4 The Host Society Spain

This chapter offers insights into central aspects of migration and labor in the host society of Spain. The aim is to provide a more nuanced understanding of the socio-economic, political, and legal contexts that shape the lives and experiences of DMWs in Madrid. This perspective is informed by Blommaert's observation that locality and mobility are intertwined and "whenever we observe patterns of mobility we have to examine the local environments in which they occur" (Blommaert 2010: 22). This connection can also be extended to the field of migration. As a consequence of unequal global power dynamics, not all forms of migration are equally feasible. Furthermore, migration policies are shaped by various language policies and legal regulations concerning residence, labor rights, and citizenship. In this way, the macro-level of the host society exerts a considerable influence on the everyday lives and daily experiences of migrants (cf. Blommaert 2010: 22; Canagarajah 2017: 4; Garrido & Codó 2017: 32; Lutz [2]2008: 31).

First, the chapter explores Spain's transformation from an emigration country to an immigration country on both a national (Section 4.1) and a local scale in Madrid (Section 4.2). Following this, the focus shifts to the role of the state in regulating migration through the phases in the development of Spanish migration policies and legislation since the *Transición* (Section 4.3). Section 4.4 sheds light on the Spanish labor market and its segmentation. Section 4.5 discusses the legal framework for domestic work in Spain. The final Section 4.6 addresses trends in migration from the Philippines to Spain.

4.1 Spain's Transformation into an Immigration Country

Spain has undergone a profound demographic transformation in recent decades, becoming one of the top ten countries globally in terms of absolute migrant population size and ranking second within the European Union in terms of hosting capacity (UN 2019b; Eurostat 2021). This transformation into a host society has occurred primarily since the turn of the millennium, within a relatively short period, as, until then, Spain had long been characterized by emigration. During the final two decades of the 19th century, substantial emigration was observed, predominantly directed transatlantically from the Iberian Peninsula to Latin America. In the period between 1882 and 1935 alone, 3.6 million Spaniards emigrated, with more than a third of them (1.3 million) permanently settling in South America (cf. Sánchez Albornoz 2006: 100). Spanish emigration declined during the first half of the 20th century until the post-World War II period. A second peak in

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Spanish emigration occurred under Franco's regime, between 1960 and 1974. During this period, approximately one million Spaniards migrated to Latin America, while two million Spaniards relocated to other European countries. The latter group primarily consisted of labor migrants who had emigrated for a limited period (cf. Kreienbrink 2008: 243).

In the last third of the 20th century, Spain began to turn from a country of emigration into a country of immigration. This change unfolded in several phases. During the period between 1975 and 1985, the majority of migrants resided in Madrid and Barcelona. However, Spain was not yet regarded as a country of destination for migrants (cf. Valero Matas et al. 2014: 15). In the subsequent years, the number of migrants continued to grow. The number of migrants doubled between 1985 and 1995, reaching approximately half a million (cf. Valero Matas et al. 2014: 15).

However, until the end of the 1990s, the proportion of the immigrant population without Spanish citizenship remained below 2%.[67] A steady increase in immigration to Spain has been observed since the turn of the millennium. While the proportion of migrants in Spain was only 1.6% in 1998, by 2009, one in ten residents was foreign-born. The zenith of this phenomenon was reached the following year, with 12.4% (5.75 million) of the population classified as immigrants. However, the 2008 economic and financial crisis brought an end to Spain's economic boom, with a notable impact on the labor market situation (cf. Valero Matas et al. 2014: 22). In this context, while the majority of migrants without Spanish citizenship remained in Spain, the rate of immigration declined. By 2017, the proportion of migrants in the total population had decreased to 9.8% (4.57 million). These figures should not be interpreted as solely indicative of a decline due to return migration. It is also important to consider that, according to the *Evolución de las concesiones de nacionalidad española por residencia según sexo y provincia del Registro Civil*, over 1.2 million individuals acquired Spanish citizenship between 2006 and 2018. Consequently, they are no longer included in immigration statistics. Moreover, these statistics do not account for undocumented immigration.

Since 2018, there has been a nearly continuous increase in the number of individuals documented as having immigrated to the country. The most recent data for 2021 indicates that the current proportion of the population lacking Spanish citizenship is 11.5% (5.44 million).

The reasons driving emigration, immigration, or return migration cannot be derived from descriptive statistics. I will refrain from reproducing the debate on

67 The absolute values can be found in Appendix 10.1.

potential causes here, as generalizing approaches such as push-and-pull models fail to adequately capture individual motivations and the complex interplay of various causes, rendering them outdated in the context of migration research.

4.2 Immigration to Madrid

According to data from *Instituto Nacional de Estadística* (INE), there were already 69,089 migrants living in the capital city of Madrid in 1998. This represented 2.4% of Madrid's total population. Ten years later, in 2008, the absolute number of migrants had increased eightfold, reaching a peak of 17.7% in the following year, 2009, with 574,869 immigrants. By 2015, there was a decline to 12.2%, or 392,391 immigrants. Since then, Madrid has seen a steady increase in immigration. In 2021, the number of immigrants living in the capital was 511,067, or 15.5%.

A comparison between the migration to Madrid and the migration to Spain reveals a clear increase in the proportion of immigrants at the turn of the millennium, both nationally and locally. From 2000 to 2006, the disparity between Spain and Madrid continued to expand, with the most pronounced divergence observed in 2006, when the migrant population in Madrid constituted 7.7% of the total population, a figure that exceeded the corresponding national average. Between 2007 and 2015, the discrepancy between the two regions decreased at a gradual pace. However, since 2015, the gap has exhibited a slight yet consistent increase on an annual basis.

Madrid is characterized by a particularly high labor force participation rate, at 63.06%, which is above the national average of 58.65%. Furthermore, the employment rate in Madrid is higher than the national rate (56.68% compared to 50.83%, respectively), while the unemployment rate is lower (10.12% compared to 13.33%, respectively). When it comes to the Madrid immigrant population, their labor force participation (75.12%) and employment (65.65%) rates are especially high, exceeding the overall Madrid averages by 12 and ca. 9 percentage points, respectively.[68]

68 All data refer to the year 2021, source: INE 2022b, Tasas de actividad por nacionalidad, sexo y comunidad autónoma.

4.3 Spanish Migration Policy and Legislation since the *Transición*

The participants in this study arrived in Madrid between 1971 and 2017. During this period, Spanish migration policy and legislation underwent various restructurings and paradigm shifts, with profound impacts on the lived experiences of migrants, particularly with regards to labor and residence rights, access to education and healthcare, and family reunifications. Furthermore, migration policies exert an influence on the structure of the Spanish labor market. In order to gain a deeper understanding of these conditions, the development of Spanish migration policy and legislation since the Transition will be examined in detail. The key milestones in Spanish migration policy can be identified through an examination of post-Franco migration legislation, including Laws LO 7/1985, LO 4/2000, LO 8/2000, LO 11/2003, LO 14/2003, and LO 02/2009, along with their respective implementing regulations.

In light of the initially low levels of immigration and the economic significance of the tourism sector, migration was not a prominent topic in Spanish political discourse (cf. Baumer 2014: 156). At the outset, the 1978 Spanish Constitution addressed migration-related legal matters in four articles. Chapter 1 includes Article 11, whose Sections 1–3 regulate the provisions pertaining to citizenship, and Article 13, whose Sections 1–4 address the general rights of non-Spanish citizens and the right to asylum. Additionally, Article 42 in Chapter 3 addresses the issue of emigration. Ultimately, Article 149, Section 2a delineates the exclusive purview of the state with respect to matters pertaining to nationality, immigration, emigration, migrants, and asylum law.

Ley Orgánica 7/1985 (LO 7/1985),[69] which marked the first migration law since Spain's transition from Francoism to a parliamentary monarchy, was not enacted until July 1985. For the subsequent 15 years, it continued to serve as the primary migration law. The impetus for this law was Spain's accession to the European Community (EC), which necessitated alignment with the supranational and restrictive provisions of the Schengen Area (cf. Baumer 2014: 156–157). Of the 36 articles in LO 7/1985, seven addressed the rights of migrants,[70] although these rights were not extended to undocumented migrants. In essence, LO 7/1985 established a "restrictive police law" (Baumer 2014: 158, my translation) designed to regulate matters pertaining to entry, residence, expulsion, and the associated possibility of

69 Ley Orgánica 7/1985, de 1 de julio, sobre derechos y libertades de los extranjeros en España.
70 Article 6 enshrines the right to choose one's place of residence, while Article 7 protects the right to assemble. Articles 8 and 9 respectively guarantee the right to form associations and the right to education and educational freedom. Finally, Article 10 secures the right to unionize.

detention prior to expulsion as well as matters related to employment (cf. Relaño Pastor 2004: 112). The legislation in question imposed limitations on the duration of residence and did not provide for the right to permanent residence (cf. Relaño Pastor 2004: 111).

With regard to the labor market, LO 7/1985 established the practice of issuing a unified residence and work permit in a single document, which represents a departure from the regulations that were in place during the Franco era. The principal stipulations pertaining to the labor market are set forth in Article 18. It is of critical importance to note the enshrinement of the principle of national preference in Article 18, which delineates the prerequisites for the issuance or renewal of a work permit. In addition to other stipulations, the article requires that consideration be given to whether there are unemployed Spanish workers available for the position in question. Additionally, when granting or renewing a permit, it is "favorably considered that issuing the permit implies creating new jobs for Spaniards" (Art. 18, Section 2, my translation). Moreover, Article 18, Section 3 f) stipulates preferential treatment for migrants from specific nationalities, namely those originating from Latin America, the Philippines, Andorra, Equatorial Guinea, and Sephardic Jews.

LO 7/1985 also introduced terms that were open to interpretation, which created considerable discretionary power, leading to arbitrary practices and strict interpretations in practical application, such as in measures like border refusals (cf. Relaño Pastor 2004: 111, Baumer 2014: 159). Provisions regarding family reunification and social integration of migrants were not yet included, as migration to Spain at that time was not considered a permanent phenomenon (cf. Baumer 2014: 158–159).

In its ruling of May 11, 1987, the Spanish Constitutional Court declared three articles to be unconstitutional. These articles addressed the rights to assembly and association, as well as the impossibility of suspending administrative decisions.

The socialist government under Felipe González (PSOE) initiated a restructuring of Spanish migration policy. One of the most important measures was the enactment of a new implementing law (RD 155/1996) of LO 7/1985[71] in 1996. Among other things, the legislation established a pathway to permanent residence after five years, facilitated family reunifications, and introduced extraordinary regularizations (cf. Baumer 2014: 161).

71 Real Decreto 155/1996, de 2 de Febrero, por el que se aprueba el Reglamento de Ejecución de la Ley orgánica 7/1985.

In the summer of 1998, three legislative proposals from the CIU, IU, and Grupo Mixto-ICV factions were introduced in Congress. Additionally, a draft prepared by the Ministry of the Interior for a new law and PSOE's proposal for a comprehensive amendment to the law were submitted for consideration. As a consequence, despite the opposition of the conservative government under José Maria Aznar (PP), which sought to implement a restrictive reform of migration legislation (cf. Wolff 2014: 136), Ley Orgánica 4/2000[72] (LO 4/2000) was passed on January 12, 2000. In contrast to LO 7/1985, LO 4/2000 reinforced the rights of migrants, guaranteeing their equality before the Constitution with Spanish citizens. This legislation was regarded as the most progressive immigration law in the European Union (cf. Relaño Pastor 2004: 110–112). LO 4/2000 explicitly addressed the rights of migrants with undocumented status. In order to expand the rights of undocumented migrants, Article 6, Section 2 of the aforementioned legislation required that they register in the municipal registry of residence. Furthermore, the presentation of this registration certificate (known as *empadronamiento*) was linked to the acquisition of rights (cf. Baumer 2014: 172). The *empadronamiento* remains crucial for migrants with undocumented status, as it allows them to initiate processes such as the *arraigo laboral* or the *arraigo familiar*, which are regularization processes for undocumented residence, or to access rights such as healthcare or education (cf. Baumer 2014: 173, 190). Among the other major changes introduced to Spanish migration law by LO 4/2000 were the right to free legal counsel for undocumented migrants, access to healthcare for undocumented migrants, the right to strike, unionize, and assemble, the recognition of minors' right to education, and the right to family reunification for documented migrants with sufficient financial means to support their families. Furthermore, the legislation necessitated a formal justification in instances of visa denials, permitted permanent regularization for undocumented migrants who had been registered for a minimum of two years and demonstrated the capacity to support themselves financially (i.e., *arraigo*), conferred the right to permanent residence after a five-year period without the necessity of renewal, and established penalties for the absence of requisite documentation (cf. Relaño Pastor 2004: 110–112). Furthermore, LO 4/2000 established supervisory mechanisms for the administrative implementation of the law and sought to establish enduring pathways to residence and work permits (cf. Pastor 2004: 113).

During the campaign for the parliamentary election in 2000, in which the conservative PP succeeded in securing an absolute majority of votes, migration

72 Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social.

became a prominent issue (cf. Baumer 2014: 164). In the aftermath of its electoral victory, the PP initiated a comprehensive reform of LO 4/2000, which ultimately resulted in the enactment of Ley Orgánica 8/2000[73] (LO 8/2000) in December 2000, despite opposition from various quarters. While LO 8/2000 maintained the right of minors to education regardless of their residence status, it notably revoked political and union rights for undocumented migrants. The legislation removed the obligation to provide justification for visa rejections, suspended the automatic regularization mechanism, and tied labor market access to annual quotas. Moreover, the legislation introduced the possibility of detaining and expelling migrants without residence permits (cf. Relaño Pastor 2004: 113; Baumer 2014: 168).

The introduction of LO 8/2000 marked a noteworthy turning point in two respects. Firstly, Spanish immigration law became one of the strictest within the EU.[74] Secondly, it represented a departure from the previous consensus-driven approach to migration issues in Spain's political culture (cf. Relaño Pastor 2004: 113, Wolff 2014: 137–138). The legislation was subject to intense criticism, with key objections centering on its incompatibility with the principles of the rule of law and the Constitution. This led to several constitutional complaints by regional governments (cf. Relaño Pastor 2004: 113).

Following a ruling by the Spanish Supreme Court, legislation was reformed in 2003, tightening provisions related to deportation (cf. Baumer 2014: 172). Shortly thereafter, on November 20th of the same year, another reform was enacted with the passage of LO 14/2003.[75]

The most important changes, as outlined by Relaño Pastor (2004: 130–133), included stricter border control measures and the facilitation of deportations. In addition, a fundamental innovation was the *empadronamiento*, or registration in the *padrón municipal* (municipal registry), which, since LO 4/2000, has been linked to access to the healthcare and education systems. The changes introduced by LO 14/2003 strengthened the powers of the police by granting them access to the data of registered non-citizen migrants, while the data of Spanish citizens

73 Ley Orgánica 8/2000, de 22 de diciembre, de reforma de la Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración.

74 There is a divergence of opinion among legal experts with regard to this issue. Baumer (2014: 169) characterizes Spain's legislative approach to undocumented migrants, as outlined in LO 8/2000, as one of the most liberal in Europe when compared to other jurisdictions.

75 Ley Orgánica 14/2003, de 20 de noviembre, de Reforma de la Ley orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social, modificada por la Ley Orgánica 8/2000, de 22 de diciembre; de la Ley 7/1985, de 2 de abril, Reguladora de las Bases del Régimen Local; de la Ley 30/1992, de 26 de noviembre, de Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común, y de la Ley 3/1991, de 10 de enero, de Competencia Desleal.

could only be accessed with a court order (cf. Baumer 2014: 172). Relaño Pastor (2004: 135) interprets this as an attempt to discourage migrants from registering and thereby preventing them from accessing the rights associated with it. However, the effectiveness of this regulation was thwarted by a new, more liberal implementation of LO 14/2003, issued by the Socialist government under José Luis Rodríguez Zapatero after the 2004 elections (cf. Baumer 2014: 174–175, 179). Despite a more liberal interpretation, there was no return to the broader rights established by LO 4/2000. The central focus of the socialist migration policy was a reduction of undocumented migration. As a tool for this purpose, a *proceso de normalización* (regularization process) was introduced in 2005, with the aim of reducing the number of undocumented migrants and informal employment (cf. Baumer 2014: 175–176). Employers could apply for regularization on behalf of their workers if they had formal employment contracts, and around 600,000 such applications were approved (cf. Baumer 2014: 176). In addition, a €4 billion fund was established for measures related to the social, economic, and cultural integration of migrants, and responsibility for migration policy was transferred from the Ministry of the Interior to the Ministry of Labor and Social Affairs (cf. Baumer 2014: 177–178).

Following Zapatero's re-election in 2008, socialist migration policy took a markedly more restrictive turn. This shift must be understood within the context of the financial and economic crisis, which manifested itself in a recession and the highest unemployment rate in Europe (cf. Baumer 2014: 180–181). The socialist government implemented a program to promote voluntary return to countries of origin, restricted opportunities for new, regular labor migration, and expanded police identity checks (cf. Baumer 2014: 181). Instead, (circular) labor migration for seasonal work, such as agricultural harvesting, was encouraged (cf. Baumer 2014: 183). Finally, in December 2009, with the adoption of LO 2/2009,[76] the migration legislation was reformed for the fifth time since 2000 and adopted a more restrictive orientation. This reform was primarily aimed at curbing undocumented migration and extended detention for deportation from 40 to 60 days, while also increasing the penalties for human smuggling, employing undocumented migrants, and transporting migrants without valid entry documents (cf. Baumer 2014: 187). Family reunification was limited to spouses and minor children (cf. Baumer 2014: 187). LO 2/2009 sought to further align labor migration with the demand and needs of the Spanish labor market (cf. LO 2/2009 VII; Baumer 2014: 187). Following its enactment, the law was met with sharp criticism,

76 Ley Orgánica 2/2009, de 11 de diciembre, de reforma de la Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social.

particularly from civil society organizations, some of which was addressed in the new implementing regulation, RD 557/2011,[77] issued by the Socialist government in April 2011. For instance, measures were introduced to better protect individuals with temporary residence permits linked to employment from falling into undocumented status if they lose their jobs (cf. Baumer 2014: 189). Since then, there have been no further significant reforms to LO 2/2009, and the current regulation in force is RD 629/2022, issued on July 27, 2022.[78]

Compared to migration legislation in other European countries, Baumer (2014: 190) classifies Spain's current legal framework as "unique" due to the breadth of rights granted to migrants, including those with undocumented status through the *empadronamiento*.

4.4 The Segmentation of the Spanish Labor Market and Domestic Work in Spain

Spain's transformation into a country of immigration since the turn of the millennium (see Section 4.1), along with its migration policies and legislation, has also had an impact on the labor market, which is characterized by a segmentation into two sectors. One sector is defined by employment relationships that require high levels of education and professional qualifications and offer high wages. These positions are primarily held by natives, EU migrants, or migrants from the Global North (cf. Valero Matas et al. 2014: 14). Conversely, Spain has a vast service sector comprising unskilled or lower-skilled occupations with low remuneration in sectors such as agriculture, construction, care and domestic work, tourism, and hospitality (cf. Baumer 2014: 147). Since the 1990s, particularly due to rising living and educational standards, it has become increasingly challenging to recruit workers for positions in this low-wage sector. This has led to a growing reliance on migrants to fill these roles (cf. Garrido & Codó 2017: 31, Martín Rojo 2020: 173, Valero Matas et al. 2014: 14; 28).

The reasons why migrants are predominantly employed in Spain's low-wage sector can be attributed to the country's migration policies (see Section 4.3) as well as the portrayal of migrants in the public press and media discourse, which

77 Real Decreto 557/2011, de 20 de abril, por el que se aprueba el Reglamento de la Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social, tras su reforma por Ley Orgánica 2/2009.

78 Real Decreto 629/2022, de 26 de julio, por el que se modifica el Reglamento de la Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social, tras su reforma por Ley Orgánica 2/2009, aprobado por el Real Decreto 557/2011, de 20 de abril.

often depicts them as unskilled laborers (Garrido & Codó 2017: 32; Issel-Dombert 2021). "This imaginary, we claim, devalues their human capitals and constrains the pathways of labour incorporation which are presented as 'possible' to them even by institutions like NGOs and settlement bodies which aim to facilitate their economic insertion" (Garrido & Codó 2017: 32).

The following discussion narrows the focus from the broader Spanish low-wage sector to the specific domain of domestic work in Spain. The demand for DMWs in Spain increased notably from the mid-1990s and reached its peak in the early 2000s (cf. Díaz Gorfinkiel & Martínez-Buján 2018: 106). Notwithstanding the economic crises in Spain that began in 2007 (see Section 4.1), the demand for DMWs remained consistently high. Between 2008 and 2017, approximately 88,000 jobs in domestic work were lost. However, when compared to other professions, this represents one of the lowest rates of job loss (Díaz Gorfinkiel & Martínez-Buján 2018: 107). As of 2022, the *Encuesta de población activa* (EPA) conducted by the *National Institute of Statistics* (INE) indicated that approximately 545,000 individuals were employed in domestic work. Nevertheless, only 378,134 domestic workers are officially registered, indicating that approximately 167,000 DMWs are employed in informal positions (cf. EPA 2022).

A number of factors contribute to the high demand for outsourcing domestic work in Spain (see also the discussion in Section 1.1). Wagner (2010: 173) identifies the rising employment rate of Spanish women as a key factor driving the increased demand for DMWs. Over the past two decades, the female labor force participation rate has increased by over ten percentage points, from 43.24% in 2002 to 53.93% in 2021 (INE 2022a). However, as Lutz ([2]2008: 16) has observed, the growing integration of women into the workforce does not necessarily lead to increased male participation in domestic work or a more equitable division of household labor. Instead, it has often resulted in the outsourcing of domestic tasks to external, predominantly female DMWs, thereby maintaining the traditional gendered division of labor (see also Section 1.1).

Other explanations are a consequence of demographic shifts, particularly an aging population with increasing care needs, which the insufficient Spanish welfare state is unable to meet. Furthermore, the demand for care work has been exacerbated by cuts to social spending (Díaz Gorfinkiel & Martínez-Buján, 2018: 106, 108; Wagner 2010: 175–176). Moreover, an increase in the standard of living has resulted in the externalization of labor- and time-intensive household tasks, thereby allowing for a greater allocation of time to leisure activities (cf. Wagner 2010: 173). Domestic workers have also become a status symbol in Spain (cf. Wagner 2010: 178).

The two trends observed in the context of reproductive labor in Spain are also evident on a global scale (see Section 1.1). In order to gain a comprehensive

understanding of these trends, it is essential to adopt an intersectional perspective. Firstly, there is a feminization of paid domestic work, with this type of work being almost exclusively performed by women. In Spain, 95.53% of DMWs are women (RD-ley 16/2022, II.), thereby replicating the traditional gendered division of labor through the outsourcing of household tasks to external female DMWs (cf. Díaz Gorfinkiel & Martínez-Buján 2018: 106). Secondly, the paid domestic work sector is not only gendered but also ethnically segmented, as no other occupational field in Spain employs such a high proportion of migrants (cf. Díaz Gorfinkiel & Martínez-Buján 2018: 108). As noted by Parella (2021: 106), the sector comprises nearly 600,000 jobs in Spain, the majority of which are held by women, many of whom are migrants from non-EU countries. One potential explanation for this phenomenon is the declining willingness of Spaniards to accept employment in the domestic work sector (cf. Díaz Gorfinkiel & Martínez-Buján 2018: 110).

In contemporary Spain, two principal models of employment for domestic work are in common usage and these may be carried out on either a full-time or a part-time basis (*por horas*). The first model is that of a so-called *live-out*, a DMW who lives in her own household. The second option is the position of a *live-in*, which entails residing in the employer's home. The proximity of work and personal life inherent to this living arrangement creates an expectation of constant availability, which carries a high risk of exploitation and abuse. Consequently, employment as an *live-in* represents the most vulnerable form of domestic work. Further vulnerabilities are generated by state regulations, as domestic work in Spain is subject to specific legislation that disadvantages and discriminates against DMWs in comparison to other sectors. This is despite the structural improvements introduced by the 2022 reform of the domestic work sector. This aspect will be explored in greater detail in the following section.

4.5 Spanish Legislation on Paid Domestic Work

Paid domestic work has historically been undervalued and overlooked in the context of labor legislation. It is often less regulated than other workplaces due to the fact that the workplace is situated in private households (cf. Lønsmann 2020: 124):

> The home as a place of residence for employers and a workplace for domestic workers is commonly viewed as 'private' and thus beyond the purview of state regulation. The lack of state regulation, combined with transnational migrants' minority and marginalized standing (and thus citizenship status), frequently creates grounds for discrimination, exploitation, violence, abuse, harassment, forced labor and other dehumanizing practices among employers and their domestic workers (ILO, Ladegaard 2017). (Gonçalves & Schluter 2024: 9)

In Spain, precariousness and discrimination in the paid domestic work industry are structurally and institutionally embedded with a long historical continuity.[79] Spanish legislation also reflects the perception of (paid) domestic work as inferior and unskilled labor, which results in the limited rights of DMWs (cf. Díaz Gorfinkiel & Martínez-Buján 2018: 113; ILO 2016: 2–3; Wagner 2010: 182). While the working conditions for various labor sectors in Spain were legislatively regulated in the early decades of the 20th century, the area of paid domestic work remained excluded until 1931, and consequently was also deprived of protective measures (cf. Borrell-Cairol 2020: 117, 120–121; Díaz Gorfinkiel & Martínez-Buján 2018: 113). Domestic work continued to be regulated by civil law until 1985, which limited rights such as the ability to file claims before a labor court (cf. Borrell-Cairol 2020: 124).

At present, three phases are crucial the development of a legal framework for paid domestic work in Spain, corresponding to the adoption of three key laws: first, Real Decreto 1424/1985 (RD 1424/1985) in 1985; second, Real Decreto 1620/2011 (RD 1620/2011) in 2011; and third, Real Decreto-ley 16/2022 (RD 16/2022) in 2022.

The first milestone in the reorganization of the legal regulation of paid domestic work in Spain occurred in 1985 with the introduction of RD 1424/1985. However, paid domestic work was still not included in the labor code. Instead, a special employment relationship was created that gave domestic work a special status with fewer rights than those granted under labor law (cf. Wagner 2010: 188). Table 7 provides an overview of selected fundamental legal differences between labor law and the special status of domestic work following Wagner (2010: 184).

Table 7: The legal regulation of domestic work in comparison to labor law (source: slightly adapted from Wagner (2010: 184).

	Labor law	**Special labor law for domestic work, RD 1424/ 1985**
Maximum working hours	daily working time max. 9 hours	40 hours per week, daily working time max. 9 hours
Rest periods between workdays	12 hours	live-ins: 8 hours live-outs: 10 hours
Weekly rest periods	36 hours uninterrupted	36 hours (of which 24 hours uninterrupted)

79 For an overview of the historical entanglement of colonialism, slavery, and domestic work, cf. Díaz Gorfinkiel & Martínez-Buján (2018).

Table 7 (continued)

	Labor law	Special labor law for domestic work, RD 1424/ 1985
Room and board (as a percentage of base salary)	max. 30 %	max. 45 %
Unemployment insurance	yes	no
Paid sick leave	from the 3rd day onwards	from the 29th day
Social security contributions	depending on the wage	fixed
Notice period employment under 1 year **employment over 1 year**	30 days 30 days	7 days 20 days

The special status of paid domestic work put DMWs at a disadvantage compared to the legal provisions of labor law in all areas—except for the fact that the legal, cross-sectoral minimum wage also applied to paid domestic work (see RD 1424/ 1985, 6°1; see also Table 8). Live-ins were in a worse position than live-outs in terms of rest periods, with shorter breaks between consecutive workdays.

Domestic workers' limited rights stem from two specific characteristics of the paid domestic work sector: the private nature of the workplace and the legal status of employers.

> It implies a coincidence between the public sphere normally related to employment relationships and the private nature of family and household dynamics. The other distinctive element is the juridical status of the employer, who is normally a private employer who would otherwise receive pecuniary gains from the employee's work. Both factors are keys to determining the peculiarity of the employment relation and the widespread low level of protection guaranteed to the workers of this sector. (ILO 2016: 2–3)

As a result, the protection of employers' privacy is given higher priority in Spain than the labor rights of DMWs (cf. Wagner 2010: 188). Against this backdrop, the establishment of effective monitoring mechanisms to ensure compliance with labor protection laws faces significant challenges. As a result, this legal framework structurally enables the exploitation and abuse of DMWs, making their working conditions dependent on the "good will [of employers]" (Wagner 2010: 189).

The second milestone in Spanish legislation came with the revision of the 1985 decree through the adoption of a new decree, RD 1620/2011, in 2011. Table 8 provides an overview of selected key differences between the legal changes from RD 1424/1985 to RD 1620/2011.

Table 8: Comparison of RD 1424/1985 and RD 1620/2011 (source: own presentation based on the respective legal texts).

	RD 1424/ 1985	RD 1620/ 2011
Contract	verbally or written	verbally or written; fixed-term contracts with a term of four weeks or more must be in writing
Remuneration	minimum wage	minimum wage
Working hours	max. 40 hours per week	max. 40 hours per week
Rest periods between working days	live-ins: 8 hours live-outs: 10 hours	12 hours (+ at least 2 hours for meals)
Weekly rest periods	36 hours (of which 24 hours uninterrupted)	36 consecutive hours; Saturday afternoons or Monday mornings and Sundays
Vacation	30 days, at least 15 days of which are uninterrupted	30 days, at least 15 days of which are uninterrupted. 15 days can be determined by the employer
Unemployment insurance	no	no
Social security	if the working time is less than 20 hours per week, no subject to social security contributions	subject to social security contributions
Room and board (as a percentage of base salary)	max. 45 %	not specified
Notice period employment under 1 year employment over 1 year	7 days 20 days	7 days 20 days

The changes in favor of DMWs introduced by the adoption of RD 1620/2011 are mainly reflected in the requirement for a written contract (after four weeks of employment, see RD 1620/2011, II, 5°1). These changes include a general increase in the rest period between workdays to 12 hours, in addition to two hours daily for meals, and a continuous weekly rest period of 36 hours (see RD 1620/2011, III, 9°5). In addition, social security contributions must be paid from the first hour of employment.

However, to the disadvantage of DMWs, the weekly rest period was limited to certain days of the week (see RD 1620/2011, III, 9°5)—a regulation that does not apply to any other workers in Spain. In addition, employers were granted the right to determine the timing of half of a worker's annual vacation (see RD 1620/2011, III, 9°7). The main criticism of RD 1620/2011, nevertheless, concerns Article 11.3, which deals with dismissal provisions. The article stipulated that unjustified and unilateral termination by employers, known as *desistimiento*, was allowed. In such cases, DMWs were only entitled to minimal compensation for these unilateral terminations (see RD 1620/2011, III, 11°3). Moreover, DMWs continued to lack social security protection through benefits such as unemployment insurance, as this group remained the only one in Spain that was not allowed to contribute to unemployment insurance (see RD 1620/2011, III, 11°3). This legal situation contradicted Article 41 of the Spanish Constitution[80] and further entrenched the precarious status of DMWs. The absence of the so-called *right to unemployment* also had serious consequences in the case of death of an employer, as this event led to the immediate termination of the employment relationship without any continued payment of wages (cf. Díaz Gorfinkiel & Martínez-Buján 2018: 114). In such situations, *internas* were particularly vulnerable, as they also immediately lost their housing (cf. Díaz Gorfinkiel & Martínez-Buján 2018: 114). In addition, non-citizen DMWs faced the additional burden of having to renew their residence and work permits (cf. Díaz Gorfinkiel & Martínez-Buján 2018: 114). Moreover, monitoring mechanisms to ensure compliance with labor protections remain ineffective. As a result, Spanish legislation from 2011 continues to leave DMWs highly vulnerable to violence, poverty, and low pensions due to the low-wage nature of the work and limited social security contributions (cf. Borrell-Cairol 2020: 126).

The third milestone that solidified the current legal framework was initiated by a ruling of the Court of Justice of the European Union (CJEU) on February 24, 2022. The following text draws on legal workshops conducted by SEDOAC (Servicio Doméstico Activo) under the guidance of lawyers from CETHYC (Centro de Empoderamiento de Trabajadoras de Hogar y Cuidados), an interview I conducted with one of these lawyers, and the explanations provided in RD-ley 16/2022, which was issued as a result of the CJEU ruling (see below). A DMW who had been employed in Spain for eight years applied to the Social Security office for unemployment insurance. The institution rejected her application, citing the provisions of RD 1620/2011. In response, the DMW filed a lawsuit, arguing that she

80 "Artículo 41. Los poderes públicos mantendrán un régimen público de Seguridad Social para todos los ciudadanos, que garantice la asistencia y prestaciones sociales suficientes ante situaciones de necesidad, especialmente en caso de desempleo. La asistencia y prestaciones complementarias serán libres."

needed to protect herself against hardship resulting from the unjustified loss of her job. However, the current legal framework made that impossible due to exclusion from unemployment insurance and other social benefits linked to unemployment compensation (see RD-ley 16/2022, II).

The Spanish state countered with the private status of employers, arguing that the legislation was justified because it stabilized employment levels and discouraged informal employment in the domestic work sector. Given that almost all workers in the paid domestic work sector are women, the Spanish court referred the case to the CJEU to clarify whether there was impermissible "indirect discrimination on grounds of sex" under European Directive 79/7/EEC (cf. RD-ley 16/2022, II). The CJEU did not accept the Spanish State's argument and ruled that women were "particularly disadvantaged" by the law and that exclusion from unemployment insurance could only be in line with the "European Directive on equal treatment in matters of social security" if there were justified reasons not related to sex (case no. C 389/20, cf. RD-ley 16/2022, II). As a result of the CJEU ruling, the Spanish State is obliged to reform the legislation on DMWs in Spain in order to eliminate the identified discrimination and disadvantage.

On June 9, 2022, the *Spanish Congreso de los Diputados* (House of Representatives) ratified the so-called Convention 189. This international convention had already been approved by the International Labor Organization more than ten years earlier, in 2011, prior to its ratification in Spain. It focuses on the equality of DMWs with other workers in terms of labor rights, including the right to contribute to unemployment insurance.

The promulgation of Real Decreto Ley No. 16/2022 (RD 16/2022), a new piece of legislation that took effect on September 6, 2022, is of paramount importance for the present legal validity. The main innovations concern the social security protection of DMWs and their equalization with other workers, as well as the reform of the dismissal laws.

The first major change concerns the fact that DMWs can now contribute to unemployment insurance, which entitles them to unemployment benefits and other assistance in the case of job loss (cf. RD-ley 16/2022, III and IV). Another new development is that DMWs have access to the so-called *Fondo de Garantía Salarial* (*Fogasa*, a guarantee fund for unpaid salaries), which allows for the payment of compensation and outstanding wages to DMWs in the case of employer insolvency, following a favorable court decision (see RD-ley 16/2022, III and Art. 4). Domestic workers will continue to be compensated at the legal minimum wage, which is currently €1,134 per month (as of 2025).

The second major change, the reform of dismissal laws, involves the abolition of the practice of *desistimiento*, which allowed employers to unilaterally terminate DMWs' contracts without any justification. Now, permissible reasons for dis-

missal are limited to exceptional circumstances faced by employers, such as their own unemployment (see RD-ley 16/2022, IV).

Criticism has been voiced, particularly by SEDOAC, regarding the persistence of precarious and discriminatory working conditions for live-in DMWs following the enactment of RD-ley 16/2022. Furthermore, effective mechanisms have yet to be put in place to accurately record actual working hours and ensure compliance with safety regulations. In addition, informal employment is excluded from these new regulations. According to INE data (see Section 4.4), informal employment affects approximately 167,000 people, or 30% of DMWs.

On December 19, 2024, the CJEU ruled that the working hours of domestic workers in Spain must also be recorded and documented (cf. Judgment of the Court in Case C-531/23| [Loredas] 2024). The case stemmed from a lawsuit filed by a domestic worker in a Bilbao court. After she was dismissed, she sought to claim unpaid wages from her former employer. However, her claim was only partially successful because her working hours had not been documented. The CJEU's ruling means that domestic workers are now on an equal footing with other employees when it comes to recording their working hours.

4.6 Migration from the Philippines: The "First Wave of Female Economic Migration to Spain"

The immigration of Filipinas to Spain is closely tied to domestic work. Against this backdrop, I briefly give an overview of the historical development of migration from the Philippines to Spain, that has been documented since the 1960s (cf. Anderson 2000: 58). In the 1980s, the Filipino diaspora was the largest group of migrants from Asia arriving in Spain (cf. Valero Matas et al. 2014: 17). According to available data from the INE, the proportion of the Filipino population in Spain increased almost continuously each year from 1998 to 2021, although immigration from other Asian countries such as China or Pakistan has now surpassed Filipino immigration in total numbers.

An exception to the continuous immigration from the Philippines, with only minimal decreases, occurred in the years 2004, 2006, 2014 and 2015. The trend of decline in 2014 and 2015 is observed not only in Filipino immigration, but also in immigration to the Iberian Peninsula in general, both in Spain and in the Spanish capital (see Sections 4.1 and 4.2). Despite the minimal decline in these four years, the number of Filipino nationals in Spain more than quadrupled from 1998 to 2021.

Other trends in Filipino immigration to Spain can be observed in terms of gender. First, the number of Filipinas in Spain increased 4.26 times from 1998 to 2021. In addition, the number of Filipinas living in Spain consistently outnum-

bered Filipino men from 1998 to 2021. From 1998 to 2007, the gap between the proportions of women and men from the Philippines narrowed. In 2007, the proportion of Filipinas reached its lowest point at 57.56%. This trend has been reversed since 2008. Since then, except for 2011 and 2014, more Filipinas than Filipinos have been recorded every year. In 2021, Filipinas accounted for 62.54% of the total. It is important to note that undocumented migrants are not included in these statistics, nor are women who have acquired Spanish citizenship.

Since the beginning of Filipino immigration to Spain, their frequent employment as DMWs in socioeconomically affluent households has been documented (cf. Anderson 2000: 58, Valero Matas et al. 2014: 17). The sociologist Laura Oso (1997: 279) refers to this phenomenon as the "first wave of female economic migration to Spain" (my translation):

> En España, las mujeres filipinas fueron las primeras inmigrantes que empezaron a colmar el nicho laboral vacio del servicio doméstico a finales de los 70s. Como vimos con el análisis de datos del Ministerio de Trabajo, fue la primera ola migratoria feminizada de carácter económico a España. Según hemos podido comprobar con el trabajo de campo, las pioneras de esta inmigración fueron traidas por familias españolas de clase alta para trabajar como internas. Algunas de estas familias, con las cuales tuvimos la occasion de conversar, tenian negocios en Filipinas y, por esta razón, empezaron a traer a mujeres de este país para trabajar en sus casas. (Oso 1997: 279)

I will explore this model of female labor and the economic migration of Filipinas from a linguistic perspective in the following three chapters.