

## **The ILO Convention on Domestic Workers:**

### **From the Shadows to the Light**

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#### **Introduction**

On the 100<sup>th</sup> session of the International Labour Conference, in June 2011, the ILO adopted Convention No 189 and supplementing Recommendation No 201 regulating the terms and conditions of work for domestic workers. This was a landmark moment. It was a landmark moment for domestic workers whose participation in the paid labour market and specific working conditions were recognised for the first time in a holistic manner within a legal document. It was also a landmark moment for the international labour law regime that incorporated within the ILO documents a human rights approach, which is sectorally based, stemming from the view that although domestic work is ‘work like any other’, it should also be treated as ‘work like no other’.

The human rights approach of the ILO emphasises that the rights of domestic workers are universal, stringent entitlements. Its implementation to a specific sector has the potential to address disadvantages that have been historically created and that have had negative implications for workers in the relevant sector. It could be said that the sectoral approach might entail dangers, such as creating distinctions of some workers in comparison to others, leading to exemptions or to lower valuation of skill, profitability, remuneration and other such issues. In this piece we argue that the ILO approach to the regulation of domestic labour has more advantages than dangers. It is sensitive to the importance of recognising domestic work as a form of remunerated work while addressing the particular disadvantage of domestic workers. This contrasts with the British legal setting grounded mainly on the exclusion of this group of workers from labour regulation.

This piece introduces the ILO Domestic Workers Convention and supplementing Recommendation, points to the differences between these documents and the British legal

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framework, and calls for a re-assessment of the UK position. It will be structured as follows. Part I begins with a discussion on the social location of those performing domestic work and their precariousness in the British context. Part II introduces the Convention and supplementing Recommendation and the legal framework adopted in these documents, which intertwines civil, social and labour rights on a sectoral basis. Part III concludes.

### **Part I: What is domestic work and why is it precarious**

Domestic workers typically work in private homes, performing various household tasks, such as cleaning, gardening and caring for children or elderly people (the latter are also known as ‘care workers’). This type of work is gendered, and most of the times done by women. Domestic work was delineated as a separate area of work when productive and reproductive work got separated. During Victorian times this type of work was performed by ‘menial or domestic servants’ for middle and high class families, and with the decline in domestic servant employment the weekly cash in hand cleaner has become important for professional couples. At the post-war period a shift occurred from the model of the ideal family with a single wage earning male head of household, to the ideal family being comprised of dual wage earners. This new model of family life required accommodations of new patterns of work and family-life, which resulted, among other things, in an increasing need for domestic labour.

The positive effect of paid domestic work for contemporary society cannot be underestimated. With changes happening in the labour market, including the growth of the service economy, higher participation of women in the market, the sharing of household tasks by men, and globalization, it has become clear that having domestic workers is beneficial for family members, the employers and the market as a whole. In today’s economic setting, domestic work is vital for the sustainability and function of the economy outside the household. Domestic labour can also be a desirable job for workers who are not highly skilled and might not easily be employable in other occupations. Domestic workers are not always low-skilled, though; they are sometimes educated, and migrate to work in the domestic labour sector in order to send income back to their home countries (H Lutz, ‘Domestic Labour’ (2007) 14 *European Journal of Women’s Studies* 187 at 189). Like other jobs,

domestic work can be fulfilling: the worker develops a personal relationship of trust with the employer, sometimes to a degree higher than other jobs, and may feel highly valued for the services provided.

Yet the particularities of domestic work set challenges too. Much of the domestic labour workforce is composed of migrants who are often preferred by the employers to the country's nationals, particularly if they are live-in domestic workers. The intimacy that often characterises the relationship between the employer and the domestic worker makes her seem like a family member – not a worker. This sense of intimacy can be false, though, because the relationship between the domestic worker and the employer, who is a woman most of the times, is characterised by a difference of status that the latter is often keen to maintain (see B Anderson, 'A Very Private Business: Exploring the Demand for Migrant Domestic Workers', (2007) 14 *European Journal of Women's Studies* 247 and B Anderson, 'Just Another Job? The Commodification of Domestic Labor', in *Global Woman*, B Ehrenreich and AR Hochschild (eds), Granta, 2003, p 104). Moreover, domestic work is hard to regulate, being invisible because it is performed in the privacy of the employer's household. The location of domestic labour makes the workers more vulnerable to abuse by the employers. Domestic labour also has a stigma attached to it, because it is the poorest and neediest that are occupied in it, and due to the tasks required from the workers, which are gendered and undervalued (M Nussbaum, *Sex and Social Justice*, OUP, 1999, p 282). Domestic work is prone to precariousness for social (gender, race, migration and social class), psychological (intimacy and stigma), and also economic reasons.

Sadly examples of abuse of domestic workers are widespread. In a recent report by Kalayaan, an NGO working on migrant domestic workers in the UK, for instance, it was said that in 2010, 60% of those who registered with it were not allowed out unaccompanied, 65% had their passport withheld, 54% suffered psychological abuse, 18% suffered physical abuse or assault, 3% were sexually abused, 26% did not receive adequate meals, and 49% did not have their own room. Their working conditions were exploitative: 67% worked seven days a week without time off, 58% had to be available 'on call' 24 hours, 48% worked at least 16 hours a

day, 56% received a weekly salary of £50 or less (M Lalani, *Ending the Abuse*, Kalayaan, 2011, p 10).

Domestic work is vital in today's world. Yet the regulation of domestic labour is challenging for the reasons described above. The complexities have led to the exclusion of domestic workers from protective labour legislation in some national settings. This can be described as the 'legislative precariousness' of domestic workers, which is the special vulnerability faced by them because of their exclusion from protective laws or the lower degrees of legal protection they receive in comparison to other workers. Examples of such full or partial exclusions are ample the world over: domestic workers are excluded from or afforded lower protection in legislation on the regulation of minimum wage, maximum working hours, trade union representation, as well as labour inspection. In addition, migration schemes have significant impact on the vulnerability of domestic workers (For an overview of the exclusion of domestic from labour legislation see, for instance, ILO Report IV(1), 'Decent Work for Domestic Workers', International Labour Conference, 99<sup>th</sup> session, 2010; on immigration rules and precariousness, see B Anderson, 'Migration, Immigration Controls, and the Fashioning of Precarious Work' (2010) 24 *Work, Employment and Society* 300-317; for an overview of instances of 'legislative precariousness', see V Mantouvalou, 'Human Rights for Precarious Workers: The Legislative Precariousness of Domestic Labour', forthcoming in the UCL Labour Rights Institute Working Paper Series).

In the UK the legislative precariousness of domestic workers is historically embedded. Domestic workers were once a group termed 'menial or domestic servants', a category that was found in past British labour legislation. This class of workers was the largest group of workers among all occupations in Britain during the 19<sup>th</sup> century and until the mid-20<sup>th</sup> century (C Steedman, *Labours Lost: Domestic Service and the Making of Modern England*, CUP, 2009, chapter 2. In 1911 it was the occupation with the largest number of workers in Britain (1,302,438) - see 1911 census at: <http://media.1911census.co.uk/census-factsheet>), and it was specifically excluded from labour legislation, the main reason being the personal relationship domestic workers have with their masters and mistresses and their guests (E Albin, 'From 'Domestic Servant' to 'Domestic Worker' forthcoming in *Blurring Legal Boundaries*, J Fudge, S McCrystal & K Sankaran eds., Onati series, Hart, 2011). Such intimate

relationship, resulting from the type of work demanded from these workers – personal service work – continues to be the reason commonly stated for the legislative precariousness of domestic workers.

Hence currently in the UK domestic workers are excluded from working time regulation (Regulation 19 of the Working Time Regulations), they are placed outside the scope of health and safety legislation (Section 51 of the Health and Safety at Work Act 1974), can be paid less than the minimum wage when they receive accommodation (Regulations 36 and 37 of the Minimum Wage Regulations 1999), and if treated as family members domestic workers are exempted from the minimum wage Act altogether (Regulations 2(2) and 2(3)). Additionally, domestic workers experience the irrelevancy of anti-discrimination and equality rules to their working condition (Albin, 2011, above). This places domestic workers in a situation of sectoral disadvantage – where the rules of the sector – its structure and culture – including labour legislation, lead workers to be in a disadvantaged situation. It is, among other things, the way labour laws addressed the domestic sector in the past, and continue to address it today, that leaves domestic workers in a precarious position (on the term ‘Sectoral Disadvantage’ see: E Albin, *Sectoral Disadvantage: The Case of Workers in the British Hospitality Sector*, Oxford, DPhil dissertation, 2010, introduction and ch 1).

Various organisations and institutions have recognised that domestic workers are vulnerable to human rights violations. The European Court of Human Rights, for instance, in a ground breaking judgment, *Siliadin v France* (App No 73316/01, Judgment of 26 July 2005), ruled that France violated article 4 of the European Convention on Human Rights that prohibits slavery, servitude, forced and compulsory labour. This was because it did not have in place effective legislation criminalising the appalling working conditions of the applicant, which the Court classified as ‘servitude, forced and compulsory labour’. The judgment has had significant impact the world over: it raised awareness about the plight of domestic workers, and gave impetus for change in countries such as the UK, which adopted new legislation criminalizing ‘modern slavery’ (s 71 of the Coroners and Justice Act). *Siliadin* was celebrated for what it achieved with the recognition that the machinery of criminal law might be required to apply in circumstances of grave abuse of a worker (see V Mantouvalou, ‘Modern

Slavery: The UK Response', (2010) 39 ILJ 425 and V Mantouvalou, 'Servitude and Forced Labour in the 21<sup>st</sup> Century: The Human Rights of Domestic Workers', (2006) 35 ILJ 395).

Yet state intervention in very extreme situations of 'modern slavery' is not sufficient for domestic workers' protection. Much would have to be done to address the many aspects of precariousness of those living and working either at the margins or outside the scope of protective legislation. What was the response of the ILO?

## **Part II: The ILO Regulation of Domestic Work**

Having recognised the special challenges faced by domestic workers, the ILO decided to adopt legislative instruments regulating the sector. Indeed in its 100<sup>th</sup> annual conference in 2011, it adopted Convention No 189, which is legally binding for states that ratify it, and the accompanying Recommendation 201 that is not legally binding but contains guidelines that may be referred to in the process of the interpretation of the Convention.

The adoption of the Convention, a hard law instrument, signals the weight that the ILO places on regulating the terms and conditions of domestic work. Since adopting its Decent Work Agenda in 1999, it has been a general strategy of the ILO to embrace more soft law instruments for promoting decent work (*ILO Report of the Director General on Decent Work*, 1999). In an attempt to adjust its policy to global change and to the diversity of regional needs, while being gender and technologically sensitive, the ILO has placed at the forefront strategies that focus on development, social dialogue and enterprise. Today, the adoption of new ILO Conventions is not as common as it was in the past, and attention has been placed on issues such as the ratification of existing Conventions, supervising their implementation and reasserting ILO standards in the broader world context. In the past twelve years, only seven Conventions have been passed. The Domestic Workers Convention is the eighth one, and its adoption has been a celebration for the ILO.

The Convention defines 'domestic work' as work performed in or for a household, and a 'domestic worker' as any person performing domestic work in an employment relationship (Article 1). This results in the exclusion of family members from the scope of the Convention as well as those who are not in an employment relationship, including agency

workers who are viewed as self-employed, and those who come on a casual basis (something which is specifically mentioned in the sub-sections of that Article). Within the Convention special consideration is given to the need to ensure that domestic workers are informed of their terms and conditions of work (Article 7), and a list is set of all the details that should be included. Additionally, and highly important, specific attention is given to the issue of work time and leisure time, which is particularly problematic for domestic workers, especially those living-in (Article 10). The Convention states clearly that domestic workers are free to reach an agreement with their employers on whether to reside in the house (Article 9).

The Convention protects the Fundamental Principles and Rights at Work of the ILO (Article 3). It recognises that domestic work is undervalued and invisible and is mainly carried out by women and girls (Preamble). Thus it states clearly that Members shall take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions (Article 6), enjoy minimum wage coverage (Article 11) and be paid directly in cash (Article 12). Requirement is made that Members set a minimum age for domestic workers (Article 4), ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence (Article 5), has the right to a safe and healthy work environment (Article 13), and of social security protection, especially in respect to maternity (Article 14).

The Convention also recognises that domestic workers are often migrants (Preamble), and contains provisions that are specifically addressed to their migration status. One such example is article 8, which provides that migrant domestic workers recruited in another country should be given a written offer of employment or contract containing the terms of the offer, which is enforceable in the country of destination. Article 9(c) states that domestic workers should keep their travel and identity documents. The Convention also imposes an obligation on the states to regulate private employment agencies (article 15), which often act as intermediaries between domestic workers and employers. In terms of access to justice of domestic workers, the Convention contains a provision that focuses on access to courts (article 16), and a further provision that considers broader issues of regulation, such as effective complaint mechanisms and compliance with legislation (article 17(1)). Importantly, recognising that domestic workers may fear going to the authorities themselves or that they

may not be aware of their rights, the Convention encourages a system of labour inspection (article 17(2)).

The Recommendation incorporates provisions that touch upon aspects of the Convention, setting the particularities to fulfil the rights it adopts. These involve, for instance, the regulation of working time, pay, health testing, accommodation and food, and dismissal of live-in domestic workers.

### *Human Rights for Domestic Workers*

In regulating the work of domestic workers, the Convention adopts a human rights approach. Already from its Preamble it makes reference to numerous international human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 3(1) states that Member States ‘shall take measures to ensure the effective promotion and protection of the human rights of all domestic workers, as set out in this Convention’ and Article 3(2) highlights the importance of freedom of association, the elimination of forced labour, the abolition of child labour, and the elimination of discrimination. It also places emphasis on private life rights of domestic workers (article 6) and the potential for abuse in the privacy of the employers’ household (article 5). These provisions reflect the special challenges of the public/private divide that characterise the domestic labour relation. The Convention expresses desirability for state intervention in a location that is at the time the domestic worker’s workplace, but also the employers’ and the workers’ home (when they are live-in domestic workers).

The Domestic Workers’ Convention includes both civil rights, like access to justice and privacy, and social and labour rights, like working time and minimum wage, taking an integrated approach towards human rights law. This integrated approach breaks down traditional divisions between civil and social rights – a position that we find in human rights law where the international community has sometimes opted for an artificial strict separation between categories of human rights (see, for instance, the ICCPR and the ICESCR). This integrated approach characterises the work of the ILO more generally and has also been

described as a 'holistic approach' (VA Leary, 'The Paradox of Workers' Rights as Human Rights', in Compa and Diamond (eds) *Human Rights, Labor Rights and International Trade*, University of Pennsylvania Press, 1996, p 22 at 40). It is one of its important contributions, for it rests on the recognition that human rights are not easily separable, either practically or as a matter of principle. There is no hierarchy between them. The right to privacy is no more important than the right to decent working conditions, and there may in fact be an overlap between the two: there can be no decent working conditions for a worker who does not enjoy a certain degree of privacy in the workplace. There is also no privacy for a live-in domestic worker, whose working conditions are appalling, and who is not allowed to have private time or private space. The links between all rights are complex, and the approach of the ILO recognises that.

Another characteristic of human rights law is its universalist nature: human rights entail normative standards applicable to everyone simply by virtue of being human. A person's immigration status, sex or social status makes her no less of a right-holder, and this is crucial. A conception of universality also characterises labour rights, in the sense that every worker, irrespective of her or his national origin, race, gender etc, is seen as an entity that should be protected due to the tension between labour and capital. It should be explained that universality is a normative notion: it does not mean that today everyone is, in fact, protected. Both governments and courts sometimes exclude categories of people from human rights protection. Universality means that everyone *should be* protected.

At first glance, the Convention appears to endorse the principle of universality by saying that it 'applies to all domestic workers' (article 2). Yet the next paragraph of the provision provides for exclusions: it, first, provides for a possibility to exclude categories of workers who are otherwise covered with at least equal protection. This does not seem problematic. But the provision that follows states that further exclusions may apply to 'limited categories of workers in respect of which special problems of a substantial nature arise'. It can fairly be assumed that one reason that led to the adoption of Convention 189 was the fact that many jurisdictions exclude domestic workers from protective laws, which was earlier described as the legislative precariousness of domestic workers. Other ILO Conventions permit the exclusion of domestic workers from their scope through the so-called 'flexibility clauses' (see the ILO Report 'Decent Work for Domestic Workers', above, p 20 ff). That this

Convention, which has been specifically drafted to protect domestic workers and address their precariousness, allows the exclusion of some of them from its scope is, therefore, troubling. The provision appears to be contrary to the document's purpose and incompatible with the universalist nature of human rights, including labour rights. This is also incompatible with the ILO's sectoral focus, because even though it targets a specific sector, it still excludes workers occupied in the sector.

A further issue involving the universal protection of domestic workers that is worth highlighting, is that of diplomatic immunity. It is frequently reported in the media that domestic workers accompanying diplomats are subject to abuse. Because these diplomats are covered by immunity, they often enjoy impunity for extremely abusive practices, and this issue has attracted some media and academic attention in recent years. Kalayaan has found that about 3.8 per cent of diplomats' domestic workers are trafficked, which is a much higher percentage than that of workers employed in private households (Kalayaan, 'Ending the Abuse', as above, p. 34). The problems associated with diplomatic visas for domestic workers have also been highlighted in UK parliamentary debates, where Martin Saler MP stated that 'what we are actually discussing is a secret slavery taking place a stone's throw away from this building. For the most abused groups of vulnerable workers, the dark ages are still happening, just around the corner from this mother of Parliaments. It is a scar on this country that such things occur within our borders; it is certainly a scar on the conscience of the diplomatic missions that use diplomatic immunity and their privileged position to treat fellow human beings in the most appalling, disgusting, dehumanising and disgraceful manner. It must stop.' (Martin Salter MP, Hansard, 17 Mar 2010: Column 251WH).

The issue of diplomatic immunity is not raised in the Convention. It is only mentioned in the Recommendation, which states in its final paragraphs that states have to adopt policies and codes of conduct for diplomats, in order to stop the abuse of domestic workers, and to cooperate in order to provide them the necessary protection (paragraph 26(4) of the Recommendation). That the important issue of immunity is only mentioned in the Recommendation is significant, because of its non-binding character.

The employers' right to privacy is another issue that is raised by the Convention. The possibility for labour inspectors to visit private homes in order to assess compliance with legislation that regulates domestic labour, might appear as an intrusion of privacy. Monitoring protection of social rights of workers appears to conflict with rights to private life of the employer. This possible conflict can be addressed through measures, such as the prior authorization of the inspection by a judicial body or the consent of the employer (see ILO Report, 2010, para 249).

### *Work Like Any Other, Work Like No Other*

The Convention reflects the conception of the ILO that domestic work should be seen not only as giving rise to universal human rights issues but also, and very much so, as a type of remunerated labour that calls for regulation. At the same time, the ILO recognises the specific challenges that domestic work poses. Accordingly, the general methodology of its two documents is to view domestic work as 'work like any other, work like no other' (ILO, *Decent Work for Domestic Workers: Report IV(1)*, Geneva, International Labour Office, 2009, 12-14).

The methodology of the ILO that ties a human rights approach in the regulation of domestic labour to concrete principles that target the problems of a specific sector has significant advantages. The human rights approach recognises the universality, and the moral weight and urgency of domestic workers' claims. The sectoral approach enables to view domestic work as 'work like no other', and at the same time addresses it as 'work like any other'. This is because it offers a focus on the particular challenges that workers in the sector face. In this way it makes the general human rights principles more subtle and precise. Human rights and sectoralism complement each other, and offer an adequate way to deal with the sectoral disadvantage of domestic workers.

The need to address the situation of domestic workers as 'work like any other', springs from historical practices of conceptualising these workers as distinct from other labourers. This was due to their connections with the family and the type of work they perform – personal service work that was seen as 'unproductive' and not contributing to the wealth of the nation

(A Smith, *The Wealth of Nations, Books I-III*, Penguin Books, 1986, pp 429-49, and also 133-40; K Marx, *Capital Volume 1*, Penguin Books, 1990, pp 1043-45; and see generally Steedman, above, at 16-17, ch 2.) These perceptions of domestic workers as part of the family and the characteristics of their work, have led to place them outside theoretical studies of labour and of economics. Moreover, and as discussed above, similar reasons were stated in legal documents for the exclusion of domestic workers from historical British labour legislation. The Convention and Recommendation depart from such a traditional view. While agreeing that a different work relationship does exist in the case of domestic workers, as a particular type of personal service work, these two documents place at the forefront the employment relationship itself. In doing so they shift the emphasis placed so far on distinctions in types of work and in work relations, to the need to regulate all those involved in a remunerated employment relationship.

At the same time it is crucially important to treat their work as ‘work like no other’. It has been noted above that domestic workers experience ‘sectoral disadvantage’, meaning that the structure and culture of the sector in which they work impacts them in a direction of disadvantage. Sectoral disadvantage is rooted in the structure of labour law, whose emergence in Britain (and elsewhere) was around sectors and occupations in the labour market. From the time British labour regulation developed, already at the period of the Master and Servant legislation, it was sectorally based. Collective bargaining was sectoral, as was worker-protective legislation. Regulating the market in such a way was central in creating *sectoral differentiations*, and it is one main explanation of the *segmented labour market*. The segmentation theory argues that job structures, pay structures and job opportunities are not a sole reflection of the worker's ability, but rather of what the state/industry has to offer and of the worker's identity. As an outcome there are interrelations between specific disadvantaged groups and the more low paid sectors. The sector was shaped, among other things, by collective bargaining, sector-specific legislation etc. resulting in an unequal labour market.

Sector based policies have the ability to deal with such historical creations. They also have the potential to point out the particularities needed to fulfill the sets of rights – human rights, labour rights and social rights - of workers in disadvantaged sectors, in this case the

sector of domestic workers. Additionally, sectoral based policies can address various aspects of the sector in structuring the legal framework, including work related characteristics (such as patterns of work, different sort of work relationships, historical valuation of work in the sector) as well as non-work related aspects (like migration, gender, race etc).

The provisions set in the ILO documents aim at dealing with the sectoral disadvantage domestic workers experience. Article 10 of the Convention and paragraphs 8-13 of the Recommendation address the issue of work time, which is one of the defining elements of domestic workers' sectoral disadvantage, resulting from their work within the household establishment and the personal relationship they have with those receiving their care. The provisions aim to limit the constant availability of workers to their employers and better manage their work hours. Another example is Article 13 of the Convention that addresses health and safety regulations noting that these should be taken, 'with due regard to the specific characteristics of domestic work'. This will ultimately require further development of the hazards that domestic workers face. The provision opens an opportunity to construct health and safety regulations sensitive to the particular work circumstances of domestic workers, such as work in the household. So far, little attention has been given to these workers in existing health and safety legislation that in many national contexts has been framed according to agriculture and manufacturing work. Also indicative of the consideration taken of the specific sectoral disadvantage of domestic workers is paragraph 14 of the Recommendation aimed at dealing with the consequences of living in and with deductions of accommodation and food, seeing living in as a price paid by domestic workers and not as an advantage. The price paid being isolation, lack of companionship, total devotion to the family, being on-call day and night, etc. It would have been more welcomed if these situations were addressed in the Convention itself, which remains silent in respect of payments in kind as accommodation and food, due to the non-binding character of the Recommendation.

The Convention and Recommendation have not taken the sectoral focus to its full extent. For example, they do not deal with the problems resulting in the irrelevancy of anti-discrimination and equality laws. One such problem is the need to find a comparator when most of the time domestic workers are the sole workers in the household, and a hypothetical comparator is usually a migrant or a women earning very low wages and suffering from

similar problematic working conditions. Additionally, there is a unitary application of minimum wage rules and limited thought was given in the Convention to the particular problems domestic workers face in respect of minimum wage payment, such as the payment in kind which is given to a very high percentage of domestic workers. Despite these shortcomings, the sectoral approach of these legal documents addresses important aspects of the disadvantage suffered by domestic workers.

### **Part III: Conclusion**

The adoption of the legislative instruments of the ILO was celebrated by domestic workers and organisations that campaign for their rights worldwide, viewed as a historic milestone in the struggle for the recognition of rights and dignity, even for the most disadvantaged. The worldwide celebration was coupled with disappointment in countries, such as the UK that did not support it (there were 396 votes in favour, 16 against and 63 abstentions). For example, the UK Government representative in the ILO proceedings said: ‘we do not consider it appropriate, or practical, to extend criminal health and safety legislation, including inspections, to cover private households employing domestic workers. It would be difficult, for instance, to hold elderly individuals, who employ carers, to the same standards as large companies’ (statement by Ms Warwick, International Labour Conference Record of Proceedings 15 June 2011 25(rev), p 22).

The UK decision to abstain in the vote for the adoption of the Convention was supposed to rest on practicalities that justify it little as a matter of principle. This position is, instead, enormously troubling, not only for its symbolism – the neglect for a category of most disadvantaged workers – but also practically, in light of the fact that aspects of UK law fall short of its requirements. There is little doubt that the adoption of the Convention would demand the amendment of legislation, such as the Working Time Regulations, Minimum Wage Regulations, Health and Safety at Work Act and others, to which the Government was not willing to proceed.

These amendments are not farfetched and inappropriate as the UK government stated them to be. Turning back to the health and safety concerns, the difficulty in holding private

individuals accountable for abusing the rights of domestic workers is overstated. If its main justification is the employer's privacy, it was explained earlier in this piece that such problems have been addressed in practice in several jurisdictions. Therefore, it should not come as a surprise that severe criticisms were voiced in the media where the position of the UK was presented as 'embarrassing' ('Domestic Workers' Convention Agreed Despite UK Government', *The Independent*, 10 June 2011; see also 'Coalition Refuses to Ratify UN Measure Protecting Domestic Workers', *The Guardian*, 15 June 2011).

The Convention and Recommendation may have certain shortcomings that were highlighted earlier in this piece, such as not taking the sectoral approach to its full extent, while enabling the exclusion of groups of domestic workers from their scope. But it is our belief that much good can arise from adopting these documents. The approach that takes workers' rights to be fundamental can play a valuable role in regulating the labour of domestic workers, bringing them into the light, not leaving them anymore in the shadows of the labour market, as the UK government decided to do.