offering help and services to victims and potential victims. For instance, Nendrè – a kindergarten – is an NGO whose work is directed towards prevention. Kaunas Women's Employment Information Centre (NGO) also takes part in the "Women Help Women" week and shows films. Vilnius City Crisis Centre gives talks in professional schools about safe summer work for young people. Each spring they carry out prevention activities in orphanages. Some organizations, such as the Klaipeda Social and Psychological Services Centre, do it indirectly. The Ethnic Studies Institution does not work on prevention.

The interviewee from Nendrè said that the services offered were formal education, motivating children and lifting up their morale, helping the children gain self-confidence and a sense of self-worth, and reminding them of their responsibilities. The work the kindergarten does is offered equally to girls' and boys' groups and parents' groups. Their approach is democratic and they work to help children feel valued, have dreams, and discover their talents. The families get complex services, which are directed towards equal opportunities method, and young girls' learn about prostitution and trafficking.

The respondents from Klaipeda Migration Centre gave examples of Tumot International Migration organisation which helps people who return to their country. One programme they offer is "Social taxi" where immigrants drive taxis to change society's outlook towards foreigners. The participant from the Women's Issues Information Centre spoke about some activities initiated by the labour inspection department, and the one from the Vilnius City Crisis Centre mentioned the Safe Summer Work project, and that they asked the participants from the previous year to provide feedback the following spring.

However, organizations could not state how well the prevention methods worked. There were mixed answers, but poster campaigns at bus stops were mentioned a few times by both governmental organisations and NGOs. Some effective measures mentioned include those that

were engaging to children, and campaigns that targeted possible clients and employers, informing them about the severity of the consequences.

Conclusions

The problems in Lithuania to identify victims of trafficking can be separated into different categories:

1. Victims' lack of knowledge about language and laws.
2. The lack of funding. All organizations, especially NGOs, claim that there is not enough money for them to do more useful work.
3. There are no laws criminalizing Trafficking of Human Beings or exploiting domestic workers, and no actual protocols about how to investigate cases and to identify victims.
4. Society does not know the definition of trafficking of human beings. THB gets defined differently by various groups, and it is not clear to them what it means exactly.
5. There is a lack of cooperation between institutions (NGOs, government, and migration institutions).
6. There is no official standard for the identification of victims. Most NGOs have their own; however, only governmental institutions in 20 municipalities (out of 60) have any standard guidelines.
7. There is no common data on victims, as different stakeholders use different criteria for their data (i.e. the Ministry of Interior collects data based on investigations started, and the Ministry of Social Affairs and Labour collect data on social services provided, despite the cooperation with law enforcement).

THE ANALYSIS OF INTERVIEWS IN LITHUANIA FOR DOMESTIC WORKERS (DW)

Introduction and demographics

Ten women were interviewed for the analysis of Lithuanian DW. These women have worked and lived abroad for different numbers of years, and some of them still live in the country of destination. Eight out of 10 respondents are or were working in United Kingdom, two were working in United States of America and one informant is or was working in Germany (one of the women had worked in two different countries). The time spent in the country of destination was between 1 to 18 years. Fewer than half (four) of the women interviewed were under 25 years old, and six were between 27 and 62 years old. The education level of these women was usually either secondary or vocational. Most of the women were part-time DWs, and others were full-time DWs as soon as they had arrived in the country of destination. None of the women interviewed were working as DWs at the time of the study.

Also none of the respondents identified their domestic work as exploitative, but they shared some information about their friends and acquaintances who had this experience (we could not interview those women directly, so the information has come from the stories told by the ten women we interviewed).

Research in Lithuania focused on recruitment practices and exploitation in a broader sense. We found that migrant workers who had encountered domestic work exploitation often lacked knowledge about their labour rights and about the assistance options available to them. The research noted that agencies and employers may take advantage of the vulnerable situation of domestic worker due to their poor social and economic conditions, the lack of (local) language skills and the lack of awareness.

Most of the alleged victims of exploitation uncovered in the research were women, between 20 and 62 years old, and were socially vulnerable. Countries where possible exploitation had taken place include EU Member States, such as Ireland, the UK, Spain, the Netherlands, Sweden, Germany, and the Czech Republic, as well as Norway. The Lithuanian research found that the biggest risk of exploitation exists in the agriculture, construction and manufacturing sectors. Nevertheless, domestic work also has such practices.

Very often, the women found domestic work through personal relationships and social networks. However, the research found that many women working as DWs have had bad experiences with employers even though they had been recommended to them by relatives or friends. None of the women used the services of employment agencies due to the negative opinions about them.

According to the Lithuanian research, the women usually find domestic work positions abroad from online advertisements (either Lithuanian or foreign websites) and through relatives' and acquaintances' recommendations, whereas, people looking for other types of employment go through employment agencies and labour exchange services. Sometimes workers had simply tried to find a job upon arrival in the country of destination. The traditional method of placing ads in newspapers had also been used, but this was rather rare. Respondents mentioned that the friends or acquaintances who have experienced exploitation were directly recruited from villages in Lithuania.

The research pointed to certain key indicators which show that a job advertisement may be unreliable when it promises very high wages for a relatively simple job. Free housing and transportation from Lithuania to the country where the job is offered or housing without detailed rent/bill descriptions are also indicators of potential problems upon arrival. Also, a

job advertisement where the work is not specified or detailed, where there is no indication of how much the wages will be, or where there is no mention of what requirements an applicant needs points to a dubious job offer.

Respondents mentioned that the friends or acquaintances who had experienced exploitation were frightened or convinced that they were indebted and did not seek help themselves, nor did they consider themselves to be victims. Usually they did not know where to go to complain and did not believe that they could be helped. They shared this experience only with their migrant friends. In fact, many cases they came indirectly to the attention of the authorities and NGOs when workers' families sought assistance or workers went to NGOs in conjunction with other problems. According to this research, victim identification in Lithuania does not function properly, as assistance to victims is not coordinated, there are not enough specialized police officers working on trafficking, and there is no proper cooperation between different organizations that provide assistance to trafficked victims and exploited workers.

Push and pull factors of domestic workers

Economic factors were mentioned by most respondents as to why they and many others leave Lithuania in order to find work abroad. In particular, the push factors were low wages and the high poverty rate. One woman said, "In fact, the main reason was because I could not make a living here simply in Lithuania." Another respondent said that she left Lithuania for the purpose of "gaining a better education, a better life (economic) conditions." Of all the reasons given for leaving Lithuania, economic conditions were mentioned by all participants for being an important factor in their decisions.

The main reasons for leaving the home country

The specific reasons people have for leaving Lithuania to become domestic workers abroad were varied, but at the same time, they were similar (such as for economic reasons). Most informants' answers were:

- a. Job/economic reasons
- b. Quality of life: Not being able to make a living
- c. Domestic violence: Some of the informants suffered violence in their families and leaving Lithuania was chosen as the best way out of the situation. Going abroad for work was not the first reason for leaving.
- d. Studies, quality of studies: These informants were different but important, because while they were studying abroad, all four claimed that they needed to be domestic workers to be able to survive.

- e. Other reasons included: "I wanted to get more [experience]." or "I just wanted to try myself, [and see] how I can live without my parents, friends and so on."

The analysis of the Lithuanian interviews showed there are push factors encouraging people to leave Lithuania, yet very few pull factors were discovered. The main conclusion of this section is that when assessing all ten interviews, the economic reasons for leaving the country of birth were the most important.

Elements of exploitation

None of the interviewed respondents have identified themselves as being directly exploited as domestic workers. But the majority of the respondents claim they know people who have been exploited, tricked and used for domestic work. The interviewees avoided getting into their own personal details of domestic work arrangements. They made general statements like they had all the money that was promised, that everything was fine and they were satisfied with everything. For example, a woman who had worked in the United States (and had been living there for 18 years) told us that she had been invited by a friend who offered her an illegal job cleaning houses, but she could never take time to eat lunch because they were always in a hurry. Every morning, some people would come to pick her up and they would drop her off in the evening. However, she considered all of this a normal situation or just a regular job with harsh conditions.

There we lived few, well I and few more women, so in the morning we were picked up from our motel and started cleaning houses. The work was very hard, we didn't have lunch breaks, so we ate while driving in cars [between] houses. ... Well this was illegal so everything was like a face-to-face agreement, and the conditions were very bad, but I can't say I didn't earn money.... It was okay at the end of the day. (Respondent who had worked illegally in the US)

Also, interviews showed that respondents who knew someone who had possibly been exploited, such as having their documents withheld, usually avoided sharing the whole stories and just mentioned some aspects. When some of respondents were more open, they considered their friends' or acquaintances' situation to be their own fault:

"I think it's not even worth [it] to go abroad to work in a job as [a] DW, and especially if that pays minimum [wage], because, no one does not count with you, it is very difficult job."

The main problem and reason why it is particularly difficult to track this kind of exploitation is that respondents accept "unfair" conditions in domestic work and do not identify them as harmful practices. First of all, they understand it is illegal work, and second, they feel ashamed

and blame themselves. Also respondents mentioned that if one is abroad one needs to adapt to the job more; in other words, one needs to adapt to the various conditions.

Elements of trafficking in human beings

None of the interviewees have been identified as victims of trafficking in human beings for labour exploitation in domestic work. Also it is highly questionable whether the people themselves are able to identify situations as THB. Respondents could not explain what the elements of THB are, and they associated THB with stereotypical “traditional” forms only, such as THB for organ trade, prostitution, and other criminal offences:

Personally, I don't have stories from my circle of friends, but I hear a lot of stories from media and I get really scared. Mostly children being sold on to third parties, or young women entering the work and being tricked, used and not getting their salaries as promised.

Or they know about marriage related trafficking:

<...> Full. Traded. I know a lot of Lithuanians who come [to England] only for marriage and how much it costs... They get married and then cannot stand crying. There are always passports taken. No longer able to go for work or leave the house. I always used to say do not give a passport.

While labour exploitation in general and domestic work in particular were not identified as forms of THB, when one started to name the elements of THB for labour exploitation in domestic work, respondents recognized them as such.

One of the main indicators of THB for labour exploitation in domestic work that the majority of respondents agreed on was when employers take the employees' official documents, like their passports.

I helped one of my acquaintances. At her job, the manager simply said, 'Give me your passport.' She left her passport, and I immediately come along to that Arab and said that if you do not give your passport I will call the police. He gave the passport, but she lost the job.

Another shared:

Personally, I do not know the whole story of some kind, [but I] just know that a friend of a friend was years back in this situation. ... She was exploited and she hardly escaped from there because they had taken her passport. She was Lithuanian.

From these answers, it can be seen that THB for labour exploitation is a hidden problem. All of the interviews consisted of "my friend's friend", "my acquaintances", or "people I heard of", but this could be that respondents are also hiding that they are actually the victims. Also, it indicates that labour exploitation for domestic work as a form of THB is highly unknown by the general public.

Domestic workers' suggestions for changing the situation

Interviewees were too shy and avoided making suggestions that would change or improve the situation. Some of the informants claimed that they were not capable of answering because of their lack of knowledge about this kind of situation. It is almost a cultural norm for Lithuanians to be dissatisfied with the situation they are in, but to not take an initiative to change it, and to wait for someone to offer ideas.

Mostly all of the informants agreed that there has to be more information about THB for labour exploitation in domestic work and elements of exploitation, which means more information should be available for people before they leave the home country. That information could come from various sources, such as:

- a. The internet. "I think internet, where people share ideas and same situations, where they can warn you before leaving." "Every woman has access to the Internet, so all of the information about the work of a foreign country, as well as trafficking in human beings is found at the tip of the finger... Internet is everything."
- b. More ads and public campaigns.
- c. Schools. For example, one respondent suggested, "Most such information is available in schools. Schools are very serious about domestic violence, and children are observed in school as to whether there is violence in the home. You can easily lose a child."

To sum up, the most frequent answer was that there is a need for more information on the dangers of going into domestic work abroad, as well as indicators of THB for labour exploitation in domestic work. Governments should consider the lack of information as a serious problem and pay more attention. Also informants claimed that if they get into this kind of situation (being a THB or any form of exploitation) they would not consider government authorities as the solution or a source of help. Usually, people have a low level

of trust for these organizations, and for this reason respondents said they would turn to their family members or acquaintances for help.

Elements of entering the country of destination

The data of this research shows that those who allegedly experienced exploitation or human trafficking and those who have not experienced it have used almost the same channels to search for jobs abroad. In the interviews it was mentioned that domestic workers who are recruited directly from Lithuanian villages were more likely to be trafficked for labour exploitation.

The majority of respondents used the help of their families, friends or acquaintances for entering the country of destination. Some of the respondents were picked up by the person they knew upon their arrival. The majority of respondents agreed that agencies in the country of destination could not be trusted. They claimed that it is unsafe, unfair and most often it would lead to them losing the jobs that the agencies suggested.

I encountered [that] when people came through an employment agency, ... [they worked] for two months and ... [then they] lost their jobs, and then I had to help [them] get a job. Agencies do business. If a person works here two or three years, what will be the agency['s] business in Lithuania? Nothing, nothing will be leaving. Let's say I have a factory, I am looking forward to [hiring] people, [and] you have an agency. I need people, you collect people, say [tell me] how much this costs, [the worker] pays ... his 500 [and] comes to me, and while a person works, your business is over, because he works for me. I work in the employee, [and] I do not want to throw it, but because I know the supply is complete, the employer shares with the agency, then I will come out this time, the agency again brings new people. Again the new person borrows money and rides, and you are banished to the street. (Respondent speaking about employment agencies)

Situations occurred where people from different countries were paid and treated differently for the same jobs. For example, one interview said:

I am legal, but I knew Romanian girls who were illegal. The Romanians did not have a residence permit. I was not offered the job ..., only the illegal girls were. They pay less for Romanians, working for five pounds or less, and they pay us Lithuanians different as well as they pay more for British people.

Employers are more willing to hire illegal immigrants, and sometimes domestic work is not even offered to women who entered the country legally.

We are in the EU, ... as far as I know, no one would offer such a job to a Lithuanian, but Russian, Rumanian girls cry.

Then, respondents mentioned that employers prefer them to know as little as possible:

[The] employer told me nothing. They tell you nothing so you would be stupid and wouldn't know where to apply.

Respondents emphasized that they do not trust agencies, and they think that families give the most reliable recommendations, although in some cases older women rely more on acquaintances than they do friends. Once more, the respondents emphasized the importance of getting information when entering the country of destination.

Conclusions

Respondents could not explain what the elements of THB are, and they associated THB with stereotypical "traditional" forms, such as organ trade, prostitution, and other criminal offences. Labour exploitation for domestic work is not identified as a form of THB. Also, none of the respondents identified herself as a possible victim, however, they shared stories (more or less in detail) about people they knew who possibly had faced exploitation in domestic work. One of the reasons they believed people were exploited was that respondents accept "unfair" conditions in domestic work and do not identify them as harmful practices, especially when they are abroad.

Countries where possible exploitation had taken place include EU Member States, such as Ireland, the UK, Spain, the Netherlands, Sweden, Germany, and the Czech Republic, as well as Norway. Also, the research shows that women do not trust employment agencies when they search for jobs abroad, or when they are already in the country of destination, and they are more likely to turn to family members, friends or acquaintances. Furthermore, they do not trust governmental institutions if they encounter dangerous situations. In general, accessible information at each step of the whole process was said to be the key to avoiding THB for labour exploitation in domestic work.

RECOMMENDATIONS AND SUGGESTIONS

1. The government must adopt unified official identification criteria for victims of THB for labour exploitation in domestic work.
2. The gender aspect must be highlighted in all programmes, policies, statistics, etc., regarding THB.
3. The state labour inspectorate must be given the right to become active to observe violations done not only by companies but also by individual employers. There may be cases of illegal domestic work, and some cases may be linked to exploitation.
4. The Labour Code should define domestic worker and domestic work.
5. The government and responsible institutions must provide effective training for labour inspectors, social workers, officers who work at ports of entry and in law enforcement, and judges on the identification, referral, and appropriate treatment of victims. They should also integrate an anti-trafficking module into the basic training of the police, ensure effective training of investigators and prosecutors on how to build trafficking cases and how to work with victim witnesses, and improve judicial understanding and sensitivity of trafficking by introducing them to new forms of THB, like THB for labour exploitation in domestic work.
6. Information should be easily accessible and understandable. It could be in various languages on the dangers of different forms of labour, as well as where to ask for effective help in case of exploitation. It must be properly disseminated among local habitants, Lithuanian emigrant communities abroad, as well as migrant communities in Lithuania.
7. Cooperation between institutions and NGOs should be strengthened and information should be shared to improve national coordination mechanisms, promoting public-private partnership.
8. Trade unions and their international networks should be included in prevention programmes of THB.
9. The government should provide victims legal aid and support services to access remedies, especially compensation.
10. Sufficient and continuous funds must be provided to care providers for victims of THB.

5

BLURRED BOUNDARIES, INVISIBLE VICTIMS: TOWARDS AN UNDERSTANDING OF TRAFFICKING OF HUMAN BEINGS FOR LABOUR EXPLOITATION IN DOMESTIC WORK IN SPAIN

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INTRODUCTION

On the basis of the research carried out in Spain and in the framework of the project, this report firstly approaches the Spanish anti-trafficking legal and policy frameworks and their challenges to correctly address the phenomenon of Trafficking in Human Beings (THB) for labour exploitation in domestic work. The controversial definition of the phenomenon, its invisibility and the existing gaps in the detection and identification of victims are some of the elements explored. The second part of the chapter focuses on the domestic work sector in Spain, including its extent, its characteristics and the existing policies regarding it, with a view to shedding light on the blurred boundaries between exploitation and THB and the difficulties in recognizing and detect the crime. Finally, some recommendations to better address this issue and improve the identification and protection of victims are outlined.

GENERAL FRAMEWORK OF TRAFFICKING IN SPAIN

Legal and political approach to trafficking in Spain: From the international and European frameworks to the domestic initiatives

The International and European frameworks have played crucial roles in promoting policies against trafficking in Spain. The two main international documents on THB, the Palermo Protocol and the CoE Convention, were ratified by the Spanish State during the first decade of this century. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo, 2000), which was ratified by Spain in December 2003, forced the inclusion of the crime of THB in domestic law.¹ The Council of Europe Convention on Action against Trafficking in Human Beings (Warsaw, 2005) was ratified in 2009, ordering a complete and structured system to fight THB, and deepening aspects related to the prevention, investigation and international cooperation, as well as the protection of and assistance to victims.

Regarding EU law, Spain transposed the Directive 2004/81/EC on residence permits issued for third-country nationals who are victims of human trafficking or who have been the subject of an action to facilitate illegal immigration, and who cooperate with the competent authorities. Spain has also recently incorporated the EU Directive on Trafficking in Human

1. The Palermo Protocol is the first international legal text that establishes a definition of THB and the obligation for the signatory States to adopt "such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol" (art. 5.1, Palermo Protocol).

Beings 2011/36/EU into national law, after the formal request of the European Commission to do so (at the time of the expiration of the deadline in 2013, Spain had not incorporated it). At a legal level, in Spain the first reform took place in 2009 with the adoption of a series of norms promoting legal precepts to fight against the crime of THB and to address victims' needs. These norms mainly refer to the modification of the immigration law (regarding third country nationals) and the criminal code.²

On the other hand, the adoption in 2008 of the National Action Plan on Combating Trafficking in Human Beings for Sexual Exploitation (2009-2012) represents the main step taken in Spain at a policy level. The Plan was designed as the first comprehensive planning instrument to combat trafficking in human beings, but, as the title reveals, it only deals with THB for sexual exploitation.

Trafficking is not a political priority

Despite these important steps forward, there is a common agreement among the stakeholders interviewed that there is a lack of political priority towards trafficking in human beings in the country. The fact that the National Action Plan on Combating Trafficking in Human Beings for Sexual Exploitation – the only plan adopted on this issue – has not been renewed after more than two years since its finalization is a clear example of this weak commitment.

S4: Implementation is the practical application of the political decision. For trafficking issues there are no political decisions, what political decisions are there? Amending the Criminal Code? That's the political decision of the Spanish government. There's nothing else. The Plan against Trafficking, well, is extended because they don't make a new one. What can we infer from that? Lack of interest.

As the previous quote reveals, the main efforts made when approaching THB were focused on changing the Spanish Criminal Code, but fewer efforts have been made to adopt a comprehensive policy to address this blot on society. Linked to all of this, the lack of strategic planning was also remarked on by stakeholders, not just at the national level but also in the Catalan context:

S1: Since 2008, you [the Government of Catalonia] have a law [the Catalan Law on the right of women to eradicate male-based violence] that has not been implemented. It has

2. The main legislative modifications were the Organic Law 2/2009 of 11 December, which modified the Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration, and the Organic Law 5/2010 of 22 June, which modified the Criminal Code and which was entered into force on 23 December 2010.

been implemented concerning a specific type of violence, violence in intimate partnerships, but not concerning FGM, forced marriages and trafficking of women, as no services have been provided and no policies adopted. And the Catalan Women's Institute is always complaining to me: "We have no money". Well, if you had money, what would you do? And they never answer it because they are not interested in this topic. That's it.

Trafficking for the purpose of labour exploitation: An under-covered issue

When analyzing THB for the purpose of labour exploitation, the political priority of the issue appears to be even lower. There is a general agreement among the stakeholders on the fact that (little) political attention has focused only on THB for sexual exploitation. The report of the Spanish Ombudsperson (2012) confirms the general invisibility of THB for labour exploitation in comparison with THB for sexual exploitation. The GRETA report (2013) also underlines that Spain's anti-trafficking policies focus mainly on combating the trafficking of foreign women for the purpose of sexual exploitation and claims that much more must be done to address trafficking for all types of exploitation.

S6: Socially, the concern and incidence, the current existing training and awareness-raising is on trafficking for sexual exploitation. Not only in terms of visibility or of cases appearing in the media, but also politically, the responses given have targeted this type of trafficking. Unfortunately, other types of trafficking have remained invisible.

S6: With no Comprehensive Action Plan against trafficking being drafted, but just a specific plan against sexual exploitation, deep down the political message coming through is that you are making the problem invisible, or at least not a priority, or we're not taking care of it. There is a need for political will to make it relevant and, starting from that, to provide guidelines to those who have the duty to detect the phenomenon in their work.

Some stakeholders declared that in a context of generalised labour precariousness and poor labours rights, it is somehow dangerous for the government to put the focus on THB for labour exploitation.

S7: For any government, or at least for this government, it is much easier to accept sexual exploitation than labour exploitation, among other reasons because in the past years, with the crisis, labour conditions have worsened. We are in a context of precarious and exploitative, very exploitative, work.

This lower focus on THB for labour exploitation is confirmed by the fact that in Spain there is no governmental policy dealing specifically with this purpose of trafficking. According to the

GRETA report (2013), a national action plan on combating trafficking in human beings for labour exploitation is currently under development in Spain. However, there is no up-to-date information about the development of this plan and it has not been adopted yet. The Spanish Ombudsperson, in the last report on THB (2012), underlined the need to speed up the necessary tasks to publish this plan.

Most of the stakeholders being consulted on this issue were aware of the existence of the draft, but had no information on the current status of its adoption. One of the stakeholders was actively involved in drawing up the draft, which was finalized, according to this interview, in December 2010. The interview with an officer of the Ombudsperson team did not clarify this issue either, since the institution is also requesting information from the government on this matter. Moreover, the Labour Inspectorate in Barcelona was even unaware that a plan had even been drafted. Therefore, at least an important lack of communication on behalf of the government is detected.

Another criticism of the trafficking approach in Spain comes from the fact that victims' human rights are not sufficiently placed at the centre when dealing with THB. THB is a serious violation of human rights and, as stated in the main international and European instruments, it needs to be approached from a human rights perspective. As the Ombudsperson affirmed:

S3: Trafficking of human beings encompasses all forms of the so-called new slavery, including labour exploitation, the removal and selling of organs, forced begging and forced criminal activities, apart from the diverse forms of trafficking for sexual exploitation. This is not just a criminal activity but also a serious violation of human rights. According to Eurostat, Spain is the second country in the EU with the highest number of people identified as victims of human trafficking. Spanish citizenship ranks as the fifth highest in the EU-27 in numbers of victims and the third highest in number of traffickers.³

Fighting the crime: The Spanish Criminal Code

The controversial definition of trafficking for labour exploitation

In 2010 a specific offence of trafficking in human beings was finally included in the Spanish Criminal Code, under Title VII bis "On trafficking in human beings" and with just one article: 177 bis. Until then trafficking was included in the Spanish legal framework only as a

3. This quotation refers to figures for 2010 contained in the Eurostat report "Trafficking in human beings" (European Union, 2013).

phenomenon connected to the smuggling of migrants (Article 318 bis of the former Spanish Criminal Code, which considered jointly trafficking and smuggling).

Article 177 bis of the Spanish Criminal Code identifies trafficking in human beings irrespective of the purposes of their exploitation (forced work or services, begging, sexual exploitation, exploitation for criminal activities, extraction of bodily organs and forced marriage).⁴ In line with the international and European precepts, THB crime is constituted by three elements: the acts (what is done), the means (how it is done) and the purposes (why it is done). These three elements must be satisfied in order for a THB crime to exist.⁵

According to the Circular 2/2011 of the Public Prosecutor Officer,⁶ in Spain the national judicial experience indicates that trafficking is mostly connected to one of the forms of servitude called “debt bondage”.⁷

4. The Spanish Criminal Code defines THB in the following terms (Article 177 bis.1): “Whoever, using violence, intimidation or deceit, or abusing a situation of superiority or need, or the vulnerability of a national or alien victim, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation, were to recruit, transport, transfer, receive, receipt or house such a victim, including the exchange or transfer of control over those persons, for any of the purposes described below, within Spain, from Spain, in transit or with destination therein, shall be convicted of human trafficking and punished with the penalty of five to eight years imprisonment:

- a) Imposing on the victim forced work or services, slavery or practices similar to slavery or servitude or begging
- b) Sexual exploitation, including pornography
- c) Exploitation for criminal activities
- c) Extraction of their bodily organs
- d) Performing forced marriages

There is a situation of need or vulnerability when the person concerned has no real or acceptable alternative but to submit to the abuse involved.

It is important to underline that the purposes of exploitation for criminal activities and forced marriage were added by the most recent reform of the Spanish Criminal Code (March 2015), aimed at transposing the Directive 2011/36/EU into the Spanish legislation.

5. It must be emphasized that, as Pomares (2011:10) points out, the phase of effective exploitation of the victim is not needed to commit a THB crime. THB is a crime which requires that the “acts” and “means” are carried out with the purposes set forth in the Criminal Code (forced work or services, begging, sexual exploitation, exploitation for criminal activities, extraction of bodily organs and forced marriage). That means that the intention of exploiting the victim must exist, regardless of its actual exploitation.

6. The Circular 2/2011 of the Public Prosecutor Officer establishes criteria for coordinated actions regarding immigration and alien affairs (Circular 2/2011 sobre criterios para la unidad de actuación especializada del Ministerio Fiscal en materia de extranjería e inmigración).

7. As stated in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956) it is “the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined” (article 1.a).

Having said this, and concerning the definition of trafficking included in the Spanish Criminal Code, some controversial points can be outlined:

“Cut & paste”

Some stakeholders pointed out that the definition of THB included in the Criminal Code was not sufficiently set in the Spanish context since it was the result of the direct transposition of international and European documents.

S4: The usual thing is to cut and paste the EC norms instead of adapting them to our reality.

S7: There is a problem in our legislation: on the basis of the Palermo Protocol, Council of Europe convention and EU directives, we should try and draft our own definition of trafficking of human beings, and adapt it to the situation to our country, as well as much more understandable.

Delimiting the phenomenon

Why does Article 177 bis refer to “forced labour” and not to “labour exploitation”? In the draft bill of the modification of the Criminal Code (14/11/2008),⁸ the purpose of Article 177 bis was defined as the “exploitation of work and services”. Then, the final definition adopted by the Criminal Code was restricted compared to the draft, and the term “exploitation” was not finally included. Instead, it refers to the imposition of labour or forced services and slavery or practices similar to slavery or servitude (Pomares, 2011:15). The definition included in the Spanish Criminal Code is closer to the definition of the Palermo Protocol (2000) and the Directive 2011/36/EU than it is to the definition stated by the European Council Framework Decision (2002/629/JAI) which mentions “the purpose of exploitation of that person’s labour or services”.

According to Pomares (2011), it is noticeable that the definition of the crime of THB for the purpose of sexual exploitation has been extended, compared to the other purposes settled in the Criminal Code. In this way, the purpose of “sexual exploitation, including pornography” includes any activity of sexual exploitation of the victim, not only prostitution or pornography, adopting a broader approach to the phenomenon.

8. <http://www.juecesdemocracia.es/ActualidadMJU/2008/noviembre/Anteproyecto%20de%20LO%20de%20reforma%20C%F3digo%20Penal%202008%2014-11-08.pdf>.

It is important to understand that the imposition of labour or forced services refers to a situation where victims are subjugated to work or to offer a service against their will or without their valid consent. The victim is subjected to a condition of being available at all times, without the freedom to decide whether to work or not. Nevertheless, it should be conceived as a form of exploitation to impose the work itself, not only the imposition of exploitative conditions (Pomares 2011:18).

The ILO Handbook for labour inspectors (Andrees, 2008:5) states, “It is important to distinguish between forced labour, where forms of coercion and deception are used to retain a worker, and substandard working conditions. The lack of viable economic alternatives that makes people stay in an exploitative work relationship does not in itself constitute forced labour though it may constitute a position of vulnerability as defined by the Palermo Protocol.”

Unclear differentiation between migrant smuggling and THB

Despite the introduction of the Article 177 bis in the Criminal Code, some stakeholders affirmed that in practice these two phenomena are often confused with each other. As a result, authorities may commonly identify persons as illegal immigrants attempting to cross the border when they are actually victims of trafficking.

S4: Spain introduced the trafficking offence very late and incorrectly. It was introduced together with illegal immigration, which is controversial. (...) The legally protected interests are different: control of migration flows versus human dignity.

S3: There is some confusion between the definitions of trafficking of human beings and smuggling, in particular in those cases where an individual starts their trip voluntarily, searching for better opportunities in life, but becomes a victim of trafficking during their transit or once in Spain.

This confusion can also lead to the misconception that just non-EU citizens can be victims of THB. However, data available show that this is not the case: Of the 49 persons identified as possible victims of THB for labour exploitation in 2013 in Spain, nearly half (44.8%, 22 persons) were from an EU country (Romania). The remaining 27 were from non-EU countries of South America, Asia and Africa (Fiscalía General del Estado, 2013:17).

One crime, multiple crimes

The Spanish Criminal Code established a specific title “on felonies against the rights of workers” (Title XV, art. 311-318 of the Spanish Criminal Code). Some of the behaviours,

included in these articles on an individual basis, could constitute the crime of THB when combined. This is especially the case of Article 312, which foresees a punishment for those who unlawfully traffic in labour (Article 312.1) and for whoever "recruits persons (...) by offering deceitful or false employment or working conditions and whoever employs foreign citizens without work permits under conditions that negatively affect, suppress or restrict the rights they are recognised by the legal provisions, collective bargaining agreements or individual contracts" (Art. 312.2). In this article, it is possible to identify elements that constitute the crime of THB as, for example, the "recruitment, transportation, transfer" or the use of "deceit" about the actual working conditions.

The Ombudsperson (2012) claimed that, as a result of the complexity and unclear definitions, trafficking cases are too often prosecuted as other crimes (as labour exploitation and smuggling of migrants). Stakeholders also expressed this discontent and the need for further definition of the phenomena:

S7: In cases where we believe that there exists trafficking of human beings, this is ignored. They're just considered felonies against the rights of workers.

S1: Concerning labour exploitation, (...) in the current context of crisis we can't say that any situation is trafficking of human beings (...). We need to discuss it further.

As UGT (2014:20) claimed, being identified as a victim of THB instead of as a victim of other related crimes has positive consequences for the victims, in both the short- and long-terms; victims of THB have greater access to protection and assistance services than do victims of other crimes. Moreover, in the case of third country nationals without a residence permit, if they are identified as THB victims, they can benefit from the recovery and reflection period and the residence permit for exceptional situations.

The limiting impact of THB for labour exploitation on the data

This lack of clarity and coherence of the definition of THB for labour exploitation included in the Criminal Code may also explain the very low number of investigations, indictments and sentences on trafficking for this specific purpose in Spain.

In 2013, only 11 out of 146 possible cases of THB recorded by the Immigration Unit of the Public Prosecutor Office were investigated as THB for labour exploitation, which represents 7.5% of the overall THB cases. Sexual exploitation constitutes 88.3% of the recorded cases (129), exceeding by far the other purposes of trafficking (Fiscalía General del Estado, 2013:3).

It is interesting to underline that of the 11 cases being investigated, there were 49 identified victims of THB for labour exploitation. Among them, three women from Paraguay were identified as possible victims of THB for labour exploitation in the domestic sector.⁹ The three women had their plane ticket paid for by the traffickers and so they had contracted a debt with them (Fiscalía General del Estado, 2013:20).

Most of the indictments were issued for the crime of THB for the purposes of sexual exploitation (37 cases, representing a 90.24%) and just on two occasions was the indictment issued for THB for labour exploitation (Torres-Dulce Lifante, 2014:381).

Finally, during 2013, seven condemnatory sentences for crimes of trafficking in human beings were reported in Spain, but none of them was for the crime of THB for labour exploitation. Six were related to THB for sexual exploitation and 1 for THB for the purpose of begging (Torres-Dulce Lifante, 2014:381).

Protecting victims' rights(?): The Spanish Framework Protocol

A Framework Protocol for the Protection of Victims of Trafficking was adopted in October 2011, with the main objective of establishing “operational guidelines for the detection, identification, support and protection of victims of human trafficking, to foster coordination among the institutions involved in these processes and to define the mechanisms for the relationship among authorities with responsibilities in the field, along with the processes for communication and cooperation with organisations and bodies with proven experience in attending to victims of trafficking, in particular those which provide comprehensive support and are involved in public administration programmes for victim support and protection”, as stated in Article 1.1.

The Framework Protocol defines trafficking in human beings in accordance with the definition of the Criminal Code (Article 177 bis). Therefore, it is applicable to trafficking, irrespective of the purpose of exploitation. However, some stakeholders claim that the Protocol has been crafted following the parameters and modus operandi of THB for sexual exploitation. A wide range of governmental bodies and private organisations are involved in mechanisms foreseen by the Framework Protocol. Several bodies can participate in the detection of a victim of THB: the Law Enforcement Agencies, the Labour and Social Security Inspectorate, and private organisations. By contrast, the identification of a possible victim of human

9. It must be noted that at the time of the fieldwork research, this information was not available as this report was published in 2014. During the interviews, the stakeholders were not aware of the existence of any case of suspected THB crime in the domestic work sector (see the following chapter).

trafficking shall be performed only by the Law Enforcement Agencies (of the national police and the police of Spanish autonomous communities). The Public Prosecution Office shall always be notified of the detections and identifications, and is in charge of coordination.

Regarding a victim's treatment, the Framework Protocol establishes guidelines on the procedures to follow when a potential victim is identified:

- The police unit shall provide the victims the necessary information on their rights and the support measures available.
- Presumed victims in an irregular administrative situation shall be informed of the possibility of being granted a rehabilitation and reflection period, an assisted return to their countries of origin, or a residence and work permit based on exceptional circumstances (see below in the document).
- The police unit shall inform the victim of the possible risks and protection and security measures that can be adopted, but the victim has the option to reject them.
- If the victim agrees, she or he shall be provided with a referral to the competent regional or local authorities dealing with social support or the services of organisations and bodies with proven experience in attending to victims of trafficking.

As stated by the Spanish Ombudsperson (2012) and the GRETA report (2013), some autonomous communities have developed, or are in the process of developing, regional protocols to protect victims of trafficking. The governments of Galicia (2010), the Basque country (2011), and Extremadura (2013) developed protocols specifically handling THB for the purpose of sexual exploitation. In Catalonia, the Catalan Protocol for the protection of victims of trafficking in human beings was adopted in October 2013 and is applicable to all purposes of THB, not just for sexual exploitation.

Third country national victims without legal residence permit

In the case of third country national potential victims without the legal residence permit, the Framework Protocol details the procedure for granting a rehabilitation and reflection period.

The rehabilitation and reflection period comprises a period of 30 days (minimum) for those third country nationals who are in an irregular administrative situation and for whom there are "reasonable grounds" to believe that they could be victims of THB.¹⁰ This rehabilitation and reflection period "must be sufficient to allow the victim to decide whether to cooperate with the authorities in the investigation of crime" (Article 59 bis.2, Organic Law 2/2009).

¹⁰ Introduced by Article 59 bis of the Organic Law 2/2009 of 11 December, which modified the Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration.

According to the law, during this period the person is allowed a temporary stay, all administrative sanctioning processes are stopped, and the competent authorities are obliged to ensure the subsistence and the safety of the person concerned.

Where applicable, the competent authorities can declare the victims free of administrative responsibility and give them the option of an assisted return to their countries of origin, or provide them with a residence and work permit based on exceptional circumstances. This exception of administrative responsibility is foreseen in two cases: because of the cooperation of the victims with the competent authorities in the investigation of the THB crime, or in response to their personal situation (Article 59 bis.4).¹¹

Despite this precept, stakeholders affirmed that in the Spanish system there are still some gaps in the protection of victims' human rights, particularly when they are foreigners with an irregular administrative situation. In this case, the administrative situation of the possible victims plays a crucial (negative) role.

S1: One thing is the offence itself, which is linked to the administrative situation of the person. Unfortunately, the administrative situation influences everything in a way that you don't report any offences. This is impossible, right? If the administrative situation is so important in this country that it prevails over the fact that you are a victim whose rights are violated, this framework doesn't provide any guarantee.

Furthermore, if, at the end of the rehabilitation and reflection period, the victim does not decide to cooperate with the authorities in the investigation of the crime (Article 59 bis.2), a legal procedure concerning her/his irregular administrative situation can be issued.

The Spanish Ombudsperson report (2012:245) showed concern for the effective implementation of the recovery and reflection period, stressing that "there must be a clear distinction between two phases. First, the victim should re-establish herself, feel safe and recover physically and psychologically. Only when this first phase has been completed successfully, and always with the support and advice of a specialized organisation, can the second phase be addressed. In this second phase, the victim should be informed that they will have the opportunity to cooperate with competent authorities". The need to guarantee the "recovery" beyond the "reflection" on the possibility of cooperating with the authorities was also declared by some stakeholders:

11 The Council of Europe (2005; art. 184) considers the following reasons in order to issue a permit due to the victim's personal situation: "victim's safety, state of health, family situation or some other factor which has to be taken into account".

S1: It's necessary to understand that we are in front of a victim of a serious violation of human rights, and understand it from this perspective, irrespective of the information the victim provides. Is it really relevant to fight against a criminal net [laughs] or not? It's as if they told a victim of rape: "As you do not recognize the rapist, you have not been raped", right? It's the same. I mean, we are not talking about a different thing. And you say no, the objective fact is that you were raped and this has nothing to do with knowing the rapist's name, or noticing if he was white, black or whatever. How is one thing related to the other?

In parallel, the Ombudsperson report (2012) claimed that those social entities working with THB victims complain that the numbers of rehabilitation and reflection periods requested and granted remain very low.

According to the Ombudsperson, the possibility of offering to the victims of trafficking a residence and work permit based on exceptional circumstances remains very difficult in practice, especially for residence permits that should be granted for the personal situation of the victim. Instead, one of the institutions consulted shows satisfaction regarding the implementation of the precepts of Article 59 bis, at least in the metropolitan area of Barcelona.

Some critical aspects of the Framework Protocol

As stated before, the Framework Protocol is applicable for all purposes of THB, not just sexual exploitation. In general, this inclusion was well assessed, and it was considered as a step forward for a comprehensive approach to THB.

S1: But now I sense that we're opening the scope a little bit, above all since the Framework Protocol was signed. Finally, talk is not just about trafficking for sexual exploitation, right? It does include all purposes and this is pushing everyone to open up the scope concerning detection, identification and response to the crime, right?

However, some stakeholders claimed that even though all the purposes of THB are formally included in the Framework Protocol, this instrument was conceived with a clear focus on THB for sexual exploitation.

S7: I read the Protocol for the identification, and despite it seeming to deal with all purposes of trafficking, including sexual exploitation, labour exploitation, begging, extraction and selling of bodily organs, etc., in practice, I read the questions and all the procedures, and it is clearly designed for victims of sexual exploitation.

Moreover, the Framework Protocol establishes that, although several bodies can participate in the detection of a victim of THB, the identification process can only be performed by police units. Some stakeholders criticised the exclusion of the specialized social organisations in the identification process, and recognized some good practice of “mixed teams” between the police and specialized social organisations.

S6: What we call “good practice” (a mixed team participating in the identification) is not compulsory. I mean that in the Framework Protocol for the protection of Victims of Trafficking intervention by the social organisations specialized in victims’ support is neither established nor compulsory.

According to the GRETA report (2013), a Monitoring Committee was established in June 2012 for the follow-up of the Framework Protocol for the Protection of Victims of Trafficking, adopted in 2011. However, during the interviews with stakeholders, it was apparent that this information was unknown, and some stakeholders even affirmed that this committee had never met.

Making progress?

It is quite clear that important progress was made in the anti-THB legislation as well as in the protection of the victims in Spain. One of the stakeholders interviewed expressed that until recently THB was not identified as a specific crime and there were no specific legal mandates for institutions such as the prosecutor’s office, the police or the labour inspectorate, and therefore they seldom coordinated their activities.

Notwithstanding these positive developments and the efforts of many actors involved in fighting against the crime and supporting victims, most of the stakeholders interviewed claimed that THB is still not a priority in the political agenda of the Spanish government, especially when approaching the protection of the victims.

S1: At the end of the day, nobody feels responsible for this issue. Such a mainstreamed topic with so many approaches and nobody takes responsibility about it, right? For example, the public prosecutor has a specific mandate focused on coordination but is not obliged to create resources, do you know what I mean? (...) And the police has also a clear mandate to prosecuting the crime, of course, right? But where does that leave protection and attention to victims?

In another sense, only very recently, in 2014, a National Rapporteur for THB was designated. This could represent a step forward in guaranteeing coordination and responsibility.

In fact, the GRETA report (2013:23) on this issue stated that: "There is no single institutional structure in Spain in charge of developing and coordinating anti-trafficking action for all types of exploitation and all victims of trafficking. In addition, there is no independent mechanism (e.g. national rapporteur) in charge of monitoring the implementation of anti-trafficking policy. GRETA notes that considerable advantages could be drawn from appointing an independent national rapporteur."

Stakeholders also pointed out the lack of joint responsibility from the institutions, especially regarding victims' treatment. Civil society organisations specialized in THB are called upon to assist victims (or possible victims) of THB in a situation of instability and limitation of resources.

S1: We understand that the [victims'] situation should be as normalised as possible, above all from a sense of joint responsibility. We understand that our organisation is not obliged to address this situation. We are at their disposal, of course, but we understand that trafficking is a serious violation of Human Rights and so the State has failed.

THB AND DOMESTIC WORK: BETWEEN TRAFFICKING AND EXPLOITATION

Background: The domestic work sector in Spain

Domestic work is an important economic sector in Spain. Even though data vary, because of the complicated and changing definition of domestic work between studies, the Labour Force Survey shows that, in the last quarter of 2014, 490,100 people worked in the sector in Spain, while another 557,400 were active.

From the perspective of the employers, Spanish surveys place the percentage of households employing domestic workers between 14.4% (estimation of the Household Budget Survey, specific module on domestic service 2009) and 10.7% (Time Use Survey 2009-2010). Older Eurostat data indicate that 17% of Spanish households employ domestic workers, which is well over the European average (roughly 6%), but much lower than Denmark (28%) or the Netherlands (45%), and on a par with Greece. Variations in the percentages of domestic workers employed had been related to cultural issues and the economic cycle, rather than an absolute measure of wealth.

The Spanish domestic work sector has also grown in the past decades. Data by Arango et al. (2013), based on the Labour Force Survey, showed a very important increase in the number

of workers in the sector from the year 2000 onwards, and a modest decline between 2008 and 2012, in line with the evolution of the Spanish economy. This development may be related to social changes that occurred in Spanish society in recent decades, such as economic growth, the transformation into a country of immigration, an aging population and declining birth rates, new forms of organisation of families and the massive increase of women participating in the labour market (Arango et al., 2013). With a weak Spanish familialist welfare state, the impact of these social transformations has been greatly transferred to the labour market, with an increased demand in jobs in the domestic sector.

As in the rest of the world, domestic work in Spain is also highly feminized, with women accounting for more than 90% of the total. As a share of total female employment, domestic workers represented an 8.4% in 2010. Most female domestic workers are foreign-born, especially from the Spanish-speaking countries of Latin America. Data for 2005 indicated that 32% of migrant domestic workers in Spain were from Ecuador and 13% from Colombia (Consejo Económico y Social, 2006). 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”.

Arango et al. (2013) also showed the important gap between the number of workers stating they work in the sector and those registered in the Social Security system to indicate the weight of the informal economy within the sector in Spain.

Conceptual issues: The wide and ambiguous definition of domestic work

Data provided in the previous section should be taken into account, given that domestic work is an ambiguous term, whose definitions vary across studies. The vague definition and conceptual problems of the term “domestic work”, considered as an economic sector, are related to the fact that most care tasks still are done outside of the market through unpaid work carried out within the families, and mainly by women.

In Spain, the term “domestic work”, as a sector of the economy, refers to specific contractual forms and tasks (Arango et al., 2013). Domestic work is associated with a poor definition of job tasks: care is a very wide concept. Tasks are defined as those performed inside the household, a wide definition which includes many different tasks which are usually undefined in specific terms. Two main groups of tasks are usually included: those related to caring for others (elders, children and dependants) and those related to household maintenance (generally restricted to tasks such as cleaning and washing, but not doing household repairs).

It should also be taken into account that tasks encompassed by the term are related to emotions and gender identities, as the traditional definition of proper womanhood includes the

duty of caring for close ones. The wide and vague definition of the tasks, together with the emotional burden attached to care, complicate the negotiation and agreement of the tasks performed in each job position.

The concept of domestic work in Spain also refers to specific contractual forms: those which imply a direct contract between employer and employee, which excludes *au pairs*, temporary work agencies and other intermediaries which act as employers, and those under the Spanish ACT 39/2006, of 14 December, on the Promotion of Personal Autonomy and Care for Dependent Persons, which establishes public services and funds for dependants' care within households. Those contracts are usually verbal agreements, with no formal employment contracts signed and no protection of rights.

Types of working hours are also relevant in the typology of domestic work in Spain, as they are related to the intensity of work. Three kinds can be described. Domestic workers who live in their employer's house typically have to work the most because they are almost always at their employer's disposal to perform tasks. If they work for just one family, but do not live in the employer's household, the number of hours worked is fewer and excludes around 12 hours in the night time. Finally, it is very common in Spain for domestic workers to work part-time and for a number of employers, combining the timetables and households. In such cases, the tasks are usually specified to a larger extent (Arango et al, 2013).

Spanish legislation and policies on domestic work

The growth of domestic work as an economic sector, coupled with the social issues that it generates, has led, in recent years, to a re-evaluation of existing labour rights. Recent legislative changes for this sector have been enacted, which have kept it in the public debate. The new legislation supports the changes fostered at the international level by the ILO Convention concerning decent work for domestic workers, 2011 (No. 189), even if Spain has not formally ratified the ILO Convention.

Traditionally, domestic work in Spain had been regulated under a Special Regime of Household Workers, but it offered the poorest working conditions of all workers. These bad conditions are directly related to gender, class and race inequalities, and the low social value of care work typically carried out by female workers.

In January 2012, the Royal Decree 1620/2011 took effect, integrating the Special Regime of Household Workers within the Social Security of the General Regime.¹² Even though the Spanish Government denied ratifying the ILO Convention 189 (2011), the new national legislation brought about some important changes in relation to the previous situation, such as: the need for a written labour contract; a maximum weekly working time of 40 hours, both for external and live-in workers; the payment in kind cannot be more than 30% of the salary (in the previous legislation it could be up to 45%); the salary in cash cannot be less than the national minimum wage (648.60 euros/month, and in case of hourly workers, 5.08 euros/hour); and, annual paid holidays of 30 days, among others.

This change was the results of years of activism made by domestic workers (together with trade unions and NGOs) to equate labour rights with those of other workers. However, this legislative action has improved only to a certain extent the position of domestic workers. In fact, the Royal Decree 1620/2011 does not completely bring the working conditions of domestic workers into line with other workers in the General Regime, as it leaves out some fundamental aspects, such as the collective bargaining process and the right to unemployment protection. Furthermore, Royal Decree 29/2012 modified the requirements to register in Social Security and established that domestic workers employed fewer than 60 hours per month by one employer are in the main responsible for registering with Social Security.

Despite the new regulations supposedly improving the situation, difficulties in the implementation of the decree and insufficiencies in the established working rights do exist. Interviews with domestic workers and stakeholders carried out during this project show discontent not only because of the persistence of unequal conditions with regard to the rest of workers, but also because, despite the legislative changes, in practice, there has been no actual improvement of working conditions. Abuses and impunity remain, as does the tendency to engage in labour exploitation. Conditions have even worsened with the latest Royal Decree 29/2012.

S2: They got rid of people they employed with not a penny as dismissal compensation because they made a new contract to adjust to the new situation (...) And then they drafted a new contract, but with minimum salary and the new contractual form. (...) I think that now there are many more people working illegally.

12 The domestic work sector is included in the General Regime, but it remains a special system within the General Regime, with some different conditions compared to the other sectors.

S4: Many workers do not register in the Social Security regime because they have to pay for it themselves. (...) This is a difficulty for them to even regularise their situation even in the area of Social Security.

S12: What it had is an effect contrary to the one it pursued, in the sense that as a result of the improvement of the system protection, registering domestic work staff became more expensive for the employer with regard to the previous situation. And then the issue was that more people remained, quote, "in irregular situations". (...) As in effect it raised the price of social contributions, this apparently prevailed over practical consequences.

For all of these reasons, the current regulation of the domestic work sector fosters vulnerability both to labour exploitation and trafficking.

Questioning the existence of THB in domestic work

Out of the 12 stakeholders interviewed (see chapter on methodology), only four were able to describe cases of domestic workers whom they thought had been trafficked, and none had specific protocols or actions for the detection, identification and protection of trafficked domestic workers.

Some stakeholders explained why they questioned its existence:

S9: I'm not aware of it. And it wouldn't be very logical. I mean, a human trafficking network is a complex issue, has international implications. (...) And for the time being this generates very low profit. (...) Once in, these networks have a pool where there is a system of production where they can place this person and then a percentage of their profit will revert to paying the debt of human traffickers. This is why it's a business. With particular phenomena like this one, a network bringing people to place them in homes, I don't see it very successful. (...) I'm theorising, because I'm not aware of the phenomenon, but it sounds strange to me.

One of the reasons for doubt is that there is no knowledge of organised criminal networks in this sector, and they question whether there are individuals trafficking people to exploit them in the domestic labour sector. Another factor leading stakeholders to question the existence of THB for exploitation in domestic work is that they assume that there is some kind of verbal agreement and consent, even if there is no formal labour contract.

Others insisted on the need to be very precise in the definition of the crime, assuming that the overlap between labour exploitation and trafficking would mean twisting the law too

much. As stated in the previous section, these two crimes actually coexist and (in some aspects) overlap in the legal texts.

Another issue was the fact that in Spain there is high unemployment of migrants and a high demand for voluntary domestic work (even in exploitative conditions) that it makes absurd for trafficking to exist.

S9: What sense does it make to create a complex network of illegal trafficking of immigrants if there is a massive immigrant stock here, waiting to be exploited?

However, other stakeholders did recognise the existence of the phenomenon and stated that trafficking of domestic workers was more widespread than it is generally believed to be.

S4: Informal domestic, together with sexual exploitation, are the two strong cores of exploitation and trafficking.

S5: In my opinion, it is more widespread than we are aware of. (...) Small figures are not due to the low extent of the phenomenon, but to the fact that we are not doing everything to bring it to light.

Recognising labour exploitation in domestic work

Even though there are doubts that trafficking is related to labour exploitation in domestic work, both stakeholders and domestic workers recognise the existence of labour exploitation rooted in the sector. In fact, domestic service is a sector with extended practises of labour exploitation.

Characteristics of exploitation in domestic work

Working experiences described by domestic workers and stakeholders alike include a series of indicators they have been exploited in their employment. Some of them are:

- No formal contract, or contracts which do not reflect the actual working conditions, for example including fewer working hours, or which do not reflect the actual tasks carried out
- Very low salaries, irregular payments or no payment
- Very long working hours, established working hours are not respected and no days off
- Lack of definition of the tasks assigned to the job

Domestic workers' experiences show that usually these exploitative elements take place in a combined way.

W3: The agency made a contract for me for 3 hours and I was there 24 hours. (...) You wake up and sometimes you wake up at 6 in the morning and you go to bed at midnight. No. This is slavery, just that you're not beaten up and sold.

W6: "We can't give you any money. We give you the room." That is, accommodation. And food. (...) And I said: "Well, can I go out?" "Oh, no, no, because my sister has Alzheimer's and you can't go out, not even on Sundays."

W4: Then I told the lady: "Please could you please make me a contract?" As she promised to give me the settlement report,¹³ then I asked her. "We wait this month and that's it. First my husband signs his contract and then I can give you papers." But that month ended and she says: "Look, I can't make your papers because my husband lost his job." And she fired me.

W9: I paid [my Social Security]. They didn't provide it. I paid it with my money. (...) [I worked] as a live-in domestic worker every single day. I wasn't allowed to go out for anything. (...) They just gave 700 euros and that's all. And I was there for two years and they didn't pay a day off to me. Nothing, nothing.

In some cases, the living conditions were especially bad for live-in domestic workers. Some of the indicators are limitations of food, deficient hygiene, no respect for rest times, isolation, no proper individual accommodation and lack of medical support and attention to workers' health.

W8: No, no, they don't give me anything. I have to take even water. Yes, my water from home. I have to take it with me because they don't give me even water.

W9: No, I showered behind their back(s). I said that I only took a shower on Saturdays.

¹³ A settlement report is a report proving that an immigrant is deeply rooted in Spain. It includes information such as years of residency, employment, housing, family ties with Spanish residents, language skills, use of city services, and participation in associations, occupational and social programmes, and includes documents of evidence attached. The report is issued by town councils or autonomous communities in Spain and, according to the Spanish regulations on foreign nationals, a favourable report may lead to the worker obtaining a residence permit.

W4: And I wouldn't go out of the house. Every day I've been there. (...) I had no freedom. It was a village, in the mountains. (...) I had to look after the grandmother, the child... And every weekend there came the granddaughter with her husband. (...) I was paid 800 euros.

W1: But the thing I never agreed with is that the lady went to bed at one in the morning and I had to go and put her pyjamas on at half past midnight, twenty to one. (...) That's it, I slept very few hours.

Domestic workers are also victims of different kinds of abuses, such as sexual harassment, verbal abuse and insults, which often reveal the employers' prejudices and racism.

W5: But this man, with a wheelchair, changing his diaper and everything. But this man, when he drank too much, he wanted to touch.

W3: He was 90, but he had a clear mind. (...) He insulted me as I've never heard in my life. And I don't like four letter words. (...) And in front of others. (...) And the mother said to me: "All of you coming from abroad are bitches."

They also submit to different kinds of control, such as over their appearance (forced to wear certain clothes and avoid others), over their work, space and behaviour (all their expenses are questioned). The results are recurrent conflicts, stress and overwhelming situations.

W1: I remember I arrived in the summer and it's normal to wear normal summer dresses, isn't it? (...) And that woman told me: "Wear this." They were awful clothes. "Because if my husband puts his eyes on you..."

W2: The lady's family installed cameras all over the apartment, with a mobile-operated programme to control what happened.

W9: She said she paid a lot for light, a lot for water... (...) I charged my mobile phone behind her back.

W3: And when I went on Tuesdays and Thursdays, if I tell you the truth, I was afraid to go to work.

Elements promoting labour exploitation in domestic work

It is also worth noting that stakeholders described vulnerabilities of domestic workers which made them prone to labour exploitation, especially migrant domestic workers. Some

of them are isolation, precariousness of workers' economic situation and their living conditions, having dependents (either in the sending or the receiving country), and the lack of a residence permit.

S9: Speaking of labour exploitation, we've almost determined that what happens is what we call a "triple lack", which are elements that make the perfect context to exploit someone's labour. They are: illegality, so they [the migrants] have to accept anything to obtain income, social exclusion, because they have just arrived (...), and then necessity, obviously is the third one.

W6: Working live-in is a double-edged sword. If you don't have everything written down in your contract and that... It would be scary to me. Honestly. Sometimes it's better, I don't know, [to work] from 9 to 5 and pay your room, than being there. (...) Of course you're thinking: "Well, I earn a salary, you see it all nice, I have my clean salary, I don't have to pay my food nor my room", but if it turns out wrong...

The gratitude trap also prevents women from escaping labour exploitation. One of the stakeholders described a woman who was "very grateful with this family," because they had done "small favours" for her, such as lending her money, and she refused to press charges against them for labour exploitation.

Gender-based vulnerability factors to labour exploitation in domestic work

Some of the vulnerabilities promoting labour exploitation are closely related to gender. For example, stakeholders described one such mechanism in what we can identify as "care blackmailing". Relationships of care that are established between workers and their clients, especially when they are children, involve a kind of emotional blackmailing, which prevents women from leaving their job because of their guilt, and this leads them to accept all kinds of abuses. This emotional dependence is related to gender issues, as care is traditionally considered an intrinsic task of womanhood, and domestic workers may be pressed to keep their jobs to prove their womanhood and to avoid accusations of "not really caring". This pressure is combined with the regret many domestic workers feel who have left their own children in their home countries, and who may devote their long-distance mothering affection onto their employers' children.

S2: One day she is kicked out and she comes to my house. She had raised three or four children. She cried her heart out: "What's going to happen to my life?" she said. "It's as if they were my children."

S2: There was a girl who didn't want to leave her job. The child had grown up, but she said that she had had a kidney transplant. She said: "I know that if I leave, the child is going to die, because I know when her kidney is hurting, how she smells, the colour her skin turns. How is she going to kick me out? I'm willing to work for free."

This last case shows that workers may assume care tasks of high responsibility, which exceed the scope of their job, and they may enter the field of parental responsibility, although they are not recognised. This is related to the lack of a proper definition of tasks intrinsic to domestic work, especially those in live-in positions.

Another gender-based element is the fact that, generally, domestic work is not really considered a paid and recognised job, but something women should do just because they are women, and, therefore, it may be tied to different kinds of abuses.

S5: There are countries where this is due, that is, for a woman or girl to do at home, because it's her duty. (...) Perhaps this complicates even more self-identification by victims. (...) And my uncle, my father or my brothers abuse (...) my body because this is part of domestic tasks, you know. So many think that this is normal here too, you know?

Agencies/intermediaries

It is difficult to link job placement agencies that specialise in domestic work to intermediaries of trafficking, even though there may have been signs that agencies in the Philippines were linked to cases of trafficking, at least in Middle Eastern countries. One of the interviewees described such a situation in regard to her previous work experience in Jordan. Other stakeholders described instances where there were noticeable irregularities in agencies in Barcelona and that they were complicit in exploitation.

W7: Because this agency do[es]n't want to pay in Philippines good. Filipina said me in the office. I ask "Why Elisa? Why like this?". We are paying Philippines less than 1000 pesos. "Why?". "Because we are illegal". (...) Because very fast. You know, the people wants to go fast to work (laughs) to skip in the Philippines, but...

S2: She asked for my 20% for three months and that, and to everything they say they reply "Yes, madam", "Yes, madam" and never confronting them. (...) She is very well-known! (...) She lives off that, off girls, of hooking them on the positions, of keeping part of their salary.

At any rate, research shows that agencies' work is full of irregularities, scams and even complicity with situations of labour exploitation.

W1: That had weird rackets going on. (...) For the two months I worked he gave a dismissal of 120 euros. I think he stole it from me. (...) [And you can't indicate your real number of working hours?] No. [They say] they can't, that they aren't allowed.

W5: I paid 20 euros, but they didn't find a job for me.

W3: [Did the agency guide you and tell you that these are the working conditions, this is the contract...] No, they didn't. I knew the thing about the contract [it included less hours than those worked], but they didn't tell me about the days off.

There is also a number of well-known churches around Barcelona that act informally as job placement agencies and as charity programmes. Domestic workers and stakeholders interviewed described practices which may be interpreted as participating in labour exploitation, discrimination in job selection and other irregularities. Social services also was mentioned as such an institution.

W3: One went working as a live-in for 300 euros. (...). I won't be able to pay the rent with 300 euros!

W3: And a lady came, a bit older, and said: "I want a girl from Eastern Europe". (...) She looks at me and says: "No, no, that. I have a young husband, like me". (...) She says: "No, no, I want Latinas". (...) Another one gets up from the chair and says: "I want one who is undocumented".

W6: And [the social worker] says: "Look, there is a lady here at Sants. (...) They won't give you any money, they've already told me, but they give you a room and such, and they let you go out and search for other jobs. And I thought: "I see myself on the streets, I'd rather have a room and food, and meanwhile I start looking for someone to pay me".

Trafficking women for labour exploitation in domestic work

While all research participants clearly identified labour exploitation in the domestic work sector and were able to specifically describe their characteristics, this was not the case with trafficking for the purpose of exploitation in domestic work.

The first part of this chapter examined how the boundaries between trafficking and exploitation are far from clear for a number of reasons, including overlaps and obscurities in legal documents, and that the global image of trafficking is normally associated with victims of sexual exploitation.

In 2013, the police identified in Spain for the first time three domestic workers who had been trafficked from Paraguay into Spain for the purpose of labour exploitation. The report of the Public Prosecutor mentions the case (2013:20), but there is no further information available. Also found in the press and described by stakeholders were cases where women had been trafficked from Latin American countries (Bolivia, Colombia and especially Paraguay), Eastern Europe, Morocco and Yemen. Despite repeated efforts to reach the women that stakeholders described during the interviews, it was impossible to interview them.

The only woman to be interviewed during this research who self-identified as a victim was a Filipina woman who had been trafficked from the Philippines into Jordan and had been exploited there in domestic work. She clearly differentiated this experience from her later migration into Spain and her work as a domestic worker.

W7: Because when I go here I go personally in agency in embassy of Spain in Manila. When I go, in [to] Spain I personally I gave everything my papers in the office in the embassy of Spain in Manila, so it's very good. (...) It's very... very big different to here. Because when my doctor is very strictly when I go to Europe and there is very fast. You are clear now! [laughs] Is very bad, but in here no. (...) Different, the doctor, the everything, the prices, different. Very difficult.

Despite the impossibility to interview victims, the information provided by stakeholders, as secondary sources, is extremely valuable. This is especially true of a number of grassroots NGOs and migrant women's associations that provide individual support to women. They were able to detect and describe specific cases of trafficking for exploitation in domestic work. The cases stakeholders described allow us to establish which indicators are informally used to detect them, how they are different from either straight-forward cases of labour exploitation or other types of trafficking, and what specific vulnerabilities the victims have, as well as what vulnerabilities are similar to those of other victims who were trafficked for other purposes.

Main distinguishing features

One of the distinguishing traits of THB for exploitation in the domestic sector is that recruitment is often carried out by individuals (fellow citizens, family members and acquaintances) rather than criminal networks, which makes it difficult to detect and identify the phenomenon, as it does not match the stereotypical image of the modus operandi of trafficking.

S6: We have very clear examples of trafficking cases for the purpose of labour exploitation in domestic work among live-in domestic workers [who were] brought by fellow citizens

of their same nationality with a job offer in the domestic sector in Spain, promising them working conditions which had nothing to do with what they later found here, and who really saw themselves in a situation of real trafficking and exploitation.

S5: Family members or acquaintances, so there is no mafia, criminal network and all that. (...) Of the same nationality and they also have some kind of power.

S4: Well, deceit... In order not to press charges, having no documents, abuses, intimidation, because at the end of the day they are working for nothing or for food.

Debt bondage with family members may act as a pressure factor to perpetuate the dependence on trafficking. Victims may also be robbed of their passports, threatened with deportation if they attempt to press charges, and subjected to extreme isolation.

S5: I think that in domestic work, even more so than other kinds of trafficking (...). So your freedom of movement is more limited. (...) There are actual situations of slavery, where victims are forced to do everything: cleaning, provide for children...

S6: We're talking about individual offers and placements for jobs in a private home, a private sphere. A bit due to the characteristics of this sector, it lends itself to these kinds of offers, contacts and types of individual behaviour. They're job offers placed by the traffickers themselves, very often directly from Spanish nationals, which they disseminate or publicise in the country of origin.

An increased vulnerability may be added in the case of non-Spanish speakers, who are more easily deceived, and women coming from extremely poor situations.

S2: Many, many don't speak Spanish well, a lot of them, or they can't read. (...) They force them to sign whatever they want. (...) These are also so, so depressed countries (...) If you think about them in a hut, eleven or eight people shitting inside a hole, say, because this is my reality too in my country [Bolivia], because I know the countryside very well.

It is worth noting that human trafficking has an overlap with other kinds of human right crimes, which further complicates and obscures the phenomenon among stakeholders and in public opinion. This is the case of what stakeholders described as "servile marriages", where trafficking and exploitation are linked to intimate partnerships. Recruitment may be done through fake dating practices on the Internet or through so-called "mail order wives".

S6: Through the Internet they start a relationship, they meet, he even goes to Colombia to see her and get to know her family, and then brings her into Spain, in what she believes is the beginning of a serious relationship. Once here and under his control, this guy locks her up in his house and has her as a slave in domestic work and sexual slave, with no freedom or chances to do anything. Besides she is completely coerced and threatened: “You are here irregularly in Spain. I’m a Spanish man with social status. If you attempt to escape and press charges against any of this, I will press charges against you and say that you have been employed as domestic worker in my house and you robbed me. You will see they believe”.

Another specific case was one of a minor who was “semi-adopted” (a type of adoption that exists in Morocco). She came to Spain to have access to schooling, but she was in fact ultimately exploited for domestic work and then forced to get married, before she managed to escape.

Victims of THB are also exposed to other forms of violence. They may be involved in a chain of gender-based violence, where being a victim of one specific form of violence (forced marriage or intimate partner violence, for example) increases their vulnerability to being trafficked and the possibilities to endure repeated cycles of violence.

S11: We find very often women who, after a situation of sexual exploitation, they suffer other kinds of exploitation which are not part of trafficking itself. They’re not exploited by the same traffickers, but after they were liberated. (...) A man helps her escape and, as gratitude for his help, [she works for him] at home because he was ill. And after a while she starts working at the house of this man’s sister, 24 hours a day, earning 400 euros, with no day off.

Specifically, THB for labour exploitation in domestic work is especially linked to sexual violence perpetrated by employers, as what happened to at least eight women who were trafficked internally. The couple that employed them exploited the women through domestic work, and the husband of the couple sexually abused them. There have been other individual cases.

S5: The case of a very old couple, over 70. They were employing domestic workers for years, but it seems, I’ve been told, that there was a sexual issue there: the man forced girls to have intercourse.

S6: A Spanish man with a series of contacts in Morocco, well-known people, offers a woman a job to perform domestic work in his farm in Andalusia. And in effect the Moroccan woman accepts the offer and when she arrives job conditions are totally of slavery. Moreover, she is subjected to constant sexual abuse by this man, who locks her up. It's an uninterrupted job: domestic tasks, taking care of this man's mother, an elderly woman, looking after the animals...

Specific obstacles for detection, identification and protection

It has been described during this chapter that the main problem to address THB in domestic work is detecting it. Some of the outstanding problems have already been mentioned; there are no specific instruments for detecting THB for exploitation in domestic work, and the indicators are not adapted to this type of trafficking and not widely known by stakeholders. That THB of domestic workers has similarities to other kinds of trafficking and human rights crimes, and that there are unclear boundaries between trafficking and labour exploitation, further complicates the issue.

As it is with labour exploitation, it is very difficult to detect and identify a crime happening in the private sphere. In this sense, identification may be easier when exploitation in domestic work is linked to exploitation in other labour sectors, such as commerce.

S6: This is the one and only time where a case of trafficking of this type comes to us through the police. And she arrives because, as she is forced to sell handicrafts on the street, after some months she manages to make friends and establish trust with a man from Ecuador who is also a street seller.

This would help not only to detect trafficking situations, but labour exploitation cases. Among other stakeholders, the Labour Inspectorate has a key role in the detection of labour exploitation, even though its competences are administrative and for the protection of workers' rights, and not to identify criminal activity. At any rate, the role of the Labour Inspectorate is very weak: if no charges are pressed, it is very difficult to have access to a private home, due to the principle of inviolability of the domicile. Even though verbal consent from the holder of the domicile may be enough to break this inviolability and allow for labour inspectors to enter private homes, the practical experience of labour inspectors shows it is more complicated, as initial verbal consent is difficult to prove.

E12: So what's our practice? We have identified three main situations, concerning our intervention in private domiciles related to domestic work. First scenario: the door is opened by the holder or a family member, and they deny someone is working there and do not let us in. Second element: they don't open the door, even though we know that there is

someone in. And third element: the door is opened by the domestic worker herself. In that case, we ask her a number of questions, usually there by the door, but without going in.

The nine investigations carried out in 2013 in Spain were started because the victim had reported the suspected crime (Fiscalía General del Estado, 2013:19).

Difficulties for detection affect both stakeholders and victims themselves, who very often are unable to self-detect their situation and, consequently, they may not be ready to press charges. Extreme isolation, lack of proficiency in spoken and written Spanish also increase a worker's vulnerability. When workers come from contexts of extreme poverty or a cultural milieu where having a servant in exploitative conditions is tolerated, workers themselves may also have higher levels of tolerance to being exploited. Similarly, irregular administrative situations also act as a deterrent to victims to report to authorities, a reluctance which is promoted by the exploiters and traffickers, who resort to threats of deportation.

Regarding identification of trafficked victims for labour exploitation, stakeholders mentioned that it is difficult to provide evidence proving psychological or abstract issues such as deceit and consent. This kind of trafficking usually involves individuals doing the recruiting, not organised criminal networks, and it makes it complicated for police to find, as they have focused mainly on investigating and dismantling criminal networks of traffickers.

Another important element is that often criminals are protected by the system because Spanish authorities have no competences to intercede. This is the case in a situation of domestic servitude on a sea cruise, where Spain has no jurisdiction, and another case of trafficking for labour exploitation in diplomatic missions.

S4: This is a girl from Yemen who applies for asylum. (...) Her employers bring her on a sea cruise, and in Barcelona she escapes and says that she is enslaved, she is not paid, she is beaten up... (...) The exploiters are both Saudi Arabia nationals, and with universal jurisdiction and all these things that work so well...

S6: Members of the diplomatic body that bring into Spain their own domestic workers from their countries of origin. Unfortunately, in many cases, as the visa of this worker is totally dependant on the employer that brought her, there are many cases of trafficking for labour exploitation in domestic work in diplomatic missions.

Stakeholders that may play a decisive role in detecting trafficking cases and should be provided with adequate training are church and charitable institutions, co-national associa-

tions and individuals, social NGOs providing support services, and trade unions (as they provide information about workers' rights). Specifically, relevant actors would be associations and informal groups of domestic workers which have up-to-date information about the current situation of workers.

Finally, victims' access to rights and protection is linked to them being identified as such. NGOs have problems encouraging women to press charges, as there is no guarantee that victims will eventually be protected. If the courts eventually find them not to be victims, they may be deported, and for this reason NGOs refuse to raise the expectations of the women they provide support to.

RECOMMENDATIONS

The research carried out in Spain has shed light on the developments, but also on the limitations, of the current legal and political frameworks of the State to deal with THB and specifically THB for labour exploitation in domestic work. On the basis of the analysis of the research results, some recommendations have emerged to better address this issue and improve the identification and protection of victims in the country.

Towards a more comprehensive and inclusive framework to approach THB and ensure the protection of victims' rights

- The legal and policy frameworks dealing with THB must be strengthened to go beyond the criminal perspective and ensure the protection of victims' rights. Specifically, there is a need to adopt a comprehensive law against THB irrespective of the purposes of exploitation. This would show the necessary political commitment to fight against this crime and protect and assist its victims.
- The role of the Spanish national rapporteur for THB who was recently appointed should be promoted and strengthened. That would overcome the current lack of a clear and strategic leadership on the approach of trafficking of human beings in the State.
- The establishment of more stable and functional coordinating channels among public and private actors tackling THB should be fostered, with a view to ensuring information is exchanged, policies are sustainable and work is continued. In parallel, civil society organisations need to participate more in the creation of, implementation of and follow-up to policies and measures addressing THB.
- The government must ensure their responsibility to guarantee the law is implemented and the resources for addressing victims' rights are sustainable.

- A human rights approach must be adopted which promotes victim's protection and empowerment.
- Mixed teams of public and private agents must be promoted to work together in the detection and identification phases of THB. In some cases, the introduction of intercultural mediator services may be effective.

Overcoming the invisibility of THB for labour exploitation, especially in domestic work

- Research should be increased on the invisible phenomenon of THB for the purpose of labour exploitation in domestic work throughout Spain, as well as on the specifics of labour exploitation in the sector. Such research should be based on the experiences of domestic workers, and enriched with the shared knowledge and participation of all actors involved, especially domestic workers' associations, trade unions, grassroots women's and migrants' associations, and NGOs supporting victims.
- The detection, identification and protection mechanisms need to be improved to effectively address situations of labour exploitation in the domestic work sector. The private sphere where domestic work is carried out cannot be a space for impunity, which evades the legal framework guaranteeing workers' rights and forcing employers to comply with their obligations.
- A specific action plan against THB for labour exploitation must be adopted with a view to establishing mechanisms and specific resources adapted to trafficking for this specific purpose. Although a draft of a plan was already drawn up by the Spanish government, up to now it has not been adopted, even at the request of the Spanish Ombudsperson to do so as soon as possible.

Having a specific action plan would ensure appropriate resources to deal with this specific purpose of trafficking since, up to now, most resources and services have not been adapted to the reality of THB for labour exploitation. This has consequences in terms of detecting, protecting and assisting victims. The specificities of THB for exploitation in domestic work should also be taken into account when carrying out detection and identification of victims of this crime. At present, it is difficult to identify them because they do not match the stereotypical image of the modus operandi of THB (mainly based on THB for sexual exploitation). Specific instruments and indicators could overcome some of the current problems affecting detection and identification.

A specific action plan would raise awareness of the phenomenon of THB for labour exploitation within society as well as among the wide range of actors who may come into contact with possible victims.

- The current definition of THB for labour exploitation needs to be revised in the existing legal framework with a view to diminish the existing ambiguity and provide a clear delimitation of the phenomenon. This would help the detection and identification of the phenomenon, which so far remains very limited.
- The gender dimension of the phenomenon of THB for labour exploitation in the domestic work needs to be taken into consideration. Domestic work is a highly feminised sector and the majority of victims detected and identified until now in Spain are women. Therefore, the measures to be developed and services provided should be adapted to the specific needs and situation of women.
- The general public needs to be made aware of the existence of trafficking for domestic work in Spain in order to fight against its social invisibility and shed light on the responsibility of exploiters and on victims' situation. This would be helpful not only for actors but also for potential victims to identify themselves as such, which currently is very difficult.
- Actions that would raise awareness among victims need to be promoted through the development of strategies to reach them in a safe way. The final aim of these actions should be to provide potential victims with information on their rights and to facilitate their access to available assistance and protection services.
- Specific training on THB for labour exploitation needs to be provided to public agents such as the Labour Inspectorate and the police, as specialized human resources for the detection, identification, protection and victims' assistance.
- Other actors should be promoted to be involved in the detection processes. In particular:
 - The role of the Labour Inspectorate should be strengthened and more resources should be provided for the detection and identification processes. They should also be promoted to collaborate with other actors like the police.
 - The involvement of the trade unions in the detection of the phenomenon should be encouraged through raising awareness and capacity-building actions.
 - Citizen's involvement in victims' detection should be considered through the establishment of clear mechanisms and means to report incidents. Providing a 24-hour free phone number specialized in THB irrespective of the purpose of exploitation could be a good initiative in this sense.
- Efforts should be increased to investigate intermediary agencies in the labour market, such as employment agencies which offer jobs in the domestic sector and which may contribute to the exploitative situations in this sector. In doing so, an intermediary system more respectful of human and labour rights should also be promoted through public policies.
- Comprehensive assistance for victims of THB for labour exploitation should be offered, and it should include financial compensation and integration in the labour market in decent working conditions.

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"I Thought I Was Applying as a Care Giver": Combating Trafficking in Women for Labour Exploitation in Domestic Work

