

Helping those that help us:

Challenges faced by
foreign domestic workers
in the Republic of Cyprus

Nasia Hadjigeorgiou



PCC REPORT 2/2020



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HELPING THOSE WHO HELP US: SOME GUIDANCE FOR POLICY MAKERS IN THE REPUBLIC OF CYPRUS

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Report 2/2020

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ABSTRACT

This report identifies and describes the challenges faced by foreign domestic workers living and working in the Republic of Cyprus. It argues that these challenges are technically due to gaps and problems in the law, but that they are also themselves consequences of a series of underlying factors, including a lack of rights awareness among foreign domestic workers and a massive power imbalance between them and their employers. It concludes with a list of recommendations – legal, institutional and social – that should be adopted in order to improve the living standards of this vulnerable group of workers. The conclusions of the report are based on a literature review of Cypriot and international sources, a questionnaire completed by 150 foreign domestic workers, 21 in-depth interviews and two focus groups with 10 participants each.

OVERVIEW

This report describes the living and working conditions experienced by foreign domestic workers (FDW) in the Republic of Cyprus (Republic or RoC).¹ It focuses on four main challenges faced by FDW, namely: their poor working conditions, problems related to their remuneration, the increased likelihood that they will be victims of (unreported and unpunished) abuse and the serious restrictions imposed on their private and family lives. Despite the RoC's relatively open entry policy to FDW, the conditions they experience when they start working are in dire need of improvement. This is technically due to gaps and problems in the law, but is also itself a consequence of a series of underlying factors. Among these are a lack of rights awareness within the FDW community and a massive power imbalance between employers and employees, sustained through biased, even discriminatory, State policies and practices. The report concludes with recommendations that can introduce improvements at the legal and institutional levels, and others that can empower FDW and bring social change more directly.

Section 2 provides an overview of the research methodology and Section 3 describes the legal framework regulating the rights of FDW in the Republic. Section 4 discusses the challenges faced by FDW in the country, while Section 5 delves into the factors that exacerbate the poor living and working conditions described in the previous part. Finally, Section 6 lists recommendations, the implementation of which could result in positive legal, institutional and social changes.

¹ For the purposes of this report, the RoC includes only the areas that fall under its effective control.

METHODOLOGY

The report draws on library-based and empirical research that took place as part of a project entitled ‘Exploring the socio-legal challenges faced by foreign domestic workers in Cyprus.’ The project was funded by the London School of Economics Hellenic Observatory and its 2019-2020 A.G. Leventis Research Innovation Programme on Cyprus. The library-based research consisted of academic writings focusing on FDW in the Republic and abroad, and reports drafted by international and European human rights bodies and NGOs. Crucial sources of information about the legal framework and context in the Republic were two reports of the RoC Ombudsman, drafted in 2013 and 2019, respectively.² The library-based research also involved an analysis of legal documents, including the standard employment contract that all FDW must sign in order to legally reside and work in the RoC. The empirical research included information collected about the living and working conditions of FDW in the Republic through 150 questionnaires, 21 in-depth interviews and two focus groups. All participants in the research were female FDW who were living and working in Nicosia or Limassol between November 2019 and February 2020. The questionnaire was completed by a representative sample of the five main nationalities of FDW in Cyprus: 46 Filipino, 35 Sri Lankan, 31 Nepalese, 25 Indian and 13 Vietnamese.³ It was written in English and drafted in simple language, but also on site were translators of the five main native languages of FDW (Tagalog, Sinhala, Nepali, Hindi and Vietnamese), who helped any respondents who did not understand a question. All answers were then written/marked in English.

The study supplemented the results of the quantitative research with 21 in-depth interviews, each lasting for about an hour. The nationalities of the interviewees were as follows: six Filipino, five Sri Lankan, four Nepalese, three Indian and three Vietnamese. All interviewees spoke good English, but a translator was also in the room. The questions were asked in English

² RoC Ombudsman, *Report on the Status of Domestic Workers in Cyprus* [Τοποθέτηση Επιτρόπου Διοικήσεως Ως Εθνική Ανεξάρτητη Αρχή Ανθρωπίνων Δικαιωμάτων Αναφορικά Με Το Καθεστώς Των Οικιακών Εργαζομένων Στην Κύπρο] (2 July 2013); RoC Ombudsman, *Report on the Institutional Framework Regulating Domestic Work in Cyprus* [Αυτεπάγγελτη Τοποθέτηση Της Επιτρόπου Διοικήσεως Και Προστασίας Ανθρωπίνων Δικαιωμάτων, Ως Εθνικής Ανεξάρτητης Αρχής Ανθρωπίνων Δικαιωμάτων, Αναφορικά Με Το Θεσμικό Πλαίσιο Που Ρυθμίζει Την Οικιακή Εργασία Στην Κύπρο] (21 Oct 2019).

³ Combined, the five nationalities constituted 98% of all FDW in the Republic in July 2019. Numbers provided upon request by the RoC Civil Registry and Migration Department.

and the interviewee responded in a mix of English and her native language; the answer was translated on the spot and written down. Therefore, any quotations included here are either direct statements made by the interviewee or translated ones. Two focus group discussions, conducted over a period of approximately 2.5 hours and consisting of 10 participants each, further informed the results of the questionnaires and interviews. During each focus group the facilitator set out a theme (e.g., 'family life'), which she gave orally and also wrote on a flipchart. The five translations of each term were written next to the English word on the flipchart. Participants were then free to talk about anything that came to mind in relation to that theme.

For all three parts of the empirical research, much attention was paid to ethical considerations in both the design and implementation stages. Ethical approval had been granted prior to the start of the research project by the Cyprus Bioethics Committee and the UCLan Ethics Committee in the UK. Both processes involved assessment by independent researchers of both the questionnaire and the questions to be discussed during the interviews and focus groups. These were therefore designed in accordance with the ethical guidelines provided by the (UK) Socio-Legal Studies Association, the (UK) Association of Social Anthropologists, the (UK) Economic and Social Research Council, the (UK) Social Research Association and secondary literature.⁴

⁴ L. Fontes Aronson, 'Ethics in Violence against Women Research: The Sensitive, the Dangerous and the Overlooked' (2004) 14 *Ethics and Behaviour* 141; David Silverman, *Doing Qualitative Research* (3rd edition, London: Sage, 2010).

THE LEGAL FRAMEWORK REGULATING THE RIGHTS OF FDW IN THE REPUBLIC OF CYPRUS

There is no law that deals specifically with FDW entry and stay in the RoC. Instead, their rights and responsibilities, like those of all other migrants, are listed in the Aliens and Immigration Law 1972 to 2019 [Cap. 105]. Within this general legal framework, regulations related to FDW are shaped through decisions of the Council of Ministers of the Republic, which, in turn, rely on recommendations from the Ministerial Committee on the Employment of Migrants.⁵ The Council of Ministers' decisions are in line with the 'Criteria for the Occupation of Migrants', which it had outlined in 1991.⁶ The rationale for these 'Criteria' was that the entry and employment of migrant workers, including FDW, in the Republic was necessary to address workforce shortages on a temporary basis, i.e., until technological advancements and the retraining of the local workforce could fill this gap.⁷ These workforce shortages were identified as present – and, rather paradoxically, as still temporary – in the 2007 Strategy for the Employment of the Foreign Labour Force in Cyprus, which is in force today and continues giving effect to the 1991 Council of Ministers decision.⁸

The legal framework regulating the entry of FDW into the RoC is characterised by openness, in that it allows private individuals who meet relatively lax requirements⁹ to bring FDW to the Republic for the purpose of providing domestic services in their households. 'Domestic

⁵ In Greek, this is the 'Υπουργική Επιτροπή για την Απασχόληση Αλλοδαπών.'

⁶ In Greek, these are the 'Κριτήρια Απασχόλησης Αλλοδαπών.' Decision of the Council of Ministers, 6 Dec 1991.

⁷ RoC Planning Bureau, *Study on Labour Shortage: A Note on Importing Labour from Abroad* (Nicosia, RoC Planning Bureau, 1989), cited in Nicos Trimikliniotis and Corina Demetriou, 'Labour Integration of Migrant Workers in Cyprus: A Critical Appraisal,' *Precarious Migrant Labour across Europe* (Ljubljana: The Peace Institute – Institute For Contemporary Social and Political Studies, 2009).

⁸ In Greek, this is the 'Στρατηγική για την Απασχόληση Ξένου Εργατικού Δυναμικού στην Κύπρο του 2007.'

⁹ Eligible employers are a) families with a child under 12 years old when both parents work, b) families with no children when both partners work and have an annual taxable income of at least €52,000, c) single parent families when the parent works, d) families with one working partner provided that their annual taxable income is at least €86,000, e) elderly people above the age of 75, f) people with special needs, g) infirm persons, i) handicapped persons and j) and couples with more than three children of whom one at least is under 12 years old and provided that both partners work. The criteria are available on the Civil Registry and Migration Department website, at <http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/5314ED0D3F68CA9EC2257D2C003A4DC2?OpenDocument>.

services' are not defined in the law, but they tend to centre around the 'three Cs' – cooking, cleaning and caring (of children, the elderly, or disabled persons).¹⁰ A high demand for these services, coupled with the absence of quotas in the number of migrants from third countries that can be employed in the Republic,¹¹ have resulted in relatively large numbers of FDW compared to the overall population.¹²

While the conditions for FDW entry into the RoC are quite generous, the conditions for their stay are not. The recruitment of all immigrant workers involves the Ministry of Labour and Social Insurance; yet FDW are, exceptionally, the concern of the Civil Registry and Migration Department, under the Ministry of the Interior. This decision was taken three decades ago and was based on the argument that the occupation of FDW does not really affect the employment sphere,¹³ presumably because no Cypriot would be willing to do the jobs that FDW take on (which itself speaks volumes about their working conditions and remuneration). Even though the Council of Ministers decided in 2010 to shift the responsibility for FDW to the Ministry of Labour, a decade later, implementation of this decision is still pending.¹⁴

Every FDW must sign an employment contract, in the absence of which she is not legally employed, and therefore not legally residing in the RoC.¹⁵ A standard employment contract for all migrant workers was prepared by the Ministry of Labour in 1991. This was amended by the Migration Department to fit the specific context of domestic work, but was never sent

¹⁰ Bridget Anderson, *Doing the Dirty Work? The Global Politics of Domestic Labour* (London: Zed Books, 2000).

¹¹ The 2007 Strategy for the Employment of the Foreign Labour Force in Cyprus includes numbers of FDW that were expected to work in the RoC in the following years, but not legally mandated caps or quotas.

¹² As of July 2019, there were just over 19,000 registered FDW in the RoC, constituting about 50% of all immigrants from non-EU countries. Number provided upon request by the Civil Registry and Migration Department. This number does not include those FDW who, for whatever reason, are residing and working in the RoC irregularly and who are estimated to be numerically close to those who have a valid residence permit (RoC Ombudsman, *2019 Ombudsman Report*, [60]). Registered FDW represent 4.4% of those in employment in the Republic (Danai Angeli, 'Demand in the Context of Trafficking in Human Beings in the Domestic Work Sector in Cyprus' [DemandAT Country Study No.2, June 2016]), available at: https://www.demandat.eu/sites/default/files/DemandAT_CountryStudies_2_Cyprus_Angeli.pdf).

¹³ RoC Ombudsman, *2013 Ombudsman Report*, [27].

¹⁴ *Ibid*, [30].

¹⁵ This used to be expressly stated in the previous draft of the Employment Contract, which was revised in 2019. For instance, Article 5(b) of the Old Employment Contract stated: '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 his 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.' Similarly, Article 5(c) of the Old Employment Contract provided that 'Breach of any of the clause [sic] of this contract will automatically cause the termination of this contract as well as the validity of the Employment and Residence Permit.' Although these provisions are not included in the New Employment Contract, in practice, things have not changed: without an employer sponsoring them, FDW are residing illegally in the RoC and, if caught, are deported.

The Old Employment Contract (rather confusingly, still on the Immigration Department's website) can be found at: [http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/5314ED0D3F68CA9EC2257D2C003A4DC2/\\$file/DOMESTIC%20WORKER%20ContractOfEmploymentEN.pdf](http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/5314ED0D3F68CA9EC2257D2C003A4DC2/$file/DOMESTIC%20WORKER%20ContractOfEmploymentEN.pdf). The New Employment Contract can be found at: [http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/F16DFEEA3AF1715FC2257D6D0042D6B6/\\$file/DW_CONTRACT_07.05.2019.pdf](http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/F16DFEEA3AF1715FC2257D6D0042D6B6/$file/DW_CONTRACT_07.05.2019.pdf).

back to the Ministry of Labour for final approval.¹⁶ The employment contract was used, essentially unamended, from the time of its creation in 1991 until 2019. The current version of the contract was circulated in May 2019, but FDW who had signed the old version before this date, and are still legally employed in the Republic, have not been asked to sign the new document (or been informed of its existence). The new employment contract is an improvement in terms of clarity and protection of workers' rights, compared to the document it has replaced. For instance, the old contract included provisions, such as: 'The Employee [...] 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 appropriate by the Employer.'¹⁷ Further, vague obligations like the duty to 'obey and comply with all orders and instructions of the Employer' were scattered throughout the document, which did not however, include even a brief description of the specific tasks that the FDW was expected to perform.¹⁸ Both of these examples have been omitted from the new employment contract, which, however, remains highly problematic.¹⁹ Specific provisions of the new contract are discussed in more detail in the rest of the report.

¹⁶ RoC Ombudsman, *2013 Ombudsman Report*, [60]. As a result, the contract emphasises in the most explicit way the status of the employee as a migrant (e.g., Article 1(C)(a) of the New Employment Contract: 'The Employee's entry residence and employment shall be subject to the provisions of the Aliens and Immigration Laws and its relevant regulations').

¹⁷ Old Employment Contract, Article 2(f).

¹⁸ Old Employment Contract, Article 2(c).

¹⁹ For instance, along the same lines as the examples from the Old Employment Contract is the provision that 'The Employee ... shall in all respects and all times conduct himself with propriety and decorum' (New Employment Contract, Article 2(d)).

ILLUMINATING THE CHALLENGES FACED BY FDW

This section identifies and explains the four main challenges faced by FDW in the RoC, namely (a) their poor working conditions; (b) unjust remuneration practices; (c) their greater likelihood to be victims of abuse, which will remain unreported and unpunished; and (d) serious restrictions in their personal and family lives while residing in the Republic.

Poor working conditions

The RoC employment contract stipulates that FDW are expected to do ‘housework performed in the Employer’s primary residence and/or secondary residence.’²⁰ It should be noted from the outset that for practically all FDW,²¹ ‘the Employer’s primary residence’ is not only their place of employment, but also their home while in the Republic.²² The contract does not include any examples of standard housework tasks, but, in practice, employers are divided into two categories: those who rely on the FDW for general cleaning of their house and cooking for their family, and those who employ the FDW to care for a specific individual (such as an elderly or disabled person). FDW recruited for the second category almost always have cleaning and cooking responsibilities as well.²³ Whether they are primarily cleaners or carers, the empirical research suggests that FDW in the RoC face three related problems in terms of their working conditions: excessive working hours, the fact that they are often asked to work in more than one house and that they are expected to always be ‘on call.’

²⁰ New Employment Contract, Article 1(A).

²¹ Specifically, for 99% of the respondents to the questionnaire.

²² Article 3(A) of the New Employment Contract provides that the employer can pay an additional 15% of the FDW’s salary and not provide accommodation, but that option that is not the preference of either party. For employees, staying with their employers saves them money; for employers, this arrangement ensures that the FDW is always available.

²³ 45% of the respondents to the questionnaire were responsible for taking care of one or more elderly persons, and 9% of taking care of one or more disabled persons, while 98% of the respondents were responsible for cleaning the house and 85% for cooking, which suggests that a significant number of employees are expected to perform all three tasks. To this should be added the 36% of respondents who have listed ‘taking care of the children’ among their main responsibilities.

The employment contract is clear: 'The Employee shall work for 6 days per week for 7 hours per day, either during the day or night as may be required by the Employer from time to time.'²⁴ Despite the absence of any ambiguity, virtually no FDW works 42 hours per week. Instead, participants in our empirical research reported that they work an average of 58 hours per week, almost 40% more than what their contract stipulates. Of the 150 FDW, two answered that they work less than 42 hours, 33 work between 42 and 50 hours, 31 between 51 and 60 hours, and 48 work between 61 and 70 hours per week. Finally, 36 respondents – more than 1 in 5 – work more than 70 hours, a number that is close to, or even more than twice what they are contractually obligated to work (see Figure 1 below).

Participants' working hours

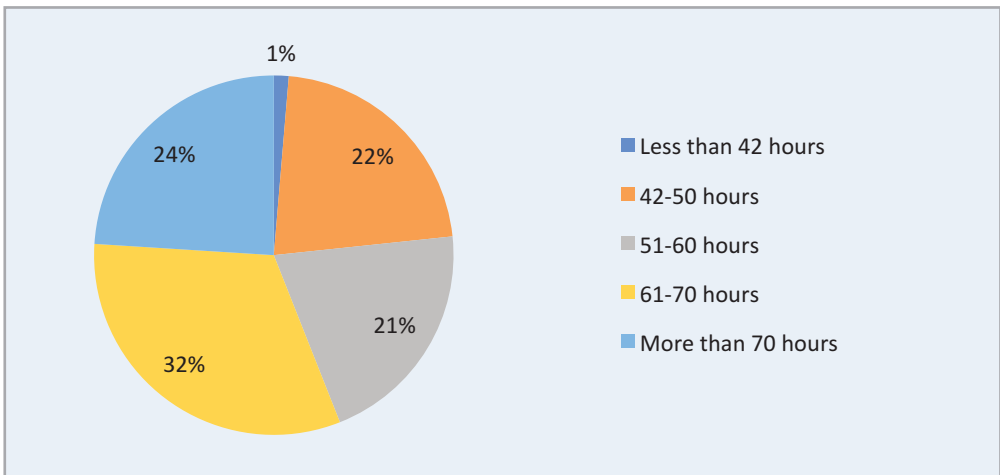


Figure 1 – Participants' working hours

In addition to the fact that FDW work an excessive number of hours, a third of them do so every day, rather than six days per week. For some, this is a decision they took in order to supplement their income, but for others, it is something that their employers expect, often without any additional payment. Sometimes employers demand that the FDW does housework in their primary or secondary residence seven days per week, but more often, they send their employee to clean other houses, almost always owned by relatives. Of the 150 respondents to the questionnaire, only 50 are responsible for cleaning just one house. Among the rest, 75 clean two houses, 24 clean three houses and one works at four different houses. Of those who work in more than one house, 79% do so in properties that their employers have

²⁴ New Employment Contract, Article 2(1)(A).

found; yet if FDW are caught breaching their contract, they run a serious risk of being deported, while employers are likely to avoid all responsibility. Employers who take advantage of FDW in this way are in no way exceptional: 49% of FDW who clean more than one house do not receive additional money for their labour (thus suggesting that they have been forced into this arrangement).

Complaints about the long hours and additional working day were shared among those employed by very different types of employers. Also common was the perceived inability of FDW to change this abusive behaviour. For instance, one Filipino lady stated during her interview that: 'I work many hours, also on Sundays. My employers have many parties, so on Saturday I am preparing and collecting everything at night and then spending most of Sunday cleaning it.' A Nepalese domestic worker, taking care of an older man, had analogous complaints in this respect: 'I work many hours a day. Most days I would say about 12 hours. I am cleaning and cooking from early in the morning. Then I take care of "pappou." He is in a wheelchair and needs care all the time. Even at night time. I also clean his daughter's house. I think it is unfair that I am not paid for that.' Despite her different duties from the other two FDW, another Filipino interviewee described a similar schedule: 'It depends on the day. So, if Madam and Sir have guests, I work longer hours. If it is the summer and the children are at home, then I am working even more. But usually, I start at 6:30 and finish everything at about 21:30. But, the youngest child wakes up in the night and I need to change his sheets and sit with him.' These stories suggest that long working hours are not due to the exceptional needs of a few individual employers, but because of a perception among most that the FDW is available if and when she is needed – if she is needed all the time, then that is part and parcel of her job.

The last complaint of FDW in relation to their working conditions, and one they described as particularly acute in the focus groups, is the lack of set working hours. As the testimonies in the previous paragraph suggest, since FDW are living in their employers' houses, they are 'on call' and expected to be available around the clock. This expectation stops them from being able to plan their day (or night) and essentially denies them the right to some free/personal time. Thus, many interviewees commented on the fact that their employers knock on their bedroom door, or call them on their mobile, whenever they need something, even if it is late at night and they had been working from early in the morning. One Sri Lankan worker, for example, complained: 'I start work at 6:00 and finish completely when my employers do not need anything more, which is at about 22:00. I am not working constantly, I do take breaks, but I am always alert to see what my employers need.'

This 'always on-call' expectation is particularly problematic if the employee's tasks stretch into the night, a common phenomenon among those with caring responsibilities, especially of the elderly. 38% of respondents to the questionnaire stated that working into the night, including past midnight, is a regular feature of their work routine. While the contract allows this, it requires that the employee receives adequate rest during the day – yet, none of the respondents described this as their lived experience. In all of the interviews and focus groups,

only one woman described a daily routine that resembles what is envisaged in the contract: 'I prepare the dinner and then I am free. [...] I have privacy and my employers do not disturb me in my room.' The consensus among interviewees and focus group participants, even those who are otherwise happy with their living arrangements, is that the lack of set working hours is the single greatest drawback to residing in their employers' houses.

Unfair remuneration practices

The Ministerial Committee on the Employment of Migrants sets a gross minimum monthly salary for FDW, which for the last several years has been €460.²⁵ The respondents to the questionnaire earn, on average, a reported monthly net salary of €337. If this is divided by the average number of hours FDW reported working per month,²⁶ their hourly rate is €1.29.²⁷ Only three participants out of both focus groups considered their salary to be satisfactory. The rest, citing the working conditions described above, believe they should be getting paid more. In addition to their very low salary, responses to both the qualitative and quantitative parts of the research suggest that FDW are typically affected by three instances of improper remuneration practices: they are not always paid their full salary; they are not always paid on time; and they are almost never paid overtime.

Of the respondents to the questionnaire, 32% answered that there was at least one time when they were not paid for work they did, or were paid less than what they had been promised. To a different question, 33% replied that they are not always paid on time. While these remuneration practices are not rare, by far the most striking finding of the survey in this respect was the almost universal refusal of employers to pay overtime for work over and above the 42 weekly hours prescribed in the contract. To the question 'If you work beyond the hours of your contract, do you receive extra payment?', only 7% replied positively. 35% stated that they do not get paid overtime, while the majority (58%) answered that they do not know how many hours they are contractually obligated to work. Even in situations where overtime was paid, this did not necessarily imply that the FDW had readily consented to the additional work. Illustrative of this is the experience of an Indian domestic worker, common among carers of the elderly, who stated in her interview: 'On Sunday they give me [an] extra €20 because I do not go out. Although, I would prefer to rest on Sunday. I asked for this, at least every second Sunday to rest, but they said "no."'

²⁵ Ministerial Committee on the Employment of Migrants, Decision of 11 June 2013.

²⁶ That is 261 hours (58 hours per week multiplied by 4.5 weeks).

²⁷ Had FDW been working the hours provided in the contract (189 hours per month), their average hourly rate would be €1.78. This compares unfavourably to the hourly rate of 'cleaners' not on a FDW visa, who are covered by the national minimum wage. For 2020, this is €4.55 per hour and increases to €4.84 per hour after six months of continuous employment by the same employer (Information available – only in Greek – on the Ministry of Labour website: http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/faq_gr/faq_gr?OpenDocument#1).

Potential victims of abuse

The vulnerable position of FDW – because of their immigrant status,²⁸ the fact that they are doing low-paid and underappreciated work²⁹ and because they are residing in their employers' houses³⁰ – makes it more likely that they will be victims of abuse. In turn, their vulnerability, distrust of the authorities and gaps in the legislation increase the prospect that their abusers will not be punished. This section focuses on two types of abuse: physical and/or sexual abuse and the practices of some private employment agents who act as intermediaries to bring FDW to the RoC. Some employers' demands to work beyond what the contract stipulates at no extra pay, discussed in the previous two sections, is another abusive practice that typically goes unpunished.

Many FDW identified the house as their 'safe place' and some considered their employers as their protectors. For instance, one Filipino interviewee stated that: "'Giagia" and "pappou" are very kind and I feel safe at home. They will not let someone harm me.' Another was confident that: 'Madam would never let anyone do something bad to me.'³¹ At the same time, and although no one explicitly reported physical or sexual violence against them (some hinted at it), several did mention that their source of fear was from within the houses they were working at. They described instances ranging from verbal violence ('When Sir shouts, many times I get afraid, but he has never hit me or done anything else bad.') to potentially sexual assault that has not been reported to the police or disclosed to the employers. For instance, one interviewee recalled: 'There is one relative who visits "pappou" and one time he touched me. I did not say anything, and I did not know who to tell. When he comes, I go to the supermarket or to get something else from outside. He makes me feel very nervous.'

Among the most disturbing findings of the study, especially in light of testimonies and other evidence confirming that abuse is taking place,³² is the fact that 75% of those who completed the questionnaire – three out of four – would not go to the police if someone harmed them physically (see Figure 2). This figure is even higher among specific nationalities, with 80% of Filipino and 85% of Vietnamese respondents saying that they would not contact the police. In a follow-up question, of the 75% that would not contact the police, only 28% would tell their employer that they had been physically harmed. Combined, the results suggest

²⁸ Judy Fudge, 'Precarious Migrant Status and Precarious Employment: The Paradox of International Rights for Migrant Workers' (2012) 95 *Comparative Labor Law and Policy Journal* 34.

²⁹ RoC Ombudsman, *2013 Ombudsman Report*, [3]-[6].

³⁰ Clíodhna Murphy, 'The Enduring Vulnerability of Migrant Domestic Workers in Europe' (2013) 62 *International and Comparative Law Quarterly* 599.

³¹ 'Giagia' translates in Greek as 'grandmother' and 'pappou' as 'grandfather,' suggesting that the interviewee is taking care of an older couple.

³² See, for example, recent allegations that a Cypriot employer was abusing his Filipino employee, which led to his arrest pending trial (Evie Andreou, 'Police Arrest Man over Abuse of Domestic Worker,' *Cyprus Mail*, 12 August 2020), available at <https://cyprus-mail.com/2020/08/12/police-rearrest-man-over-abuse-of-domestic-worker/>.)

that less than half of the respondents (46%) would tell anyone in a position of relative authority in Cyprus that they had been the victims of physical or sexual violence. These findings are even more worrying when one considers that in practice, few FDW contact – and/or have an appointment with – a doctor independently of their employers. When asked in the questionnaire, only 15% answered that they arrange their own doctor appointments. A sizable group (37%) stated that they had never been to the doctor during their time in Cyprus, while almost half (48%) declared that when they have to go, their employer arranges it. Especially if the FDW is the victim of violence in her workplace, or does not feel comfortable talking to her employer about this, the tendency to not contact the doctor directly could result in an additional barrier to her effective protection.

% of participants who would not report assault to the police

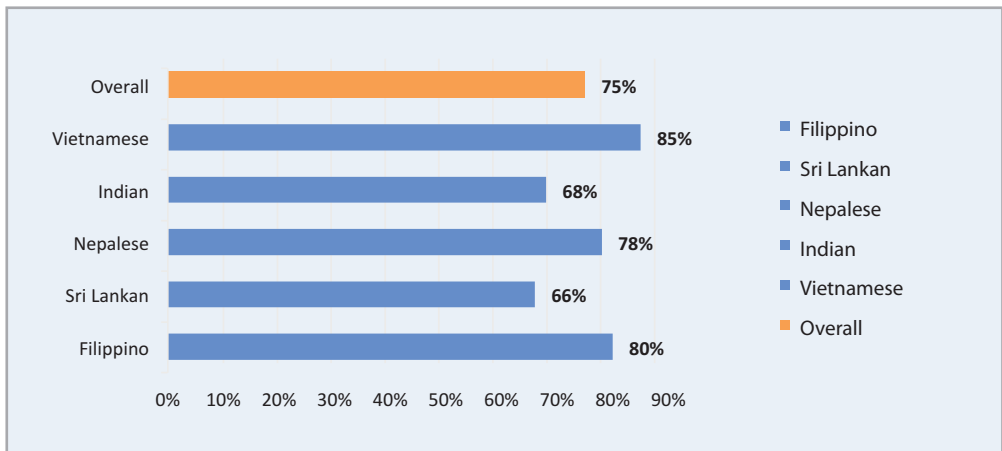


Figure 2 – Percentage of participants who would not report assault to the police

The cumulative effect of the different abusive practices described in this and the previous sections is illustrated in the story of an Indian woman, who explained in her interview that her employer sends her to work in other houses in addition to her own (incidentally, without paying her any additional money). She then continued: 'I do not like the Sir of one of the houses my employer asks me to clean. I told her, but she keeps telling me to go again to clean. He did not harm me, but I worry that there will be one time that he will.' The interviewee has already confronted her employer to no avail and is unlikely to contact the police, especially if she understands that cleaning a house that does not belong to her employer is in breach of her contract. Even if following a potential assault, she is seen by the doctor – which is in itself rare – it will have been too late to stop a preventable tragedy. Potentially, she could turn for help to the private agent who acted as an intermediary to bring her to the RoC, but this is also unlikely considering that some of these professionals have themselves engaged in abusive practices against FDW.

Complaints against private agents have been made by FDW to the Ombudsman³³ and include the following: charging exorbitant amounts of money to bring them to the RoC; offering misleading information to FDW about what they should expect in terms of their working conditions; and, crucially in the case of the Indian lady above, exerting pressure on FDW to continue working for employers who were regularly in breach of the employment contract.³⁴ So serious, credible and common were FDW complaints that the RoC passed the Law on the Establishment and Function of Private-Sector Employment Agencies 126/2012, which creates an obligation on private agents to inform prospective domestic workers of the contents of the employment contract, their rights and obligations.³⁵ Further, the Law prohibits sending an FDW to an employer without a signed employment contract and forbids providing misleading information about the working conditions that the employee will experience.³⁶ And while the Law mandates the imposition of penalties and sanctions to those private agents who do not comply with their obligations,³⁷ in practice, it has been very difficult to prove such allegations due to the absence of satisfactory evidence and witnesses who are willing to testify against the alleged wrongdoers. Such difficulties notwithstanding, in 2019, the Labour Inspectorate Service inspected 150 private employment agencies and revoked the licences of 14 agencies. 13 of the licenses were revoked because the agencies did not provide the information or documents requested within the time set by the competent authority, and one because the private agent was convicted of trafficking fake documents.³⁸

Lack of a personal and family life

The average age of the 150 study participants was 34 years old, with the youngest being 22 and the oldest 49 years old. In terms of their family situation, 16% of the respondents were single, 5% married without children, 56% married with children and 23% single mothers. This background information is necessary to paint a picture of the needs these women have in terms of their private and family lives.³⁹ A key need is respect for their privacy and freedom to spend their non-working time in any way they prefer and another, especially for the 79% who are mothers, is the opportunity to be reunited with their families.

Almost 1 in 5 FDW (19%) do not have a key to their house, which suggests that they have to inform their employer that they are leaving and what time they are planning on returning,

³³ Decisions of the Ombudsman in relation to individual complaints carry political weight but are not legally binding.

³⁴ RoC Ombudsman, *2019 Ombudsman Report*, [32].

³⁵ Law 126/2012, Article 17.

³⁶ Law 126/2012, Article 19.

³⁷ Law 126/2012, Articles 26 and 27.

³⁸ Group of Experts on Action Against Trafficking in Human Beings (GRETA), 'Cyprus Third Evaluation Report – Access to Justice and Effective Remedies for Victims of Trafficking in Human Beings' (11 June 2020), [146].

³⁹ This right is protected under Article 8 of the European Convention of Human Rights 1950, which the RoC has signed and ratified.

even on their day off. In fact, this is true for the majority of questionnaire respondents, even those who have been given a key: 66% state that their employer checks what time they get home at night (in case they leave the house on a weekday) or on a Sunday. One Sri Lankan interviewee complained: 'On Sundays, they want me back by 18:00 and will check if I am back in time. This makes me quite stressed'. Another explained: 'My employer wants me home by 19:00. I leave early in the morning, so I have many hours with my friends.'⁴⁰ During the focus groups, Sunday was a very significant part of the discussion and the only element of leisure for the women. Echoing sentiments voiced in the interviews, four participants expressed their distress at the fact that their employer starts calling quite early on a Sunday afternoon to see when they will be getting home. Coupled with the fact that 68% of questionnaire respondents never receive friends at their place of stay, such practices significantly compromise not only their privacy, but also opportunities to socialise.

The most serious limitations of the right to private and family life, however, stem not from employers' expectations, but from the letter of the law, which automatically excludes all FDW from acquiring permanent residency in the country.⁴¹ An FDW is typically allowed to stay in the RoC for a period of six years: the visa is originally granted for four years and can then be renewed on a yearly basis twice.⁴² Further, it can be extended, even after the six-year period, as long as the FDW and her current employer want to maintain their working relationship; in this case, the visa is renewed every year for an unspecified number of years.⁴³ An additional exception to the six-year rule covers carers of elderly or disabled persons, who can continue working in the RoC for as long as their employer remains alive.⁴⁴ This mesh of provisions suggests that an FDW may be residing in the RoC for a period significantly longer than the five years the Law requires before granting someone a permanent residency.⁴⁵ It is in light of these considerations that a 2008 decision of the Supreme Court, which held that FDW could not apply for permanent residency irrespective of the number of years they had been working in the country, can be criticised as inequitable in its consequences, if not its intentions.

⁴⁰ This is an illustration of how employers view FDW as 'girl-children incapable of making [their own] decisions' (Christine B.N Chin, 'Walls of Silence and Late Twentieth Century Representations of the Foreign Female Domestic Worker: The Case of Filipina and Indonesian Female Servants in Malaysia' (1997) 31 *International Migration Review* 353, 379).

⁴¹ *Cresencia Cabotaje Motilla v. The Republic of Cyprus through the Minister of the Interior and the Chief Immigration Officer* (RoC Supreme Court, Case no. 673/2006, 21 Jan 2008).

⁴² Decision of the Ministerial Committee on the Employment of Migrants, 3 April 2015, cited in RoC Ombudsman, 2019 *Ombudsman Report*, [21].

⁴³ *Ibid*, [21].

⁴⁴ *Ibid*, [21].

⁴⁵ Article 4(1) of Directive 2003/109/EC provides that 'Member States shall grant long-term resident status to third-country nationals who have resided legally and continuously within its territory for five years immediately prior to the submission of the relevant application.' The Directive includes exceptions to this right for certain categories of migrants, namely students or those who are residing in the member state solely on temporary grounds, such as au pairs or seasonal workers.

The Court's rationale was that the whole idea behind asking an applicant to wait for five years before applying for permanent residency is that during this time, she develops ties with the country of residence and forms legitimate expectations that she will continue residing there. Since FDW are told from the outset that their stay in the RoC will eventually come to an end – whether this is after four years, six years or an indeterminate period depending on the wishes or longevity of their employer – they should simply not form such expectations. Conversely, in a strong dissenting opinion, four of the 13 Supreme Court judges argued that the fact that the visa is issued for a specific period of time is irrelevant. The long stay of a legal migrant in a country in and of itself creates ties with that country, which the law should uphold and protect. It is the minority's view that is in line with a later decision of the Court of Justice of the European Union on the matter, thus suggesting that the government's blanket ban is at best, standing on shaky legal ground.⁴⁶ The policy has also been criticised by other international bodies, with both the UN Committee on the Elimination of Racial Discrimination⁴⁷ and the UN Committee on the Elimination of Discrimination against Women⁴⁸ expressing concerns about FDW's inability to obtain permanent residence status in the Republic.

The 2008 Supreme Court decision has profound implications for FDW. In order for a migrant worker to apply for family reunification (i.e., in order to bring her spouse and children into the country), she must prove that she has reasonable prospects of acquiring long-term residence in the RoC.⁴⁹ Thus, when the Supreme Court upheld the government's blanket rejection of all FDW applications for permanent residency, it made it impossible for them to pursue their family reunification. In a nutshell, the effect of the law is that the young migrant women who take care of Cypriot families must do so at their own and complete personal expense.

⁴⁶ *Staatssecretaris van Justitie v Mangat Singh* (Court of Justice of the European Union, Case C-502/10, 18 Oct 2012).

⁴⁷ UN Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Twenty-third and Twenty-fourth Periodic Reports of Cyprus,' adopted by the Committee at its 2544th and 2545th meetings on 11th and 12th May 2017 (CERD/C/CYP/23-24), [22]-[23].

⁴⁸ UN Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Eighth Periodic Report of Cyprus,' adopted by the Committee at its 1604th and 1605th meetings on 4th July 2018 (CEDAW/C/CYP/CO/8), [38]-[39].

⁴⁹ Aliens and Immigration Law 1972 to 2019 [Cap. 105], Articles 18Kl and 18AA.

FACTORS CONTRIBUTING TO POOR LIVING AND WORKING CONDITIONS FOR FDW

A simplistic explanation for why FDW face the challenges described above would point to gaps in the law and difficulties with its enforcement. While this is partly accurate, it also hides the social and institutional dynamics that give rise to the problematic and unenforceable legal framework in the first place. Section 5 illuminates these dynamics by highlighting faults in the policy making process and explaining why, even if the law was perfected on paper, it would nevertheless remain deficient in the absence of other social and institutional changes.

A major reason for the poor living and working conditions of FDW is their reluctance to report to the authorities any breaches of their contract or crimes committed against them. In turn, this can be explained by two factors. On the one hand, there is a lack of rights awareness among FDW, which is itself due to the absence of any serious effort by the government to inform them of their rights, and, until recently, the legal ban on FDW forming or joining trade unions. On the other hand, the empirical research suggests that FDW who have complained about a legal violation, whether to their employer or the authorities, have not experienced an improvement in their working or living conditions. This is due to the huge power imbalance between employers and employees, sustained both through the letter of the law and biased attitudes within State institutions dealing with FDW. The conclusions of the 2019 Ombudsman report in this respect are worth quoting in full:⁵⁰

The one-sided implementation of the institutional framework to the detriment of domestic workers has been internalised by the general public as something “natural” and necessary. In fact, the belief that domestic workers are a “special” and completely distinct category of workers has been cultivated to such an extent that the systematic violation of their labour rights, and many times their fundamental human rights, becomes acceptable – to the point of being invisible – even to those employers who have no such intention.

⁵⁰ RoC Ombudsman, *2019 Ombudsman Report*, [55] (my translation).

In order to understand the complex set of factors that contribute to the inadequate working and living standards of FDW, one must first be familiar with the content – or lack thereof – of the employment contract. While the contract states that FDW should work for seven hours per day, over six days per week, it does not include, even in the form of guidance, set working hours (which might note, for instance, that the FDW will work between 7:00-14:00 or 13:00 to 20:00, depending on a particular employer's needs). It further does not make any provision for breaks within the working day (for example, between 13:00-14:00, as most employment contracts in the RoC do), which arguably exacerbates the expectation that the FDW is always on call for whatever her employer needs. Also conspicuous through its absence is a provision about possible overtime to be paid by the employer. A mere omission to make reference to this is arguably an improvement to the pre-2019 version of the contract, which expressly prohibited the employee from negotiating a better salary for the work she was doing.⁵¹ Yet, the failure to provide even basic guidelines about such an important feature of the employment relationship is regrettable: it sends the message that the possibility of paying for overtime should not be the subject of discussion between the two parties, while it also leaves those employees who dare raise it, totally in the dark about what it is they should be asking of their employer.

Finally, absent from the contract is any reference to complaint procedures that the FDW should follow in case of dissatisfaction with either working conditions or remuneration. The contract includes a general clause stating that, in case of a 'labour dispute between the Employee and the Employer [...] one of the two parties or both parties separately, may submit in writing a relevant complaint to the District Aliens and Immigration Unit of the Police, as well as the Department of Labour Relations for examination by the Labour Disputes Committee.'⁵² Yet, there is no explanation in the contract as to why the police (not least, its Immigration Unit) are being involved in an employment dispute, what the Labour Disputes Committee may decide, how its decision might impact possible actions taken by the Immigration Unit, what procedure the Labour Disputes Committee will follow, how long the procedure is expected to last, and the specific rights of each party during this process (for example, whether the employee will continue getting paid by the employer, and if not, whether she is allowed to seek work elsewhere).

Another factor exacerbating the poor working and living conditions of FDW is that, in practice, the employment contract they have signed is all but unenforceable.⁵³ This is, in turn, due to two reasons. On the one hand, the FDW's place of employment is her employer's private

⁵¹ Old Employment Contract, Article 2(f).

⁵² New Employment Contract, Article 4(e).

⁵³ This has been expressly acknowledged by the authorities (see Prodromos Panayiotopoulos, 'The Globalisation of Care: Filipina Domestic Workers and Care for the Elderly in Cyprus' [2005] 86 *Capital & Class* 99, 118.)

home, where possible abuses are likely to remain hidden.⁵⁴ This, coupled with the fact that each FDW works in a different house, means that in cases where the employee wants to make a complaint, it is almost inevitably her word against that of the significantly more powerful employer. The lack of evidence in support of a complaint is further worsened by the fact that the home – in this case the FDW's, but also, crucially, the employer's – is a constitutionally protected space that the authorities cannot enter without a warrant.⁵⁵

Even if evidence of abuse existed, however, the contract would in all likelihood remain unenforced because of the overwhelming tendency among FDW to not report such practices against them to the authorities. This is partly because FDW are not always clear about their rights and are therefore unaware that they are being abused, even if they sense that a situation they are experiencing is unfair. The lack of rights awareness is reflected in the results of the questionnaire, according to which 70% of respondents signed a contract of employment, 5% did not and 25% have no recollection of whether or not they did. To the follow-up question: 'Did you understand what the contract said?' 15% of respondents replied that they did not, and an additional 43% answered that they did not remember whether they understood or not (see Figures 3 and 4 below). Taken together, 30% did not sign or do not remember signing a contract of employment and from the 70% that did, almost six in 10 either did not understand or do not remember whether they understood what the contract provided.

This unfamiliarity with the employment contract and the rights conferred to FDW and their employers was particularly striking during the interviews. Typical responses when FDW were prompted to discuss the contract included the following: 'I signed many papers when I came.', 'I am not sure exactly what I signed.', 'I signed some papers but do not remember exactly what they were for.', 'I remember signing papers. I know they were for my visa, but I am not sure what they said.', 'I do not remember anything about the contract. I am not sure exactly what I am allowed to do. I do not know if it is allowed that I work on Sunday as well.' The lack of rights awareness was also prevalent among those in the focus groups, where more than half of participants could not describe their exact status and employment rights in the Republic. Some knew of their contract in very general terms, and none were familiar with their rights under any relevant laws.

⁵⁴ European Union Agency for Fundamental Rights, *Migrants in an Irregular Situation Employed in Domestic Work: Fundamental Rights Challenges for the European Union and Its Member States* (Luxembourg, Publications Office of the European Union, 2011), 38.

⁵⁵ RoC Constitution 1960, Article 16.

Participants’ contractual status

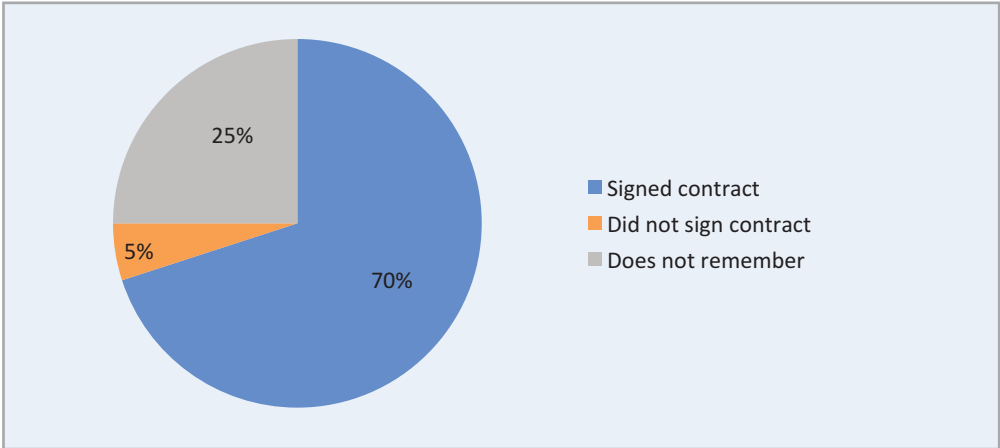


Figure 3 – Participants’ contractual status

Participants’ understanding of contract

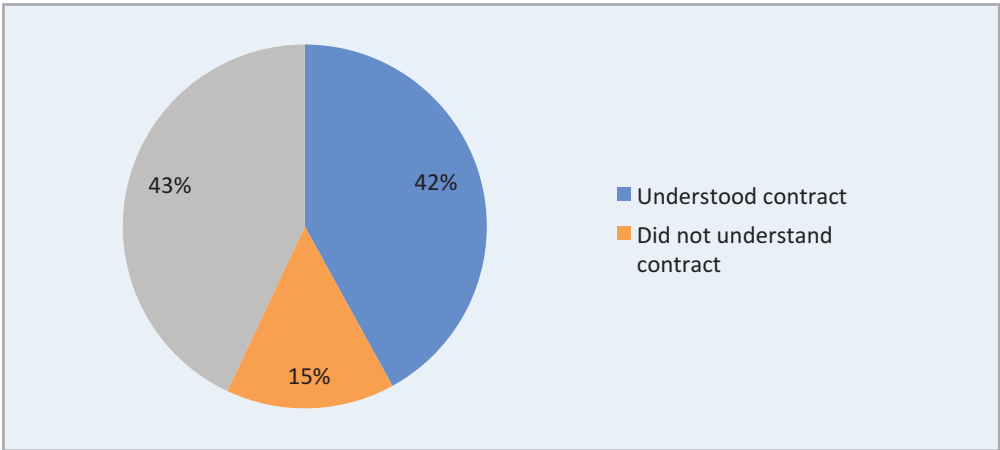


Figure 4 – Participants’ understanding of contract

The FDW limited knowledge of what their employers can demand of them and how they can protect themselves can be traced to two decisions of the government. The first relates to the absence of any State-supported effort to educate FDW on their rights. This could have happened through information sessions or seminars, leaflets or short videos prepared by the relevant authorities of the Republic, most notably the Ministry of Labour, the Immigration Department and the police. The material could have been made available in the native languages of the five nationalities that make up the bulk of domestic workers in the RoC. This information could be shared with FDW on their arrival to the Republic, when signing their

contract in the presence of the private employment agent that helped bring them to Cyprus, in community centres and churches that are often visited by FDW, in police stations or the Ministry of Labour where they are likely to make a complaint and, crucially, in the local embassies/consulates of FDW countries of origin. Instead of doing any of the above, the RoC was for decades doing nothing, until 2012, when it outsourced this responsibility to private employment agents.⁵⁶ To what extent private employment agents comply with their obligation to inform FDW of their rights is unclear, and something that the Ombudsman has flagged as one of the main limitations of the Law.⁵⁷ Yet, putting in place an unenforceable Law in order to address the lack of enforceability of the contract of employment hardly seems a prudent strategy.

The second government decision that had a negative impact on rights awareness was the express prohibition on FDW to form or join a trade union, a stipulation in place from 1991 until May 2019.⁵⁸ This decision allegedly reflected the wishes of trade unions, which saw migrants as a threat to the rights of Cypriot workers.⁵⁹ Trade union wishes aside, the ban was almost certainly unconstitutional⁶⁰ and considered problematic by the Ombudsman,⁶¹ NGOs⁶² and academics.⁶³ FDW themselves overwhelmingly report that they are interested in joining an organisation that represents their interests in Cyprus – 64% of participants stated so in the questionnaire. It is too early to say whether the recent lifting of the prohibition (to join or form a trade union) will result in greater mobilisation for the protection of FDW rights. Despite the high number of respondents who expressed an interest in this in the anonymous questionnaire, when the question was asked during the focus groups, most were not willing to engage in a public discussion. The fact remains however, that joining an organised group of individuals is likely to have an empowering effect on employees. This is supported by the questionnaire's results in relation to Filipino respondents, the only nationality among domestic workers in the RoC who are collectively organised.⁶⁴ Filipinos appeared more likely than other FDW to tell

⁵⁶ Law 126/2012, Article 17.

⁵⁷ RoC Ombudsman, *2019 Ombudsman Report*, [27].

⁵⁸ This prohibition was included in Article 2(h) of the Old Employment Contract, but is not included in the new one.

⁵⁹ Platform for International Cooperation on Undocumented Migrants (PICUM), *Migrants and the Right to Equal Treatment in Cyprus* (2013) Workshop Report.

⁶⁰ Article 21(2) of the RoC Constitution 1960 provides: 'Every person has the right to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.'

⁶¹ RoC Ombudsman, *2013 Ombudsman Report*, [69].

⁶² AEQUITAS, 'Strategy for the Protection and Promotion of the Rights of Migrant Domestic Workers in Cyprus' (Cyprus, 2014).

⁶³ Vera Pavlou, 'Migrant Domestic Workers, Vulnerability and the Law: Immigration and Employment Laws in Cyprus and Spain' (2016) 7 *Investigaciones Feministas* 149.

⁶⁴ A third of the Filipino questionnaire participants are members of Obreras Empowered, a group that describes itself as fostering solidarity among domestic workers, raising and addressing important issues and concerns of its members and sharing experiences among them.

their employers that they are unhappy with something that was done or said to them, they are the only group in which 100% of respondents would complain to their employer if they were not paid on time and they are twice as likely as other groups to take sick leave when they are ill.

In addition to the lack of rights awareness among FDW, the other factor contributing to the limited enforceability of the contract and the law is the fact that even those who had the knowledge and confidence to complain to their employer about abusive practices have not experienced much improvement in their working or living conditions. Some employers have calmly made it clear that this is how things are and will remain. One Filipino interviewee recalled: 'I signed a contract and I know it said six days per week and seven hours, but I know I work many more than this. I do not know what to do about this. I spoke to Madam, but she does not listen.' Other employers have shouted at their employees for daring to suggest a change in their working conditions. Illustrative of this was the experience of another Filipino woman, who said: 'I go to Sir's sister's house once a week, but they never pay me anything for this and when I asked for money, Sir shouted very much so I stopped asking. Many nights I am crying and thinking of how to change this situation, but I do not know how.' Another recalled: 'I go to friends and the park on Sunday, unless I am asked to clean another house. Sometimes I tried to say "no", but Madam got very angry.' And a third: 'I know my contract says less hours than those I am working. When I asked her about this she got very angry. I told her it was no problem to work some hours more and get paid. She was shouting.' In light of such responses, it is unsurprising that 40% of FDW would not tell their employers that they are unhappy with something they had done or said, a sentiment that was also voiced in the focus groups. At least nine of the 20 participants agreed that they would never complain to their employer, as they know that this would not change their situation; thus, any negative consequences likely to follow from the complaints are not worth risking.

Employer unwillingness to comply with their obligations stems from a clear position of control. Simply put, the relationship between the two parties to the contract is so grossly unbalanced that it leaves the employee with little choice but to follow even unfair or abusive instructions from the employer. Two examples of how the power imbalance is maintained will be used to illustrate the point. The first has to do with the fact that an FDW's stay in the Republic is (at first glance at least) linked with her continued employment with the person who sponsored her to come to the RoC in the first place. The employment contract does not make any mention of the possibility of an FDW changing her employer after she has arrived in Cyprus. It lists five grounds under which the contract of employment may be terminated, but it does not explain what happens after the termination has taken place.⁶⁵ Thus, the contract may be terminated (a) upon a mutual agreement between the employer and employee, (b)

⁶⁵ New Employment Contract, Article 4.

following a one-month notice given by either party, (c) without notice in accordance with Section 5 of the Termination of Employment Law 24/1967,⁶⁶ (d) if the employee has been absent from work due to sick leave for more than a month, or (e) in case of a labour dispute that has been decided following the procedure (briefly) mentioned in the contract.

In relation to the first ground – i.e., in those rare cases of termination due to mutual agreement by the parties – the contract is clear that the FDW can search for alternative employment for a period of one month.⁶⁷ However, no similar provisions are included in relation to the other grounds of termination, thus making it uncertain whether the employee can seek alternative employment if she resigns or following a labour dispute. It appears that in such cases the FDW can indeed change employer (rather than simply return to her country of origin), as long as this is done only twice during her stay and not earlier than six months after she has arrived in the Republic.⁶⁸ The fact that this right is so well-hidden in a 2015 Council of Ministers decision (published only in Greek), rather than explicitly stated in the contract, is regrettable, especially because the RoC has been chastised at least twice for the practice of not allowing FDW to change their employer in the first months of their stay in Cyprus⁶⁹ and for restricting the number of employers that an FDW can change afterwards.⁷⁰

The second example of a power imbalance between the parties to the contract concerns the procedure to be followed in case of a labour dispute. As explained above, in such instance, the FDW must first file a complaint to the Immigration Unit of the police and the Labour Department of her district. The mere fact that the complaint is made to the Immigration Unit puts the employee in a disadvantageous position, as she is (rightly it turns out) worried that any action against the employer will risk her deportation. Further, what happens after a complaint is made also creates reasons for concern. According to a 2010 Ombudsman report, when FDW file a complaint, employers sometimes retaliate by accusing their employees of having committed a crime, usually theft.⁷¹ Instead of keeping the two procedures – labour dispute and criminal case – separate, the authorities normally stop the former and deport the

⁶⁶ This Law, drafted in 1967 in Archaic Greek, provides the grounds upon which the employer can terminate the employee's contract. It provides no grounds upon which the employee can terminate her employment without notice.

⁶⁷ New Employment Contract, Article 4(a).

⁶⁸ Decision of the Ministerial Committee on the Employment of Migrants, 3 Apr 2015, cited in RoC Ombudsman, 2019 *Ombudsman Report*, [21].

⁶⁹ The right to change one's employer is only activated six months after the FDW has arrived in the RoC. Before this period has expired, their dependency on, and connection with, the employer is total.

⁷⁰ UN Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Twenty-third and Twenty-fourth Periodic Reports of Cyprus,' adopted by the Committee at its 2544th and 2545th meetings on 11th and 12th May 2017 (CERD/C/CYP/23-24), [22]; UN Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Eighth Periodic Report of Cyprus,' adopted by the Committee at its 1604th and 1605th meetings on 4th July 2018 (CEDAW/C/CYP/CO/8), [38].

⁷¹ RoC Ombudsman, *Report on the Procedure for the Investigation of Labour Disputes between Migrant Workers and Their Employers* [Έκθεση Της Επιτροπής Διοικήσεως Αναφορικά Με Τη Διαδικασία Εξέτασης Των Εργατικών Διαφορών Ανάμεσα Σε Αλλοδαπούς Εργαζόμενους Και Τους Εργοδότες Τους] (Nicosia, 12 Mar 2010), [17].

migrant as a result of the (still unsubstantiated) criminal allegations. This practice, the 2010 Ombudsman report continues, is also problematic because of another bias demonstrated by the authorities: while the employer's claims are normally accepted in a straightforward manner, those of the employee are rejected without a serious effort to investigate them further.⁷² Finally, the authorities' partiality – of which both the employer and the employee are surely keenly aware – is reflected in the fact that not all decisions are enforced equally. For example, when the Labour Disputes Committee finds that the employee is at fault, she is immediately deported; yet, if the employer has breached the contract (and, for example, must pay salaries in arrears) there is no enforcement whatsoever.⁷³ Most problematic of all, however, is the fact that in cases where there is a pending dispute, FDW have sometimes been arrested and kept in detention until this is resolved, a process that can take up to several months.⁷⁴ While in theory this practice stopped following the Ombudsman's intervention, it has arbitrarily continued in some cases.⁷⁵

The analysis in this section suggests that the poor living and working conditions of FDW in the Republic are due to a range of interrelated factors. While the root of the problem lies in provisions of the contract, or absence thereof, other factors also greatly exacerbate the challenges they face. FDW are generally unaware of the rights they have under the contract because the government has taken no steps to inform them of these and has even actively discouraged the dissemination of this information by prohibiting them from forming or joining a trade union. Further, even those FDW who are aware of their rights are unlikely to push for their implementation because they are afraid of the negative consequences that might follow such a complaint. These consequences are likely to materialise because of the massive power imbalance between employers and employees, which is maintained both by provisions in the law (for example, those relating to FDW's restricted right to change employer) and by problematic practices of the authorities when they are implementing this law (for instance, in cases of labour disputes).

⁷² Ibid, [22].

⁷³ Ibid, [25].

⁷⁴ RoC Ombudsman, *2013 Ombudsman Report*, [110] and [112].

⁷⁵ Ibid, [113].

RECOMMENDATIONS

This section suggests changes that can be made on the legal and institutional levels, and proposes additional initiatives that can socially empower FDW. The objective of these recommendations is to address both the challenges faced by FDW and the underlying factors that exacerbate them.

Legal changes

Legal changes should take place on three different planes: first, the State should sign and ratify key international conventions; second, the State should amend national legislation; and finally, the State should make fundamental changes to the standard employment contract.

With regard to international standards, the Republic should become party to the International Convention on the Protection of Migrant Workers and Members of their Families (1990) and to the ILO Convention Concerning Decent Working Conditions for Domestic Workers C. 189 (2011).⁷⁶ The two instruments are not perfect, and there are gaps in their protection;⁷⁷ taken together, however, they offer a long list of considerations to be borne in mind when making policies affecting FDW. For example, the 1990 Convention provides that no migrant worker should be deprived of their authorisation of residence or work permit, or expelled from the country, merely for failing to fulfil an obligation arising from a work contract.⁷⁸ Further, it notes that migrant workers shall enjoy treatment not less favourable than that which applies to nationals in relation to, inter alia, their working conditions, payment of overtime, hours of work, resting hours or termination of employment,⁷⁹ and that the State shall take measures to facilitate the reunification of migrant workers with their families.⁸⁰ Complementary to this is the 2011 Convention, which requires that states ensure that domestic

⁷⁶ The recommendation to sign and ratify the 2011 Convention has also been made by GRETA, 'Cyprus Third Evaluation Report,' [151].

⁷⁷ The 2011 Convention, for instance, pays no specific attention to how immigration law restrictions may impair domestic workers' access to labour rights. Nor is it concerned with the fact that in many countries FDW are stopped from changing employer or are refused access to permanent residence (Adelle Blackett, 'The Decent Work for Domestic Workers Convention and Recommendation' (2012) 106 *The American Journal of International Law* 778).

⁷⁸ International Convention on the Protection of Migrant Workers and Members of their Families, Article 20(2).

⁷⁹ Ibid, Article 25(1)(a).

⁸⁰ Ibid, Article 44(2).

workers are informed of the terms and conditions of their employment.⁸¹ Additionally, adequate procedures for the investigation of complaints, alleged abuses and fraudulent practices of employment agencies must be put in place,⁸² and measures for labour inspection, including access to household premises, should be implemented.⁸³ The fact that none of the above protections are in place in the RoC is indicative of the extent of the review that its national legislation must come under.

In addition to these, at least three key changes to the Republic's law must take place: first, the restriction on the number of employers FDW can change while in the RoC must be scrapped. The rationale for this restriction is that if the FDW changes more than two employers, she is not well-suited for this job and, therefore, should not be in the Republic on a domestic worker's visa.⁸⁴ Not only is this assumption arbitrary and discriminatory – as it applies to no other profession in the Republic – it increases FDW vulnerability by not extending the existing protections included in the Law to this category of workers.⁸⁵ Conversely, greater mobility of FDW will allow them to look for better working conditions, which should, in turn, lead to a general improvement of industry standards.

The second proposed amendment to the law is to lift the blanket ban on FDW applications for permanent residency. This change in status can have multiple positive side effects for FDW, most important among which are the reunification in the Republic with their families, and their increased security as migrant workers. A consequence of their increased work security and reduced vulnerability is that FDW will be empowered to demand greater protection of their rights, both individually and for the sector as a whole. A third proposed amendment is that the law includes penalties and sanctions against employers found guilty of abuse and/or exploitation of FDW (for example, preventing them from employing another FDW in the future). The institutional changes recommended below will improve the likelihood that such penalties will be imposed in cases where the domestic workers' complaints have been proven. Finally, it is important that the law is as transparent as possible. Decisions of the Council of Ministers and the Ministerial Committee on the Employment of Migrants, which constitute an important part of the legal framework regulating FDW rights, should be published on the Labour Office or Migration Department websites and be translated into English and the native languages of the bulk of FDW in the Republic.

In addition to amendments to the national legislation, important changes must also take place to the contract, as that is the document that most directly regulates the employment

⁸¹ ILO Convention Concerning Decent Working Conditions for Domestic Workers, Article 7.

⁸² *Ibid*, Article 15(1)(b).

⁸³ *Ibid*, Article 17.

⁸⁴ RoC Ombudsman, *2019 Ombudsman Report*, [21.II].

⁸⁵ Virginia Mantouvalou, 'Human Rights for Precarious Workers: The Legislative Precariousness of Domestic Labor' (2012) 34 *Comparative Labor Law and Policy Journal* 133.

relationship. At the most basic level, a suggestion would be to have two different standard employment contracts – one for those FDW who work as carers and one for those who work primarily as cleaners. The current grouping together of two very different job descriptions is not ideal for several reasons. The first is that it does not give the FDW any indication of what tasks she will be expected to perform before she actually meets the family that sponsored her entry to the Republic. It makes a difference to a young woman whether the daily responsibilities include cleaning a house, or looking after an elderly couple or a disabled teenager. Some might prefer the first job, others the second; moreover, allowing prospective employees to choose which of the two they will perform is in the interest of both the person providing and the person receiving the service. The second reason why grouping the two jobs together is ill-advised is that it prevents different types of work from being remunerated accordingly. A carer often has to work into the night, perform manually intensive labour (such as moving a heavy person from a chair to a bed) and is responsible for another's medication and general well-being. This is a fundamentally different job to cleaning the house or cooking for the family; it is often best performed by someone who has received training as a carer or a nurse, and the salary provided should reflect this.⁸⁶

Further, both contracts should include detailed descriptions of the employee's duties, set working hours (even if these are just in the form of guidelines) and provisions on the payment of overtime. Contracts should ensure that remuneration is in line with the national minimum wage, with employers being allowed to deduct set amounts for the provision of accommodation and sustenance.⁸⁷ Such a revision in the salary would not only be more equitable, but would also allow FDW to live outside their employers' residence if they so choose. The contract should also include detailed descriptions of labour dispute settlement procedures and any possible outcomes that these can give rise to. Finally, when making these changes, both to the national legislation and the employment contract, FDW should be pre-emptively consulted.

Institutional changes

By far the most essential institutional change is to shift responsibility for FDW from the Migration Department to the Labour Office, which has the expertise to regulate their working conditions. This recommendation has been repeated many times in the last years,⁸⁸ and has in fact also been mandated as a change by the Council of Ministers since 2010.⁸⁹ Yet, its implementation is still pending.

⁸⁶ This is the case in Italy, where the legal framework provides for eight different categories of domestic work (European Union Agency for Fundamental Rights, *Migrants in an Irregular Situation Employed in Domestic Work*, 21).

⁸⁷ Article 3(A) of the New Employment Contract provides that these amounts are 15% and 10% of the worker's salary respectively, but further research is needed in order to assess whether the percentages should be revised in any way to reflect the real costs of accommodation and sustenance in the RoC.

⁸⁸ See, for instance, RoC Ombudsman, *2013 Ombudsman Report*; AEQUITAS, 'Strategy for the Protection and Promotion of the Rights of Migrant Domestic Workers in Cyprus.'

⁸⁹ RoC Ombudsman, *2013 Ombudsman Report*, [30].

The remaining recommendations on institutional reform concern the dispute settlement procedure and the need to make it more victim-centred, rather than immigration focused. Most fundamentally, this should be an administrative process with no links to the immigration status of the worker. It is unclear, for example, what purpose is served, other than intimidating the FDW, when in a simple labour dispute process, the employer or the employee bringing forward the complaint is expected to notify the Immigration Unit of the police. In addition to abandoning this requirement, when an administrative complaint is made, the rules of evidence should be more relaxed than in a criminal case. Thus, what is admissible evidence should be reconsidered, the decision-making body should be able to draw inferences from the facts more freely, and allegations should not have to be proven beyond any reasonable doubt (and can be proven instead, on the balance of probability).⁹⁰

Further, institutional changes that encourage FDW to come forward with their complaints could also be adopted. An example of such a change includes hiring people who speak the languages of FDW in governmental positions that involve interaction with FDW. This was a step taken by the Dutch police force and could be copied by its Cypriot counterpart,⁹¹ but also by other state bodies, such as the Labour Office. Additionally, a specialised unit that deals with FDW complaints within the police, the Labour Office or the Immigration Department would result in the development of expertise with regard to such complaints; would allow investigating officers to spot systemic abusive practices by employers or private agents; and would empower and motivate them to more effectively deal with these. Finally, since legislation that relates to FDW has proven difficult to enforce, such specialised bodies could dedicate more resources to this by, for example, employing inspectors of private employment agencies or tasking staff with the responsibility of checking how many hours FDW work per week.⁹² Similarly to other countries, such as Ireland, the RoC could consider schemes that allow for the inspection of an FDW's place of employment, even if this is also the employer's private residence.⁹³

Social changes

At the core of the problems faced by FDW in the RoC are racial, sexist and classist perceptions that they do not deserve better treatment. Such perceptions are likely to change eventually, if the legal and institutional amendments recommended above are enforced, but it is also important to adopt policies and initiatives that address them directly.

⁹⁰ If, for instance, the FDW is cleaning the house of their employer, but also the houses of two of the employer's relatives, it could be inferred that, unless there is evidence to the contrary, she was aware of and maybe even facilitated this arrangement.

⁹¹ Platform for International Cooperation on Undocumented Migrants (PICUM), *Migrants and the Right to Equal Treatment in Cyprus*.

⁹² Article 2(1)(A) of the New Employment Contract creates an obligation on the employer to keep a record of how many hours per week the employee works, but there does not appear to be any person or body in the Republic that is responsible for collecting or checking these records.

⁹³ Murphy, 'The Enduring Vulnerability of Migrant Domestic Workers in Europe,' 612-613. This recommendation has also been made by GRETA, 'Cyprus Third Evaluation Report,' [47].

One such initiative, which should accompany the change in the law in relation to accessing permanent residency, is to include FDW in migrant integration policies, from which they are currently excluded.⁹⁴ A second initiative would be to implement projects that enhance rights awareness, which are addressed to both employer and employee. The State could provide information sessions or seminars, newsletters, leaflets or short videos with details about the rights and duties of each and information about what constitutes abuse. Such information should be made widely available in the Republic and in FDW countries of origin through the RoC embassies. An effective way of making sure that the same information reaches the parties to the employment contract is to make an information session delivered by staff of the Labour Office compulsory to both at the beginning of their relationship.

A third recommendation for inducing social change is to fund organisations and schemes that support and advocate for migrant rights. Such schemes could include the organisation of meetings between newcomers and FDW who have been in the Republic for years. Others could relate to research projects that identify challenges faced by FDW and make suggestions on how these can be addressed. Emphasis should also be placed on outreach activities. During the interviews, some participants commented on the – significantly harsher – living and working conditions of friends of theirs who were working on farms in Cyprus. Especially if these FDW are residing in remote villages and also working on Sundays, they are unlikely to socialise with other individuals that can inform them of their rights, thus making it the State's responsibility to ensure that this information reaches them in other ways. Further, the ban on FDW forming or joining a trade union has already been lifted, but this is only the first step in encouraging their rights awareness, socialisation and mobilisation. In addition to this, information and incentives could be provided to existing trade unions so that they can start admitting and representing FDW as their members. Finally, the State, or State-funded organisations can also offer training to FDW community leaders on how to mobilise their members in order to demand greater protection of their rights.

⁹⁴ The 2007 Strategy for the Employment of the Foreign Labour Force in Cyprus excludes FDW from its remit. This is also confirmed in RoC Ombudsman, *2019 Ombudsman Report*, [7].

CONCLUSION

This report has provided insights to the challenges faced by FDW in the Republic. Among such challenges are their poor working conditions, unjust remuneration practices, the likelihood that they will be victims of abuse that will remain unreported and unpunished, and serious restrictions on their personal and family lives while residing in the Republic. The report has argued that these challenges are the result of gaps and problems in the law, which are themselves connected to a series of underlying factors. These include the lack of knowledge among many FDW of their rights, and even when this is present, their inability to effectively challenge abusive and/or discriminatory practices against them. Finally, it made recommendations for legal and institutional amendments and suggested initiatives that would introduce positive social changes for FDW in the RoC.

This report describes the living and working conditions experienced by foreign domestic workers (FDW) in the Republic of Cyprus (Republic or RoC). It focuses on four main challenges faced by FDW, namely: their poor working conditions, problems related to their remuneration, the increased likelihood that they will be victims of (unreported and unpunished) abuse and the serious restrictions imposed on their private and family lives. Despite the RoC's relatively open entry policy to FDW, the conditions they experience when they start working are in dire need of improvement. This is technically due to gaps and problems in the law, but is also itself a consequence of a series of underlying factors. Among these are a lack of rights awareness within the FDW community and a massive power imbalance between employers and employees, sustained through biased, even discriminatory, State policies and practices. The report concludes with recommendations that can introduce improvements at the legal and institutional levels, and others that can empower FDW and bring social change more directly.

Section 2 provides an overview of the research methodology and Section 3 describes the legal framework regulating the rights of FDW in the Republic. Section 4 discusses the challenges faced by FDW in the country, while Section 5 delves into the factors that exacerbate the poor living and working conditions described in the previous part. Finally, Section 6 lists recommendations, the implementation of which could result in positive legal, institutional and social changes.

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HELPING THOSE WHO HELP US: SOME GUIDANCE FOR POLICY MAKERS IN THE REPUBLIC OF CYPRUS

Nasia Hadjigeorgiou

Report 2/2020

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ABSTRACT

This report identifies and describes the challenges faced by foreign domestic workers living and working in the Republic of Cyprus. It argues that these challenges are technically due to gaps and problems in the law, but that they are also themselves consequences of a series of underlying factors, including a lack of rights awareness among foreign domestic workers and a massive power imbalance between them and their employers. It concludes with a list of recommendations – legal, institutional and social – that should be adopted in order to improve the living standards of this vulnerable group of workers. The conclusions of the report are based on a literature review of Cypriot and international sources, a questionnaire completed by 150 foreign domestic workers, 21 in-depth interviews and two focus groups with 10 participants each.

OVERVIEW

This report describes the living and working conditions experienced by foreign domestic workers (FDW) in the Republic of Cyprus (Republic or RoC).¹ It focuses on four main challenges faced by FDW, namely: their poor working conditions, problems related to their remuneration, the increased likelihood that they will be victims of (unreported and unpunished) abuse and the serious restrictions imposed on their private and family lives. Despite the RoC's relatively open entry policy to FDW, the conditions they experience when they start working are in dire need of improvement. This is technically due to gaps and problems in the law, but is also itself a consequence of a series of underlying factors. Among these are a lack of rights awareness within the FDW community and a massive power imbalance between employers and employees, sustained through biased, even discriminatory, State policies and practices. The report concludes with recommendations that can introduce improvements at the legal and institutional levels, and others that can empower FDW and bring social change more directly.

Section 2 provides an overview of the research methodology and Section 3 describes the legal framework regulating the rights of FDW in the Republic. Section 4 discusses the challenges faced by FDW in the country, while Section 5 delves into the factors that exacerbate the poor living and working conditions described in the previous part. Finally, Section 6 lists recommendations, the implementation of which could result in positive legal, institutional and social changes.

¹ For the purposes of this report, the RoC includes only the areas that fall under its effective control.

METHODOLOGY

The report draws on library-based and empirical research that took place as part of a project entitled ‘Exploring the socio-legal challenges faced by foreign domestic workers in Cyprus.’ The project was funded by the London School of Economics Hellenic Observatory and its 2019-2020 A.G. Leventis Research Innovation Programme on Cyprus. The library-based research consisted of academic writings focusing on FDW in the Republic and abroad, and reports drafted by international and European human rights bodies and NGOs. Crucial sources of information about the legal framework and context in the Republic were two reports of the RoC Ombudsman, drafted in 2013 and 2019, respectively.² The library-based research also involved an analysis of legal documents, including the standard employment contract that all FDW must sign in order to legally reside and work in the RoC. The empirical research included information collected about the living and working conditions of FDW in the Republic through 150 questionnaires, 21 in-depth interviews and two focus groups. All participants in the research were female FDW who were living and working in Nicosia or Limassol between November 2019 and February 2020. The questionnaire was completed by a representative sample of the five main nationalities of FDW in Cyprus: 46 Filipino, 35 Sri Lankan, 31 Nepalese, 25 Indian and 13 Vietnamese.³ It was written in English and drafted in simple language, but also on site were translators of the five main native languages of FDW (Tagalog, Sinhala, Nepali, Hindi and Vietnamese), who helped any respondents who did not understand a question. All answers were then written/marked in English.

The study supplemented the results of the quantitative research with 21 in-depth interviews, each lasting for about an hour. The nationalities of the interviewees were as follows: six Filipino, five Sri Lankan, four Nepalese, three Indian and three Vietnamese. All interviewees spoke good English, but a translator was also in the room. The questions were asked in English

² RoC Ombudsman, *Report on the Status of Domestic Workers in Cyprus* [Τοποθέτηση Επιτρόπου Διοικήσεως Ως Εθνική Ανεξάρτητη Αρχή Ανθρωπίνων Δικαιωμάτων Αναφορικά Με Το Καθεστώς Των Οικιακών Εργαζομένων Στην Κύπρο] (2 July 2013); RoC Ombudsman, *Report on the Institutional Framework Regulating Domestic Work in Cyprus* [Αυτεπάγγελτη Τοποθέτηση Της Επιτρόπου Διοικήσεως Και Προστασίας Ανθρωπίνων Δικαιωμάτων, Ως Εθνικής Ανεξάρτητης Αρχής Ανθρωπίνων Δικαιωμάτων, Αναφορικά Με Το Θεσμικό Πλαίσιο Που Ρυθμίζει Την Οικιακή Εργασία Στην Κύπρο] (21 Oct 2019).

³ Combined, the five nationalities constituted 98% of all FDW in the Republic in July 2019. Numbers provided upon request by the RoC Civil Registry and Migration Department.

and the interviewee responded in a mix of English and her native language; the answer was translated on the spot and written down. Therefore, any quotations included here are either direct statements made by the interviewee or translated ones. Two focus group discussions, conducted over a period of approximately 2.5 hours and consisting of 10 participants each, further informed the results of the questionnaires and interviews. During each focus group the facilitator set out a theme (e.g., 'family life'), which she gave orally and also wrote on a flipchart. The five translations of each term were written next to the English word on the flipchart. Participants were then free to talk about anything that came to mind in relation to that theme.

For all three parts of the empirical research, much attention was paid to ethical considerations in both the design and implementation stages. Ethical approval had been granted prior to the start of the research project by the Cyprus Bioethics Committee and the UCLan Ethics Committee in the UK. Both processes involved assessment by independent researchers of both the questionnaire and the questions to be discussed during the interviews and focus groups. These were therefore designed in accordance with the ethical guidelines provided by the (UK) Socio-Legal Studies Association, the (UK) Association of Social Anthropologists, the (UK) Economic and Social Research Council, the (UK) Social Research Association and secondary literature.⁴

⁴ L. Fontes Aronson, 'Ethics in Violence against Women Research: The Sensitive, the Dangerous and the Overlooked' (2004) 14 *Ethics and Behaviour* 141; David Silverman, *Doing Qualitative Research* (3rd edition, London: Sage, 2010).

THE LEGAL FRAMEWORK REGULATING THE RIGHTS OF FDW IN THE REPUBLIC OF CYPRUS

There is no law that deals specifically with FDW entry and stay in the RoC. Instead, their rights and responsibilities, like those of all other migrants, are listed in the Aliens and Immigration Law 1972 to 2019 [Cap. 105]. Within this general legal framework, regulations related to FDW are shaped through decisions of the Council of Ministers of the Republic, which, in turn, rely on recommendations from the Ministerial Committee on the Employment of Migrants.⁵ The Council of Ministers' decisions are in line with the 'Criteria for the Occupation of Migrants', which it had outlined in 1991.⁶ The rationale for these 'Criteria' was that the entry and employment of migrant workers, including FDW, in the Republic was necessary to address workforce shortages on a temporary basis, i.e., until technological advancements and the retraining of the local workforce could fill this gap.⁷ These workforce shortages were identified as present – and, rather paradoxically, as still temporary – in the 2007 Strategy for the Employment of the Foreign Labour Force in Cyprus, which is in force today and continues giving effect to the 1991 Council of Ministers decision.⁸

The legal framework regulating the entry of FDW into the RoC is characterised by openness, in that it allows private individuals who meet relatively lax requirements⁹ to bring FDW to the Republic for the purpose of providing domestic services in their households. 'Domestic

⁵ In Greek, this is the 'Υπουργική Επιτροπή για την Απασχόληση Αλλοδαπών.'

⁶ In Greek, these are the 'Κριτήρια Απασχόλησης Αλλοδαπών.' Decision of the Council of Ministers, 6 Dec 1991.

⁷ RoC Planning Bureau, *Study on Labour Shortage: A Note on Importing Labour from Abroad* (Nicosia, RoC Planning Bureau, 1989), cited in Nicos Trimikliniotis and Corina Demetriou, 'Labour Integration of Migrant Workers in Cyprus: A Critical Appraisal,' *Precarious Migrant Labour across Europe* (Ljubljana: The Peace Institute – Institute For Contemporary Social and Political Studies, 2009).

⁸ In Greek, this is the 'Στρατηγική για την Απασχόληση Ξένου Εργατικού Δυναμικού στην Κύπρο του 2007.'

⁹ Eligible employers are a) families with a child under 12 years old when both parents work, b) families with no children when both partners work and have an annual taxable income of at least €52,000, c) single parent families when the parent works, d) families with one working partner provided that their annual taxable income is at least €86,000, e) elderly people above the age of 75, f) people with special needs, g) infirm persons, i) handicapped persons and j) and couples with more than three children of whom one at least is under 12 years old and provided that both partners work. The criteria are available on the Civil Registry and Migration Department website, at <http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/5314ED0D3F68CA9EC2257D2C003A4DC2?OpenDocument>.

services' are not defined in the law, but they tend to centre around the 'three Cs' – cooking, cleaning and caring (of children, the elderly, or disabled persons).¹⁰ A high demand for these services, coupled with the absence of quotas in the number of migrants from third countries that can be employed in the Republic,¹¹ have resulted in relatively large numbers of FDW compared to the overall population.¹²

While the conditions for FDW entry into the RoC are quite generous, the conditions for their stay are not. The recruitment of all immigrant workers involves the Ministry of Labour and Social Insurance; yet FDW are, exceptionally, the concern of the Civil Registry and Migration Department, under the Ministry of the Interior. This decision was taken three decades ago and was based on the argument that the occupation of FDW does not really affect the employment sphere,¹³ presumably because no Cypriot would be willing to do the jobs that FDW take on (which itself speaks volumes about their working conditions and remuneration). Even though the Council of Ministers decided in 2010 to shift the responsibility for FDW to the Ministry of Labour, a decade later, implementation of this decision is still pending.¹⁴

Every FDW must sign an employment contract, in the absence of which she is not legally employed, and therefore not legally residing in the RoC.¹⁵ A standard employment contract for all migrant workers was prepared by the Ministry of Labour in 1991. This was amended by the Migration Department to fit the specific context of domestic work, but was never sent

¹⁰ Bridget Anderson, *Doing the Dirty Work? The Global Politics of Domestic Labour* (London: Zed Books, 2000).

¹¹ The 2007 Strategy for the Employment of the Foreign Labour Force in Cyprus includes numbers of FDW that were expected to work in the RoC in the following years, but not legally mandated caps or quotas.

¹² As of July 2019, there were just over 19,000 registered FDW in the RoC, constituting about 50% of all immigrants from non-EU countries. Number provided upon request by the Civil Registry and Migration Department. This number does not include those FDW who, for whatever reason, are residing and working in the RoC irregularly and who are estimated to be numerically close to those who have a valid residence permit (RoC Ombudsman, *2019 Ombudsman Report*, [60]). Registered FDW represent 4.4% of those in employment in the Republic (Danai Angeli, 'Demand in the Context of Trafficking in Human Beings in the Domestic Work Sector in Cyprus' [DemandAT Country Study No.2, June 2016]), available at: https://www.demandat.eu/sites/default/files/DemandAT_CountryStudies_2_Cyprus_Angeli.pdf.)

¹³ RoC Ombudsman, *2013 Ombudsman Report*, [27].

¹⁴ Ibid, [30].

¹⁵ This used to be expressly stated in the previous draft of the Employment Contract, which was revised in 2019. For instance, Article 5(b) of the Old Employment Contract stated: '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 his 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.' Similarly, Article 5(c) of the Old Employment Contract provided that 'Breach of any of the clause [sic] of this contract will automatically cause the termination of this contract as well as the validity of the Employment and Residence Permit.' Although these provisions are not included in the New Employment Contract, in practice, things have not changed: without an employer sponsoring them, FDW are residing illegally in the RoC and, if caught, are deported.

The Old Employment Contract (rather confusingly, still on the Immigration Department's website) can be found at: [http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/5314ED0D3F68CA9EC2257D2C003A4DC2/\\$file/DOMESTIC%20WORKER%20ContractOfEmploymentEN.pdf](http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/5314ED0D3F68CA9EC2257D2C003A4DC2/$file/DOMESTIC%20WORKER%20ContractOfEmploymentEN.pdf). The New Employment Contract can be found at: [http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/F16DFEEA3AF1715FC2257D6D0042D6B6/\\$file/DW_CONTRACT_07.05.2019.pdf](http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/F16DFEEA3AF1715FC2257D6D0042D6B6/$file/DW_CONTRACT_07.05.2019.pdf).

back to the Ministry of Labour for final approval.¹⁶ The employment contract was used, essentially unamended, from the time of its creation in 1991 until 2019. The current version of the contract was circulated in May 2019, but FDW who had signed the old version before this date, and are still legally employed in the Republic, have not been asked to sign the new document (or been informed of its existence). The new employment contract is an improvement in terms of clarity and protection of workers' rights, compared to the document it has replaced. For instance, the old contract included provisions, such as: 'The Employee [...] 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 appropriate by the Employer.'¹⁷ Further, vague obligations like the duty to 'obey and comply with all orders and instructions of the Employer' were scattered throughout the document, which did not however, include even a brief description of the specific tasks that the FDW was expected to perform.¹⁸ Both of these examples have been omitted from the new employment contract, which, however, remains highly problematic.¹⁹ Specific provisions of the new contract are discussed in more detail in the rest of the report.

¹⁶ RoC Ombudsman, *2013 Ombudsman Report*, [60]. As a result, the contract emphasises in the most explicit way the status of the employee as a migrant (e.g., Article 1(C)(a) of the New Employment Contract: 'The Employee's entry residence and employment shall be subject to the provisions of the Aliens and Immigration Laws and its relevant regulations').

¹⁷ Old Employment Contract, Article 2(f).

¹⁸ Old Employment Contract, Article 2(c).

¹⁹ For instance, along the same lines as the examples from the Old Employment Contract is the provision that 'The Employee ... shall in all respects and all times conduct himself with propriety and decorum' (New Employment Contract, Article 2(d)).

ILLUMINATING THE CHALLENGES FACED BY FDW

This section identifies and explains the four main challenges faced by FDW in the RoC, namely (a) their poor working conditions; (b) unjust remuneration practices; (c) their greater likelihood to be victims of abuse, which will remain unreported and unpunished; and (d) serious restrictions in their personal and family lives while residing in the Republic.

Poor working conditions

The RoC employment contract stipulates that FDW are expected to do ‘housework performed in the Employer’s primary residence and/or secondary residence.’²⁰ It should be noted from the outset that for practically all FDW,²¹ ‘the Employer’s primary residence’ is not only their place of employment, but also their home while in the Republic.²² The contract does not include any examples of standard housework tasks, but, in practice, employers are divided into two categories: those who rely on the FDW for general cleaning of their house and cooking for their family, and those who employ the FDW to care for a specific individual (such as an elderly or disabled person). FDW recruited for the second category almost always have cleaning and cooking responsibilities as well.²³ Whether they are primarily cleaners or carers, the empirical research suggests that FDW in the RoC face three related problems in terms of their working conditions: excessive working hours, the fact that they are often asked to work in more than one house and that they are expected to always be ‘on call.’

²⁰ New Employment Contract, Article 1(A).

²¹ Specifically, for 99% of the respondents to the questionnaire.

²² Article 3(A) of the New Employment Contract provides that the employer can pay an additional 15% of the FDW’s salary and not provide accommodation, but that option that is not the preference of either party. For employees, staying with their employers saves them money; for employers, this arrangement ensures that the FDW is always available.

²³ 45% of the respondents to the questionnaire were responsible for taking care of one or more elderly persons, and 9% of taking care of one or more disabled persons, while 98% of the respondents were responsible for cleaning the house and 85% for cooking, which suggests that a significant number of employees are expected to perform all three tasks. To this should be added the 36% of respondents who have listed ‘taking care of the children’ among their main responsibilities.

The employment contract is clear: 'The Employee shall work for 6 days per week for 7 hours per day, either during the day or night as may be required by the Employer from time to time.'²⁴ Despite the absence of any ambiguity, virtually no FDW works 42 hours per week. Instead, participants in our empirical research reported that they work an average of 58 hours per week, almost 40% more than what their contract stipulates. Of the 150 FDW, two answered that they work less than 42 hours, 33 work between 42 and 50 hours, 31 between 51 and 60 hours, and 48 work between 61 and 70 hours per week. Finally, 36 respondents – more than 1 in 5 – work more than 70 hours, a number that is close to, or even more than twice what they are contractually obligated to work (see Figure 1 below).

Participants' working hours

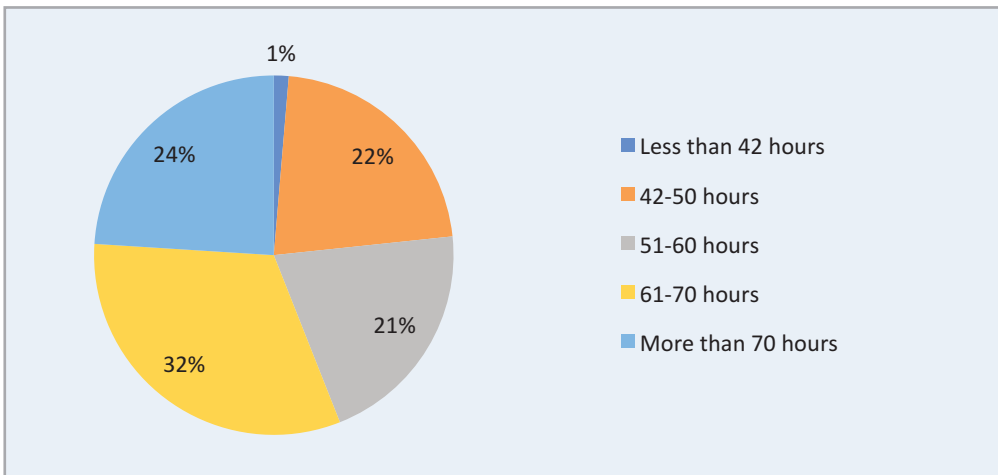


Figure 1 – Participants' working hours

In addition to the fact that FDW work an excessive number of hours, a third of them do so every day, rather than six days per week. For some, this is a decision they took in order to supplement their income, but for others, it is something that their employers expect, often without any additional payment. Sometimes employers demand that the FDW does housework in their primary or secondary residence seven days per week, but more often, they send their employee to clean other houses, almost always owned by relatives. Of the 150 respondents to the questionnaire, only 50 are responsible for cleaning just one house. Among the rest, 75 clean two houses, 24 clean three houses and one works at four different houses. Of those who work in more than one house, 79% do so in properties that their employers have

²⁴ New Employment Contract, Article 2(1)(A).

found; yet if FDW are caught breaching their contract, they run a serious risk of being deported, while employers are likely to avoid all responsibility. Employers who take advantage of FDW in this way are in no way exceptional: 49% of FDW who clean more than one house do not receive additional money for their labour (thus suggesting that they have been forced into this arrangement).

Complaints about the long hours and additional working day were shared among those employed by very different types of employers. Also common was the perceived inability of FDW to change this abusive behaviour. For instance, one Filipino lady stated during her interview that: 'I work many hours, also on Sundays. My employers have many parties, so on Saturday I am preparing and collecting everything at night and then spending most of Sunday cleaning it.' A Nepalese domestic worker, taking care of an older man, had analogous complaints in this respect: 'I work many hours a day. Most days I would say about 12 hours. I am cleaning and cooking from early in the morning. Then I take care of "pappou." He is in a wheelchair and needs care all the time. Even at night time. I also clean his daughter's house. I think it is unfair that I am not paid for that.' Despite her different duties from the other two FDW, another Filipino interviewee described a similar schedule: 'It depends on the day. So, if Madam and Sir have guests, I work longer hours. If it is the summer and the children are at home, then I am working even more. But usually, I start at 6:30 and finish everything at about 21:30. But, the youngest child wakes up in the night and I need to change his sheets and sit with him.' These stories suggest that long working hours are not due to the exceptional needs of a few individual employers, but because of a perception among most that the FDW is available if and when she is needed – if she is needed all the time, then that is part and parcel of her job.

The last complaint of FDW in relation to their working conditions, and one they described as particularly acute in the focus groups, is the lack of set working hours. As the testimonies in the previous paragraph suggest, since FDW are living in their employers' houses, they are 'on call' and expected to be available around the clock. This expectation stops them from being able to plan their day (or night) and essentially denies them the right to some free/personal time. Thus, many interviewees commented on the fact that their employers knock on their bedroom door, or call them on their mobile, whenever they need something, even if it is late at night and they had been working from early in the morning. One Sri Lankan worker, for example, complained: 'I start work at 6:00 and finish completely when my employers do not need anything more, which is at about 22:00. I am not working constantly, I do take breaks, but I am always alert to see what my employers need.'

This 'always on-call' expectation is particularly problematic if the employee's tasks stretch into the night, a common phenomenon among those with caring responsibilities, especially of the elderly. 38% of respondents to the questionnaire stated that working into the night, including past midnight, is a regular feature of their work routine. While the contract allows this, it requires that the employee receives adequate rest during the day – yet, none of the respondents described this as their lived experience. In all of the interviews and focus groups,

only one woman described a daily routine that resembles what is envisaged in the contract: 'I prepare the dinner and then I am free. [...] I have privacy and my employers do not disturb me in my room.' The consensus among interviewees and focus group participants, even those who are otherwise happy with their living arrangements, is that the lack of set working hours is the single greatest drawback to residing in their employers' houses.

Unfair remuneration practices

The Ministerial Committee on the Employment of Migrants sets a gross minimum monthly salary for FDW, which for the last several years has been €460.²⁵ The respondents to the questionnaire earn, on average, a reported monthly net salary of €337. If this is divided by the average number of hours FDW reported working per month,²⁶ their hourly rate is €1.29.²⁷ Only three participants out of both focus groups considered their salary to be satisfactory. The rest, citing the working conditions described above, believe they should be getting paid more. In addition to their very low salary, responses to both the qualitative and quantitative parts of the research suggest that FDW are typically affected by three instances of improper remuneration practices: they are not always paid their full salary; they are not always paid on time; and they are almost never paid overtime.

Of the respondents to the questionnaire, 32% answered that there was at least one time when they were not paid for work they did, or were paid less than what they had been promised. To a different question, 33% replied that they are not always paid on time. While these remuneration practices are not rare, by far the most striking finding of the survey in this respect was the almost universal refusal of employers to pay overtime for work over and above the 42 weekly hours prescribed in the contract. To the question 'If you work beyond the hours of your contract, do you receive extra payment?', only 7% replied positively. 35% stated that they do not get paid overtime, while the majority (58%) answered that they do not know how many hours they are contractually obligated to work. Even in situations where overtime was paid, this did not necessarily imply that the FDW had readily consented to the additional work. Illustrative of this is the experience of an Indian domestic worker, common among carers of the elderly, who stated in her interview: 'On Sunday they give me [an] extra €20 because I do not go out. Although, I would prefer to rest on Sunday. I asked for this, at least every second Sunday to rest, but they said "no."'

²⁵ Ministerial Committee on the Employment of Migrants, Decision of 11 June 2013.

²⁶ That is 261 hours (58 hours per week multiplied by 4.5 weeks).

²⁷ Had FDW been working the hours provided in the contract (189 hours per month), their average hourly rate would be €1.78. This compares unfavourably to the hourly rate of 'cleaners' not on a FDW visa, who are covered by the national minimum wage. For 2020, this is €4.55 per hour and increases to €4.84 per hour after six months of continuous employment by the same employer (Information available – only in Greek – on the Ministry of Labour website: http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/faq_gr/faq_gr?OpenDocument#1).

Potential victims of abuse

The vulnerable position of FDW – because of their immigrant status,²⁸ the fact that they are doing low-paid and underappreciated work²⁹ and because they are residing in their employers' houses³⁰ – makes it more likely that they will be victims of abuse. In turn, their vulnerability, distrust of the authorities and gaps in the legislation increase the prospect that their abusers will not be punished. This section focuses on two types of abuse: physical and/or sexual abuse and the practices of some private employment agents who act as intermediaries to bring FDW to the RoC. Some employers' demands to work beyond what the contract stipulates at no extra pay, discussed in the previous two sections, is another abusive practice that typically goes unpunished.

Many FDW identified the house as their 'safe place' and some considered their employers as their protectors. For instance, one Filipino interviewee stated that: "'Giagia" and "pappou" are very kind and I feel safe at home. They will not let someone harm me.' Another was confident that: 'Madam would never let anyone do something bad to me.'³¹ At the same time, and although no one explicitly reported physical or sexual violence against them (some hinted at it), several did mention that their source of fear was from within the houses they were working at. They described instances ranging from verbal violence ('When Sir shouts, many times I get afraid, but he has never hit me or done anything else bad.') to potentially sexual assault that has not been reported to the police or disclosed to the employers. For instance, one interviewee recalled: 'There is one relative who visits "pappou" and one time he touched me. I did not say anything, and I did not know who to tell. When he comes, I go to the supermarket or to get something else from outside. He makes me feel very nervous.'

Among the most disturbing findings of the study, especially in light of testimonies and other evidence confirming that abuse is taking place,³² is the fact that 75% of those who completed the questionnaire – three out of four – would not go to the police if someone harmed them physically (see Figure 2). This figure is even higher among specific nationalities, with 80% of Filipino and 85% of Vietnamese respondents saying that they would not contact the police. In a follow-up question, of the 75% that would not contact the police, only 28% would tell their employer that they had been physically harmed. Combined, the results suggest

²⁸ Judy Fudge, 'Precarious Migrant Status and Precarious Employment: The Paradox of International Rights for Migrant Workers' (2012) 95 *Comparative Labor Law and Policy Journal* 34.

²⁹ RoC Ombudsman, *2013 Ombudsman Report*, [3]-[6].

³⁰ Clíodhna Murphy, 'The Enduring Vulnerability of Migrant Domestic Workers in Europe' (2013) 62 *International and Comparative Law Quarterly* 599.

³¹ 'Giagia' translates in Greek as 'grandmother' and 'pappou' as 'grandfather,' suggesting that the interviewee is taking care of an older couple.

³² See, for example, recent allegations that a Cypriot employer was abusing his Filipino employee, which led to his arrest pending trial (Evie Andreou, 'Police Arrest Man over Abuse of Domestic Worker,' *Cyprus Mail*, 12 August 2020), available at <https://cyprus-mail.com/2020/08/12/police-rearrest-man-over-abuse-of-domestic-worker/>.)

that less than half of the respondents (46%) would tell anyone in a position of relative authority in Cyprus that they had been the victims of physical or sexual violence. These findings are even more worrying when one considers that in practice, few FDW contact – and/or have an appointment with – a doctor independently of their employers. When asked in the questionnaire, only 15% answered that they arrange their own doctor appointments. A sizable group (37%) stated that they had never been to the doctor during their time in Cyprus, while almost half (48%) declared that when they have to go, their employer arranges it. Especially if the FDW is the victim of violence in her workplace, or does not feel comfortable talking to her employer about this, the tendency to not contact the doctor directly could result in an additional barrier to her effective protection.

% of participants who would not report assault to the police

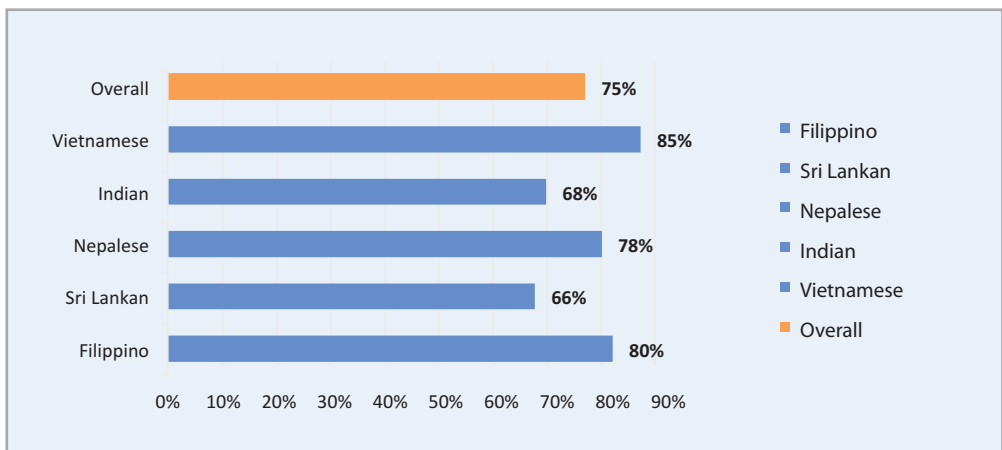


Figure 2 – Percentage of participants who would not report assault to the police

The cumulative effect of the different abusive practices described in this and the previous sections is illustrated in the story of an Indian woman, who explained in her interview that her employer sends her to work in other houses in addition to her own (incidentally, without paying her any additional money). She then continued: 'I do not like the Sir of one of the houses my employer asks me to clean. I told her, but she keeps telling me to go again to clean. He did not harm me, but I worry that there will be one time that he will.' The interviewee has already confronted her employer to no avail and is unlikely to contact the police, especially if she understands that cleaning a house that does not belong to her employer is in breach of her contract. Even if following a potential assault, she is seen by the doctor – which is in itself rare – it will have been too late to stop a preventable tragedy. Potentially, she could turn for help to the private agent who acted as an intermediary to bring her to the RoC, but this is also unlikely considering that some of these professionals have themselves engaged in abusive practices against FDW.

Complaints against private agents have been made by FDW to the Ombudsman³³ and include the following: charging exorbitant amounts of money to bring them to the RoC; offering misleading information to FDW about what they should expect in terms of their working conditions; and, crucially in the case of the Indian lady above, exerting pressure on FDW to continue working for employers who were regularly in breach of the employment contract.³⁴ So serious, credible and common were FDW complaints that the RoC passed the Law on the Establishment and Function of Private-Sector Employment Agencies 126/2012, which creates an obligation on private agents to inform prospective domestic workers of the contents of the employment contract, their rights and obligations.³⁵ Further, the Law prohibits sending an FDW to an employer without a signed employment contract and forbids providing misleading information about the working conditions that the employee will experience.³⁶ And while the Law mandates the imposition of penalties and sanctions to those private agents who do not comply with their obligations,³⁷ in practice, it has been very difficult to prove such allegations due to the absence of satisfactory evidence and witnesses who are willing to testify against the alleged wrongdoers. Such difficulties notwithstanding, in 2019, the Labour Inspectorate Service inspected 150 private employment agencies and revoked the licences of 14 agencies. 13 of the licenses were revoked because the agencies did not provide the information or documents requested within the time set by the competent authority, and one because the private agent was convicted of trafficking fake documents.³⁸

Lack of a personal and family life

The average age of the 150 study participants was 34 years old, with the youngest being 22 and the oldest 49 years old. In terms of their family situation, 16% of the respondents were single, 5% married without children, 56% married with children and 23% single mothers. This background information is necessary to paint a picture of the needs these women have in terms of their private and family lives.³⁹ A key need is respect for their privacy and freedom to spend their non-working time in any way they prefer and another, especially for the 79% who are mothers, is the opportunity to be reunited with their families.

Almost 1 in 5 FDW (19%) do not have a key to their house, which suggests that they have to inform their employer that they are leaving and what time they are planning on returning,

³³ Decisions of the Ombudsman in relation to individual complaints carry political weight but are not legally binding.

³⁴ RoC Ombudsman, *2019 Ombudsman Report*, [32].

³⁵ Law 126/2012, Article 17.

³⁶ Law 126/2012, Article 19.

³⁷ Law 126/2012, Articles 26 and 27.

³⁸ Group of Experts on Action Against Trafficking in Human Beings (GRETA), 'Cyprus Third Evaluation Report – Access to Justice and Effective Remedies for Victims of Trafficking in Human Beings' (11 June 2020), [146].

³⁹ This right is protected under Article 8 of the European Convention of Human Rights 1950, which the RoC has signed and ratified.

even on their day off. In fact, this is true for the majority of questionnaire respondents, even those who have been given a key: 66% state that their employer checks what time they get home at night (in case they leave the house on a weekday) or on a Sunday. One Sri Lankan interviewee complained: 'On Sundays, they want me back by 18:00 and will check if I am back in time. This makes me quite stressed'. Another explained: 'My employer wants me home by 19:00. I leave early in the morning, so I have many hours with my friends.'⁴⁰ During the focus groups, Sunday was a very significant part of the discussion and the only element of leisure for the women. Echoing sentiments voiced in the interviews, four participants expressed their distress at the fact that their employer starts calling quite early on a Sunday afternoon to see when they will be getting home. Coupled with the fact that 68% of questionnaire respondents never receive friends at their place of stay, such practices significantly compromise not only their privacy, but also opportunities to socialise.

The most serious limitations of the right to private and family life, however, stem not from employers' expectations, but from the letter of the law, which automatically excludes all FDW from acquiring permanent residency in the country.⁴¹ An FDW is typically allowed to stay in the RoC for a period of six years: the visa is originally granted for four years and can then be renewed on a yearly basis twice.⁴² Further, it can be extended, even after the six-year period, as long as the FDW and her current employer want to maintain their working relationship; in this case, the visa is renewed every year for an unspecified number of years.⁴³ An additional exception to the six-year rule covers carers of elderly or disabled persons, who can continue working in the RoC for as long as their employer remains alive.⁴⁴ This mesh of provisions suggests that an FDW may be residing in the RoC for a period significantly longer than the five years the Law requires before granting someone a permanent residency.⁴⁵ It is in light of these considerations that a 2008 decision of the Supreme Court, which held that FDW could not apply for permanent residency irrespective of the number of years they had been working in the country, can be criticised as inequitable in its consequences, if not its intentions.

⁴⁰ This is an illustration of how employers view FDW as 'girl-children incapable of making [their own] decisions' (Christine B.N Chin, 'Walls of Silence and Late Twentieth Century Representations of the Foreign Female Domestic Worker: The Case of Filipina and Indonesian Female Servants in Malaysia' (1997) 31 *International Migration Review* 353, 379).

⁴¹ *Cresencia Cabotaje Motilla v. The Republic of Cyprus through the Minister of the Interior and the Chief Immigration Officer* (RoC Supreme Court, Case no. 673/2006, 21 Jan 2008).

⁴² Decision of the Ministerial Committee on the Employment of Migrants, 3 April 2015, cited in RoC Ombudsman, 2019 *Ombudsman Report*, [21].

⁴³ *Ibid*, [21].

⁴⁴ *Ibid*, [21].

⁴⁵ Article 4(1) of Directive 2003/109/EC provides that 'Member States shall grant long-term resident status to third-country nationals who have resided legally and continuously within its territory for five years immediately prior to the submission of the relevant application.' The Directive includes exceptions to this right for certain categories of migrants, namely students or those who are residing in the member state solely on temporary grounds, such as au pairs or seasonal workers.

The Court's rationale was that the whole idea behind asking an applicant to wait for five years before applying for permanent residency is that during this time, she develops ties with the country of residence and forms legitimate expectations that she will continue residing there. Since FDW are told from the outset that their stay in the RoC will eventually come to an end – whether this is after four years, six years or an indeterminate period depending on the wishes or longevity of their employer – they should simply not form such expectations. Conversely, in a strong dissenting opinion, four of the 13 Supreme Court judges argued that the fact that the visa is issued for a specific period of time is irrelevant. The long stay of a legal migrant in a country in and of itself creates ties with that country, which the law should uphold and protect. It is the minority's view that is in line with a later decision of the Court of Justice of the European Union on the matter, thus suggesting that the government's blanket ban is at best, standing on shaky legal ground.⁴⁶ The policy has also been criticised by other international bodies, with both the UN Committee on the Elimination of Racial Discrimination⁴⁷ and the UN Committee on the Elimination of Discrimination against Women⁴⁸ expressing concerns about FDW's inability to obtain permanent residence status in the Republic.

The 2008 Supreme Court decision has profound implications for FDW. In order for a migrant worker to apply for family reunification (i.e., in order to bring her spouse and children into the country), she must prove that she has reasonable prospects of acquiring long-term residence in the RoC.⁴⁹ Thus, when the Supreme Court upheld the government's blanket rejection of all FDW applications for permanent residency, it made it impossible for them to pursue their family reunification. In a nutshell, the effect of the law is that the young migrant women who take care of Cypriot families must do so at their own and complete personal expense.

⁴⁶ *Staatssecretaris van Justitie v Mangat Singh* (Court of Justice of the European Union, Case C-502/10, 18 Oct 2012).

⁴⁷ UN Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Twenty-third and Twenty-fourth Periodic Reports of Cyprus,' adopted by the Committee at its 2544th and 2545th meetings on 11th and 12th May 2017 (CERD/C/CYP/23-24), [22]-[23].

⁴⁸ UN Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Eighth Periodic Report of Cyprus,' adopted by the Committee at its 1604th and 1605th meetings on 4th July 2018 (CEDAW/C/CYP/CO/8), [38]-[39].

⁴⁹ Aliens and Immigration Law 1972 to 2019 [Cap. 105], Articles 18Kl and 18AA.

FACTORS CONTRIBUTING TO POOR LIVING AND WORKING CONDITIONS FOR FDW

A simplistic explanation for why FDW face the challenges described above would point to gaps in the law and difficulties with its enforcement. While this is partly accurate, it also hides the social and institutional dynamics that give rise to the problematic and unenforceable legal framework in the first place. Section 5 illuminates these dynamics by highlighting faults in the policy making process and explaining why, even if the law was perfected on paper, it would nevertheless remain deficient in the absence of other social and institutional changes.

A major reason for the poor living and working conditions of FDW is their reluctance to report to the authorities any breaches of their contract or crimes committed against them. In turn, this can be explained by two factors. On the one hand, there is a lack of rights awareness among FDW, which is itself due to the absence of any serious effort by the government to inform them of their rights, and, until recently, the legal ban on FDW forming or joining trade unions. On the other hand, the empirical research suggests that FDW who have complained about a legal violation, whether to their employer or the authorities, have not experienced an improvement in their working or living conditions. This is due to the huge power imbalance between employers and employees, sustained both through the letter of the law and biased attitudes within State institutions dealing with FDW. The conclusions of the 2019 Ombudsman report in this respect are worth quoting in full:⁵⁰

The one-sided implementation of the institutional framework to the detriment of domestic workers has been internalised by the general public as something “natural” and necessary. In fact, the belief that domestic workers are a “special” and completely distinct category of workers has been cultivated to such an extent that the systematic violation of their labour rights, and many times their fundamental human rights, becomes acceptable – to the point of being invisible – even to those employers who have no such intention.

⁵⁰ RoC Ombudsman, *2019 Ombudsman Report*, [55] (my translation).

In order to understand the complex set of factors that contribute to the inadequate working and living standards of FDW, one must first be familiar with the content – or lack thereof – of the employment contract. While the contract states that FDW should work for seven hours per day, over six days per week, it does not include, even in the form of guidance, set working hours (which might note, for instance, that the FDW will work between 7:00-14:00 or 13:00 to 20:00, depending on a particular employer's needs). It further does not make any provision for breaks within the working day (for example, between 13:00-14:00, as most employment contracts in the RoC do), which arguably exacerbates the expectation that the FDW is always on call for whatever her employer needs. Also conspicuous through its absence is a provision about possible overtime to be paid by the employer. A mere omission to make reference to this is arguably an improvement to the pre-2019 version of the contract, which expressly prohibited the employee from negotiating a better salary for the work she was doing.⁵¹ Yet, the failure to provide even basic guidelines about such an important feature of the employment relationship is regrettable: it sends the message that the possibility of paying for overtime should not be the subject of discussion between the two parties, while it also leaves those employees who dare raise it, totally in the dark about what it is they should be asking of their employer.

Finally, absent from the contract is any reference to complaint procedures that the FDW should follow in case of dissatisfaction with either working conditions or remuneration. The contract includes a general clause stating that, in case of a 'labour dispute between the Employee and the Employer [...] one of the two parties or both parties separately, may submit in writing a relevant complaint to the District Aliens and Immigration Unit of the Police, as well as the Department of Labour Relations for examination by the Labour Disputes Committee.'⁵² Yet, there is no explanation in the contract as to why the police (not least, its Immigration Unit) are being involved in an employment dispute, what the Labour Disputes Committee may decide, how its decision might impact possible actions taken by the Immigration Unit, what procedure the Labour Disputes Committee will follow, how long the procedure is expected to last, and the specific rights of each party during this process (for example, whether the employee will continue getting paid by the employer, and if not, whether she is allowed to seek work elsewhere).

Another factor exacerbating the poor working and living conditions of FDW is that, in practice, the employment contract they have signed is all but unenforceable.⁵³ This is, in turn, due to two reasons. On the one hand, the FDW's place of employment is her employer's private

⁵¹ Old Employment Contract, Article 2(f).

⁵² New Employment Contract, Article 4(e).

⁵³ This has been expressly acknowledged by the authorities (see Prodromos Panayiotopoulos, 'The Globalisation of Care: Filipina Domestic Workers and Care for the Elderly in Cyprus' [2005] 86 *Capital & Class* 99, 118.)

home, where possible abuses are likely to remain hidden.⁵⁴ This, coupled with the fact that each FDW works in a different house, means that in cases where the employee wants to make a complaint, it is almost inevitably her word against that of the significantly more powerful employer. The lack of evidence in support of a complaint is further worsened by the fact that the home – in this case the FDW's, but also, crucially, the employer's – is a constitutionally protected space that the authorities cannot enter without a warrant.⁵⁵

Even if evidence of abuse existed, however, the contract would in all likelihood remain unenforced because of the overwhelming tendency among FDW to not report such practices against them to the authorities. This is partly because FDW are not always clear about their rights and are therefore unaware that they are being abused, even if they sense that a situation they are experiencing is unfair. The lack of rights awareness is reflected in the results of the questionnaire, according to which 70% of respondents signed a contract of employment, 5% did not and 25% have no recollection of whether or not they did. To the follow-up question: 'Did you understand what the contract said?' 15% of respondents replied that they did not, and an additional 43% answered that they did not remember whether they understood or not (see Figures 3 and 4 below). Taken together, 30% did not sign or do not remember signing a contract of employment and from the 70% that did, almost six in 10 either did not understand or do not remember whether they understood what the contract provided.

This unfamiliarity with the employment contract and the rights conferred to FDW and their employers was particularly striking during the interviews. Typical responses when FDW were prompted to discuss the contract included the following: 'I signed many papers when I came.', 'I am not sure exactly what I signed.', 'I signed some papers but do not remember exactly what they were for.', 'I remember signing papers. I know they were for my visa, but I am not sure what they said.', 'I do not remember anything about the contract. I am not sure exactly what I am allowed to do. I do not know if it is allowed that I work on Sunday as well.' The lack of rights awareness was also prevalent among those in the focus groups, where more than half of participants could not describe their exact status and employment rights in the Republic. Some knew of their contract in very general terms, and none were familiar with their rights under any relevant laws.

⁵⁴ European Union Agency for Fundamental Rights, *Migrants in an Irregular Situation Employed in Domestic Work: Fundamental Rights Challenges for the European Union and Its Member States* (Luxembourg, Publications Office of the European Union, 2011), 38.

⁵⁵ RoC Constitution 1960, Article 16.

Participants’ contractual status

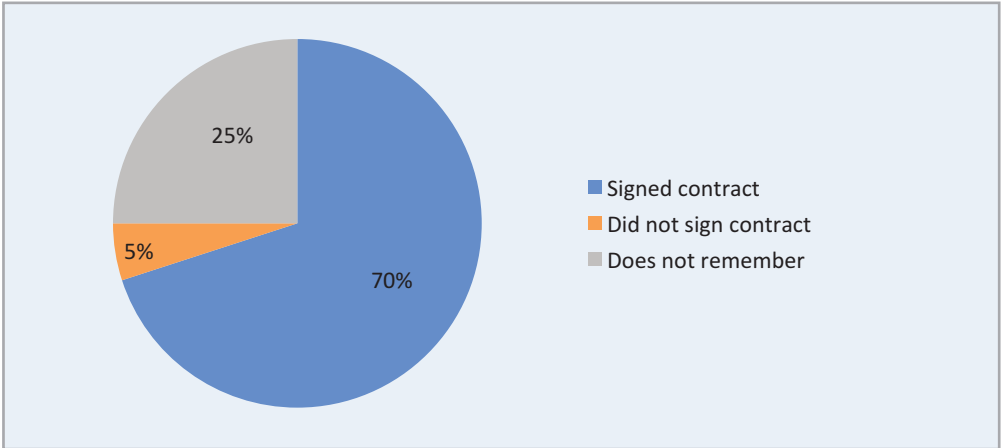


Figure 3 – Participants’ contractual status

Participants’ understanding of contract

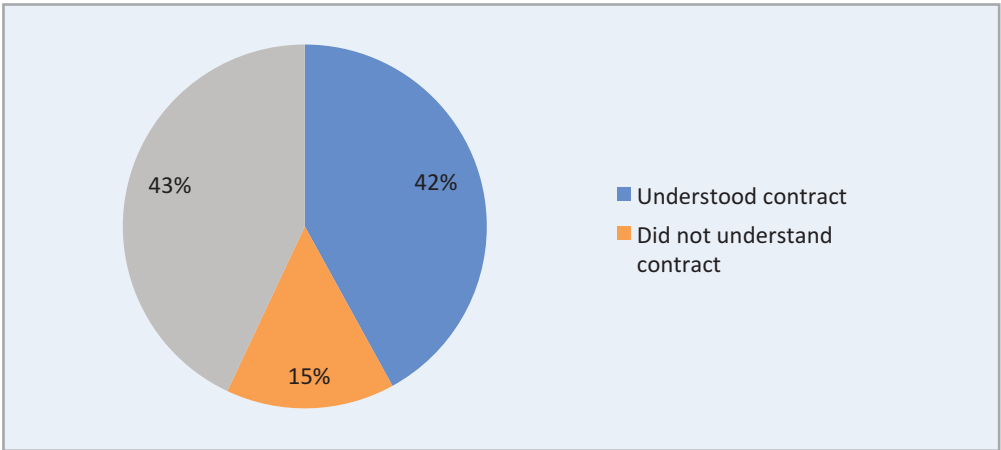


Figure 4 – Participants’ understanding of contract

The FDW limited knowledge of what their employers can demand of them and how they can protect themselves can be traced to two decisions of the government. The first relates to the absence of any State-supported effort to educate FDW on their rights. This could have happened through information sessions or seminars, leaflets or short videos prepared by the relevant authorities of the Republic, most notably the Ministry of Labour, the Immigration Department and the police. The material could have been made available in the native languages of the five nationalities that make up the bulk of domestic workers in the RoC. This information could be shared with FDW on their arrival to the Republic, when signing their

contract in the presence of the private employment agent that helped bring them to Cyprus, in community centres and churches that are often visited by FDW, in police stations or the Ministry of Labour where they are likely to make a complaint and, crucially, in the local embassies/consulates of FDW countries of origin. Instead of doing any of the above, the RoC was for decades doing nothing, until 2012, when it outsourced this responsibility to private employment agents.⁵⁶ To what extent private employment agents comply with their obligation to inform FDW of their rights is unclear, and something that the Ombudsman has flagged as one of the main limitations of the Law.⁵⁷ Yet, putting in place an unenforceable Law in order to address the lack of enforceability of the contract of employment hardly seems a prudent strategy.

The second government decision that had a negative impact on rights awareness was the express prohibition on FDW to form or join a trade union, a stipulation in place from 1991 until May 2019.⁵⁸ This decision allegedly reflected the wishes of trade unions, which saw migrants as a threat to the rights of Cypriot workers.⁵⁹ Trade union wishes aside, the ban was almost certainly unconstitutional⁶⁰ and considered problematic by the Ombudsman,⁶¹ NGOs⁶² and academics.⁶³ FDW themselves overwhelmingly report that they are interested in joining an organisation that represents their interests in Cyprus – 64% of participants stated so in the questionnaire. It is too early to say whether the recent lifting of the prohibition (to join or form a trade union) will result in greater mobilisation for the protection of FDW rights. Despite the high number of respondents who expressed an interest in this in the anonymous questionnaire, when the question was asked during the focus groups, most were not willing to engage in a public discussion. The fact remains however, that joining an organised group of individuals is likely to have an empowering effect on employees. This is supported by the questionnaire's results in relation to Filipino respondents, the only nationality among domestic workers in the RoC who are collectively organised.⁶⁴ Filipinos appeared more likely than other FDW to tell

⁵⁶ Law 126/2012, Article 17.

⁵⁷ RoC Ombudsman, *2019 Ombudsman Report*, [27].

⁵⁸ This prohibition was included in Article 2(h) of the Old Employment Contract, but is not included in the new one.

⁵⁹ Platform for International Cooperation on Undocumented Migrants (PICUM), *Migrants and the Right to Equal Treatment in Cyprus* (2013) Workshop Report.

⁶⁰ Article 21(2) of the RoC Constitution 1960 provides: 'Every person has the right to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.'

⁶¹ RoC Ombudsman, *2013 Ombudsman Report*, [69].

⁶² AEQUITAS, 'Strategy for the Protection and Promotion of the Rights of Migrant Domestic Workers in Cyprus' (Cyprus, 2014).

⁶³ Vera Pavlou, 'Migrant Domestic Workers, Vulnerability and the Law: Immigration and Employment Laws in Cyprus and Spain' (2016) 7 *Investigaciones Feministas* 149.

⁶⁴ A third of the Filipino questionnaire participants are members of Obreras Empowered, a group that describes itself as fostering solidarity among domestic workers, raising and addressing important issues and concerns of its members and sharing experiences among them.

their employers that they are unhappy with something that was done or said to them, they are the only group in which 100% of respondents would complain to their employer if they were not paid on time and they are twice as likely as other groups to take sick leave when they are ill.

In addition to the lack of rights awareness among FDW, the other factor contributing to the limited enforceability of the contract and the law is the fact that even those who had the knowledge and confidence to complain to their employer about abusive practices have not experienced much improvement in their working or living conditions. Some employers have calmly made it clear that this is how things are and will remain. One Filipino interviewee recalled: 'I signed a contract and I know it said six days per week and seven hours, but I know I work many more than this. I do not know what to do about this. I spoke to Madam, but she does not listen.' Other employers have shouted at their employees for daring to suggest a change in their working conditions. Illustrative of this was the experience of another Filipino woman, who said: 'I go to Sir's sister's house once a week, but they never pay me anything for this and when I asked for money, Sir shouted very much so I stopped asking. Many nights I am crying and thinking of how to change this situation, but I do not know how.' Another recalled: 'I go to friends and the park on Sunday, unless I am asked to clean another house. Sometimes I tried to say "no", but Madam got very angry.' And a third: 'I know my contract says less hours than those I am working. When I asked her about this she got very angry. I told her it was no problem to work some hours more and get paid. She was shouting.' In light of such responses, it is unsurprising that 40% of FDW would not tell their employers that they are unhappy with something they had done or said, a sentiment that was also voiced in the focus groups. At least nine of the 20 participants agreed that they would never complain to their employer, as they know that this would not change their situation; thus, any negative consequences likely to follow from the complaints are not worth risking.

Employer unwillingness to comply with their obligations stems from a clear position of control. Simply put, the relationship between the two parties to the contract is so grossly unbalanced that it leaves the employee with little choice but to follow even unfair or abusive instructions from the employer. Two examples of how the power imbalance is maintained will be used to illustrate the point. The first has to do with the fact that an FDW's stay in the Republic is (at first glance at least) linked with her continued employment with the person who sponsored her to come to the RoC in the first place. The employment contract does not make any mention of the possibility of an FDW changing her employer after she has arrived in Cyprus. It lists five grounds under which the contract of employment may be terminated, but it does not explain what happens after the termination has taken place.⁶⁵ Thus, the contract may be terminated (a) upon a mutual agreement between the employer and employee, (b)

⁶⁵ New Employment Contract, Article 4.

following a one-month notice given by either party, (c) without notice in accordance with Section 5 of the Termination of Employment Law 24/1967,⁶⁶ (d) if the employee has been absent from work due to sick leave for more than a month, or (e) in case of a labour dispute that has been decided following the procedure (briefly) mentioned in the contract.

In relation to the first ground – i.e., in those rare cases of termination due to mutual agreement by the parties – the contract is clear that the FDW can search for alternative employment for a period of one month.⁶⁷ However, no similar provisions are included in relation to the other grounds of termination, thus making it uncertain whether the employee can seek alternative employment if she resigns or following a labour dispute. It appears that in such cases the FDW can indeed change employer (rather than simply return to her country of origin), as long as this is done only twice during her stay and not earlier than six months after she has arrived in the Republic.⁶⁸ The fact that this right is so well-hidden in a 2015 Council of Ministers decision (published only in Greek), rather than explicitly stated in the contract, is regrettable, especially because the RoC has been chastised at least twice for the practice of not allowing FDW to change their employer in the first months of their stay in Cyprus⁶⁹ and for restricting the number of employers that an FDW can change afterwards.⁷⁰

The second example of a power imbalance between the parties to the contract concerns the procedure to be followed in case of a labour dispute. As explained above, in such instance, the FDW must first file a complaint to the Immigration Unit of the police and the Labour Department of her district. The mere fact that the complaint is made to the Immigration Unit puts the employee in a disadvantageous position, as she is (rightly it turns out) worried that any action against the employer will risk her deportation. Further, what happens after a complaint is made also creates reasons for concern. According to a 2010 Ombudsman report, when FDW file a complaint, employers sometimes retaliate by accusing their employees of having committed a crime, usually theft.⁷¹ Instead of keeping the two procedures – labour dispute and criminal case – separate, the authorities normally stop the former and deport the

⁶⁶ This Law, drafted in 1967 in Archaic Greek, provides the grounds upon which the employer can terminate the employee's contract. It provides no grounds upon which the employee can terminate her employment without notice.

⁶⁷ New Employment Contract, Article 4(a).

⁶⁸ Decision of the Ministerial Committee on the Employment of Migrants, 3 Apr 2015, cited in RoC Ombudsman, 2019 *Ombudsman Report*, [21].

⁶⁹ The right to change one's employer is only activated six months after the FDW has arrived in the RoC. Before this period has expired, their dependency on, and connection with, the employer is total.

⁷⁰ UN Committee on the Elimination of Racial Discrimination, 'Concluding Observations on the Twenty-third and Twenty-fourth Periodic Reports of Cyprus,' adopted by the Committee at its 2544th and 2545th meetings on 11th and 12th May 2017 (CERD/C/CYP/23-24), [22]; UN Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Eighth Periodic Report of Cyprus,' adopted by the Committee at its 1604th and 1605th meetings on 4th July 2018 (CEDAW/C/CYP/CO/8), [38].

⁷¹ RoC Ombudsman, *Report on the Procedure for the Investigation of Labour Disputes between Migrant Workers and Their Employers* [Έκθεση Της Επιτροπής Διοικήσεως Αναφορικά Με Τη Διαδικασία Εξέτασης Των Εργατικών Διαφορών Ανάμεσα Σε Αλλοδαπούς Εργαζόμενους Και Τους Εργοδότες Τους] (Nicosia, 12 Mar 2010), [17].

migrant as a result of the (still unsubstantiated) criminal allegations. This practice, the 2010 Ombudsman report continues, is also problematic because of another bias demonstrated by the authorities: while the employer's claims are normally accepted in a straightforward manner, those of the employee are rejected without a serious effort to investigate them further.⁷² Finally, the authorities' partiality – of which both the employer and the employee are surely keenly aware – is reflected in the fact that not all decisions are enforced equally. For example, when the Labour Disputes Committee finds that the employee is at fault, she is immediately deported; yet, if the employer has breached the contract (and, for example, must pay salaries in arrears) there is no enforcement whatsoever.⁷³ Most problematic of all, however, is the fact that in cases where there is a pending dispute, FDW have sometimes been arrested and kept in detention until this is resolved, a process that can take up to several months.⁷⁴ While in theory this practice stopped following the Ombudsman's intervention, it has arbitrarily continued in some cases.⁷⁵

The analysis in this section suggests that the poor living and working conditions of FDW in the Republic are due to a range of interrelated factors. While the root of the problem lies in provisions of the contract, or absence thereof, other factors also greatly exacerbate the challenges they face. FDW are generally unaware of the rights they have under the contract because the government has taken no steps to inform them of these and has even actively discouraged the dissemination of this information by prohibiting them from forming or joining a trade union. Further, even those FDW who are aware of their rights are unlikely to push for their implementation because they are afraid of the negative consequences that might follow such a complaint. These consequences are likely to materialise because of the massive power imbalance between employers and employees, which is maintained both by provisions in the law (for example, those relating to FDW's restricted right to change employer) and by problematic practices of the authorities when they are implementing this law (for instance, in cases of labour disputes).

⁷² Ibid, [22].

⁷³ Ibid, [25].

⁷⁴ RoC Ombudsman, *2013 Ombudsman Report*, [110] and [112].

⁷⁵ Ibid, [113].

RECOMMENDATIONS

This section suggests changes that can be made on the legal and institutional levels, and proposes additional initiatives that can socially empower FDW. The objective of these recommendations is to address both the challenges faced by FDW and the underlying factors that exacerbate them.

Legal changes

Legal changes should take place on three different planes: first, the State should sign and ratify key international conventions; second, the State should amend national legislation; and finally, the State should make fundamental changes to the standard employment contract.

With regard to international standards, the Republic should become party to the International Convention on the Protection of Migrant Workers and Members of their Families (1990) and to the ILO Convention Concerning Decent Working Conditions for Domestic Workers C. 189 (2011).⁷⁶ The two instruments are not perfect, and there are gaps in their protection;⁷⁷ taken together, however, they offer a long list of considerations to be borne in mind when making policies affecting FDW. For example, the 1990 Convention provides that no migrant worker should be deprived of their authorisation of residence or work permit, or expelled from the country, merely for failing to fulfil an obligation arising from a work contract.⁷⁸ Further, it notes that migrant workers shall enjoy treatment not less favourable than that which applies to nationals in relation to, inter alia, their working conditions, payment of overtime, hours of work, resting hours or termination of employment,⁷⁹ and that the State shall take measures to facilitate the reunification of migrant workers with their families.⁸⁰ Complementary to this is the 2011 Convention, which requires that states ensure that domestic

⁷⁶ The recommendation to sign and ratify the 2011 Convention has also been made by GRETA, 'Cyprus Third Evaluation Report,' [151].

⁷⁷ The 2011 Convention, for instance, pays no specific attention to how immigration law restrictions may impair domestic workers' access to labour rights. Nor is it concerned with the fact that in many countries FDW are stopped from changing employer or are refused access to permanent residence (Adelle Blackett, 'The Decent Work for Domestic Workers Convention and Recommendation' (2012) 106 *The American Journal of International Law* 778).

⁷⁸ International Convention on the Protection of Migrant Workers and Members of their Families, Article 20(2).

⁷⁹ Ibid, Article 25(1)(a).

⁸⁰ Ibid, Article 44(2).

workers are informed of the terms and conditions of their employment.⁸¹ Additionally, adequate procedures for the investigation of complaints, alleged abuses and fraudulent practices of employment agencies must be put in place,⁸² and measures for labour inspection, including access to household premises, should be implemented.⁸³ The fact that none of the above protections are in place in the RoC is indicative of the extent of the review that its national legislation must come under.

In addition to these, at least three key changes to the Republic's law must take place: first, the restriction on the number of employers FDW can change while in the RoC must be scrapped. The rationale for this restriction is that if the FDW changes more than two employers, she is not well-suited for this job and, therefore, should not be in the Republic on a domestic worker's visa.⁸⁴ Not only is this assumption arbitrary and discriminatory – as it applies to no other profession in the Republic – it increases FDW vulnerability by not extending the existing protections included in the Law to this category of workers.⁸⁵ Conversely, greater mobility of FDW will allow them to look for better working conditions, which should, in turn, lead to a general improvement of industry standards.

The second proposed amendment to the law is to lift the blanket ban on FDW applications for permanent residency. This change in status can have multiple positive side effects for FDW, most important among which are the reunification in the Republic with their families, and their increased security as migrant workers. A consequence of their increased work security and reduced vulnerability is that FDW will be empowered to demand greater protection of their rights, both individually and for the sector as a whole. A third proposed amendment is that the law includes penalties and sanctions against employers found guilty of abuse and/or exploitation of FDW (for example, preventing them from employing another FDW in the future). The institutional changes recommended below will improve the likelihood that such penalties will be imposed in cases where the domestic workers' complaints have been proven. Finally, it is important that the law is as transparent as possible. Decisions of the Council of Ministers and the Ministerial Committee on the Employment of Migrants, which constitute an important part of the legal framework regulating FDW rights, should be published on the Labour Office or Migration Department websites and be translated into English and the native languages of the bulk of FDW in the Republic.

In addition to amendments to the national legislation, important changes must also take place to the contract, as that is the document that most directly regulates the employment

⁸¹ ILO Convention Concerning Decent Working Conditions for Domestic Workers, Article 7.

⁸² *Ibid*, Article 15(1)(b).

⁸³ *Ibid*, Article 17.

⁸⁴ RoC Ombudsman, *2019 Ombudsman Report*, [21.II].

⁸⁵ Virginia Mantouvalou, 'Human Rights for Precarious Workers: The Legislative Precariousness of Domestic Labor' (2012) 34 *Comparative Labor Law and Policy Journal* 133.

relationship. At the most basic level, a suggestion would be to have two different standard employment contracts – one for those FDW who work as carers and one for those who work primarily as cleaners. The current grouping together of two very different job descriptions is not ideal for several reasons. The first is that it does not give the FDW any indication of what tasks she will be expected to perform before she actually meets the family that sponsored her entry to the Republic. It makes a difference to a young woman whether the daily responsibilities include cleaning a house, or looking after an elderly couple or a disabled teenager. Some might prefer the first job, others the second; moreover, allowing prospective employees to choose which of the two they will perform is in the interest of both the person providing and the person receiving the service. The second reason why grouping the two jobs together is ill-advised is that it prevents different types of work from being remunerated accordingly. A carer often has to work into the night, perform manually intensive labour (such as moving a heavy person from a chair to a bed) and is responsible for another's medication and general well-being. This is a fundamentally different job to cleaning the house or cooking for the family; it is often best performed by someone who has received training as a carer or a nurse, and the salary provided should reflect this.⁸⁶

Further, both contracts should include detailed descriptions of the employee's duties, set working hours (even if these are just in the form of guidelines) and provisions on the payment of overtime. Contracts should ensure that remuneration is in line with the national minimum wage, with employers being allowed to deduct set amounts for the provision of accommodation and sustenance.⁸⁷ Such a revision in the salary would not only be more equitable, but would also allow FDW to live outside their employers' residence if they so choose. The contract should also include detailed descriptions of labour dispute settlement procedures and any possible outcomes that these can give rise to. Finally, when making these changes, both to the national legislation and the employment contract, FDW should be pre-emptively consulted.

Institutional changes

By far the most essential institutional change is to shift responsibility for FDW from the Migration Department to the Labour Office, which has the expertise to regulate their working conditions. This recommendation has been repeated many times in the last years,⁸⁸ and has in fact also been mandated as a change by the Council of Ministers since 2010.⁸⁹ Yet, its implementation is still pending.

⁸⁶ This is the case in Italy, where the legal framework provides for eight different categories of domestic work (European Union Agency for Fundamental Rights, *Migrants in an Irregular Situation Employed in Domestic Work*, 21).

⁸⁷ Article 3(A) of the New Employment Contract provides that these amounts are 15% and 10% of the worker's salary respectively, but further research is needed in order to assess whether the percentages should be revised in any way to reflect the real costs of accommodation and sustenance in the RoC.

⁸⁸ See, for instance, RoC Ombudsman, *2013 Ombudsman Report*; AEQUITAS, 'Strategy for the Protection and Promotion of the Rights of Migrant Domestic Workers in Cyprus.'

⁸⁹ RoC Ombudsman, *2013 Ombudsman Report*, [30].

The remaining recommendations on institutional reform concern the dispute settlement procedure and the need to make it more victim-centred, rather than immigration focused. Most fundamentally, this should be an administrative process with no links to the immigration status of the worker. It is unclear, for example, what purpose is served, other than intimidating the FDW, when in a simple labour dispute process, the employer or the employee bringing forward the complaint is expected to notify the Immigration Unit of the police. In addition to abandoning this requirement, when an administrative complaint is made, the rules of evidence should be more relaxed than in a criminal case. Thus, what is admissible evidence should be reconsidered, the decision-making body should be able to draw inferences from the facts more freely, and allegations should not have to be proven beyond any reasonable doubt (and can be proven instead, on the balance of probability).⁹⁰

Further, institutional changes that encourage FDW to come forward with their complaints could also be adopted. An example of such a change includes hiring people who speak the languages of FDW in governmental positions that involve interaction with FDW. This was a step taken by the Dutch police force and could be copied by its Cypriot counterpart,⁹¹ but also by other state bodies, such as the Labour Office. Additionally, a specialised unit that deals with FDW complaints within the police, the Labour Office or the Immigration Department would result in the development of expertise with regard to such complaints; would allow investigating officers to spot systemic abusive practices by employers or private agents; and would empower and motivate them to more effectively deal with these. Finally, since legislation that relates to FDW has proven difficult to enforce, such specialised bodies could dedicate more resources to this by, for example, employing inspectors of private employment agencies or tasking staff with the responsibility of checking how many hours FDW work per week.⁹² Similarly to other countries, such as Ireland, the RoC could consider schemes that allow for the inspection of an FDW's place of employment, even if this is also the employer's private residence.⁹³

Social changes

At the core of the problems faced by FDW in the RoC are racial, sexist and classist perceptions that they do not deserve better treatment. Such perceptions are likely to change eventually, if the legal and institutional amendments recommended above are enforced, but it is also important to adopt policies and initiatives that address them directly.

⁹⁰ If, for instance, the FDW is cleaning the house of their employer, but also the houses of two of the employer's relatives, it could be inferred that, unless there is evidence to the contrary, she was aware of and maybe even facilitated this arrangement.

⁹¹ Platform for International Cooperation on Undocumented Migrants (PICUM), *Migrants and the Right to Equal Treatment in Cyprus*.

⁹² Article 2(1)(A) of the New Employment Contract creates an obligation on the employer to keep a record of how many hours per week the employee works, but there does not appear to be any person or body in the Republic that is responsible for collecting or checking these records.

⁹³ Murphy, 'The Enduring Vulnerability of Migrant Domestic Workers in Europe,' 612-613. This recommendation has also been made by GRETA, 'Cyprus Third Evaluation Report,' [47].

One such initiative, which should accompany the change in the law in relation to accessing permanent residency, is to include FDW in migrant integration policies, from which they are currently excluded.⁹⁴ A second initiative would be to implement projects that enhance rights awareness, which are addressed to both employer and employee. The State could provide information sessions or seminars, newsletters, leaflets or short videos with details about the rights and duties of each and information about what constitutes abuse. Such information should be made widely available in the Republic and in FDW countries of origin through the RoC embassies. An effective way of making sure that the same information reaches the parties to the employment contract is to make an information session delivered by staff of the Labour Office compulsory to both at the beginning of their relationship.

A third recommendation for inducing social change is to fund organisations and schemes that support and advocate for migrant rights. Such schemes could include the organisation of meetings between newcomers and FDW who have been in the Republic for years. Others could relate to research projects that identify challenges faced by FDW and make suggestions on how these can be addressed. Emphasis should also be placed on outreach activities. During the interviews, some participants commented on the – significantly harsher – living and working conditions of friends of theirs who were working on farms in Cyprus. Especially if these FDW are residing in remote villages and also working on Sundays, they are unlikely to socialise with other individuals that can inform them of their rights, thus making it the State's responsibility to ensure that this information reaches them in other ways. Further, the ban on FDW forming or joining a trade union has already been lifted, but this is only the first step in encouraging their rights awareness, socialisation and mobilisation. In addition to this, information and incentives could be provided to existing trade unions so that they can start admitting and representing FDW as their members. Finally, the State, or State-funded organisations can also offer training to FDW community leaders on how to mobilise their members in order to demand greater protection of their rights.

⁹⁴ The 2007 Strategy for the Employment of the Foreign Labour Force in Cyprus excludes FDW from its remit. This is also confirmed in RoC Ombudsman, *2019 Ombudsman Report*, [7].

CONCLUSION

This report has provided insights to the challenges faced by FDW in the Republic. Among such challenges are their poor working conditions, unjust remuneration practices, the likelihood that they will be victims of abuse that will remain unreported and unpunished, and serious restrictions on their personal and family lives while residing in the Republic. The report has argued that these challenges are the result of gaps and problems in the law, which are themselves connected to a series of underlying factors. These include the lack of knowledge among many FDW of their rights, and even when this is present, their inability to effectively challenge abusive and/or discriminatory practices against them. Finally, it made recommendations for legal and institutional amendments and suggested initiatives that would introduce positive social changes for FDW in the RoC.

This report describes the living and working conditions experienced by foreign domestic workers (FDW) in the Republic of Cyprus (Republic or RoC). It focuses on four main challenges faced by FDW, namely: their poor working conditions, problems related to their remuneration, the increased likelihood that they will be victims of (unreported and unpunished) abuse and the serious restrictions imposed on their private and family lives. Despite the RoC's relatively open entry policy to FDW, the conditions they experience when they start working are in dire need of improvement. This is technically due to gaps and problems in the law, but is also itself a consequence of a series of underlying factors. Among these are a lack of rights awareness within the FDW community and a massive power imbalance between employers and employees, sustained through biased, even discriminatory, State policies and practices. The report concludes with recommendations that can introduce improvements at the legal and institutional levels, and others that can empower FDW and bring social change more directly.

Section 2 provides an overview of the research methodology and Section 3 describes the legal framework regulating the rights of FDW in the Republic. Section 4 discusses the challenges faced by FDW in the country, while Section 5 delves into the factors that exacerbate the poor living and working conditions described in the previous part. Finally, Section 6 lists recommendations, the implementation of which could result in positive legal, institutional and social changes.

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