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**Care Work in Spain: A Brief about Working Conditions in
the Care Sector with Special Attention to Gender and
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Care work, and especially paid care work, has become a turning point in the sustainability of welfare states across Europe. Their increasingly ageing populations, rising life expectancy and the strengthening of their borders have created an imbalance between the working-age population and those who need increasing care.

Spain is no exception to other European countries; in fact, it is one of the most ageing countries in the entire European Union. This article aims to address the working conditions and structural discrimination faced by workers in the care sector, with a particular focus on gender and the immigration status of workers in the industry. The aim is to analyse the intersection of the personal circumstances of employees in the care sector to identify and uncover the patterns and occupational and psychological problems they face, as well as those faced by the people they care for. To this end, we will draw on the reports produced by the University of Girona as part of the Horizon Europe: Care4Care project.

One of the key points to begin discussing salaried care workers is to determine what type of workers we are talking about, which workers we are referring to. In this case, we must determine that we are talking about workers who provide primary care tasks, such as personal hygiene and assistance with necessary healthcare, and not secondary care tasks, such as cooking or cleaning for them. Thus, we are talking about home carers, nursing assistants and nursing professionals.

Most of the people employed in the care and essential services sector are women, and in recent decades, both in Spain and in the rest of Europe, it has been observed that these women come from third countries within the European Union.

The first element we find here is the fact that, as the majority are women, the care work they do is not seen as professional. Instead, their labour is often seen as “natural” or “intuitive”, as if women were born to be “natural carers”.

About gender, the following factors were identified:

1. The care sector in Spain is highly feminised. Spain is the third country in the European Union with the highest percentage of women in the domestic sector. More than 95% of these workers are women.
2. There is a significant inability to achieve work-life balance in the sector due to unpredictable hours, long working days and a lack of recognition of the need to balance work and family life.

3. It has been observed that there is a lack of gender perspective in relation to the list of work-related illnesses, as many of the illnesses developed during the working life of female carers are not recognised as such.

These workers are underpaid, work unpaid and unrecognised overtime, and, in the case of many migrant women who work as live-in domestic workers, are in an irregular administrative situation.

However, it is not only a sociological concept that produces this discrimination against care workers in Spain. They see their unequal position confirmed when they are confronted with fragmented and differentiated labour legislation in terms of their rights and working conditions.

Care workers in Spain therefore face low wages, endless working hours and a lack of professional recognition, conditions that are exacerbated for care workers employed under the special domestic service regime.

To understand the legal structure underpinning inequality in the care sector in Spain, we must first understand the legal framework governing it.

We can see that different salaried workers in the care sector are divided in terms of the applicable labour legislation, not in terms of the work they do, but based on their employer.

In Spain, therefore, we find:

- The general regime applies to workers employed by private or public institutions (if they are not civil servants), such as hospitals, nursing homes or care service platforms. These workers are covered by the Workers' Statute, which recognises basic benefits such as social security affiliation, protection against dismissal in the workplace, and access to unemployment benefits.
- The special regime applies to workers employed directly by members of the family household to perform domestic and/or care tasks. This regulation includes people who live and work in the family home and those who only work there. This regime is set out in Royal Decree 16/2022. Employers who avail themselves of this legislation must cover their workers' social security contributions themselves. This legislation has been improved in recent years, as it now includes the possibility for FOGASA to cover workers' wages when employers are unable to do so, as well as the fact that workers have access to unemployment benefits.

This dual structure has created a gap in the protection of labour rights among care workers employed under the special regime. Furthermore, it has been found that the majority of workers employed under this regime are women and migrants, who are systematically placed in less favourable conditions. Above all, we can observe three relevant factors:

1. These workers are usually employed on part-time contracts, leading to low wages.
2. Employers have more power over workers than in the general regime.
3. Workers in this regime suffer accidents at work and/or deterioration in their health, which, moreover, is not recognised by social security.

To put this reality into perspective, according to the Spanish Ministry of Social Security, in August 2022, 373,000 people were registered in the special system for domestic workers. Of these people, more than 95% were women and, a large percentage were women from third countries outside the European Union, mainly from South America.

These figures do not reflect reality either. It is estimated that at least 172,000 domestic workers are working informally, which means they have no access to an employment contract or social security benefits and, as a result, face many problems in accessing legal protection for their labour rights.

In short, the same work is regulated in a very different way, and it no longer depends on the tasks performed by the workers, but on the people who employ them. This is one of the great injustices that must be taken into account if we want to have a fairer and more sustainable care system.

Thus, the poor working practices that have been observed in care work in the domestic sector and under special arrangements is the fact that if the person lives and works in their employer's family home, this leads to the worker not having the necessary tools to set boundaries between work and rest time, and often their working day extends to 12 or even 16 hours, with very few days off or even none at all.

It also found that in many family homes, the carers were migrant women who were in an irregular administrative situation. Due to their administrative status, many of them found it difficult to report the abuse they suffered during their working hours, and they were not directly aware of how to access legal protection for their rights.

So, we can say that migrant status acts as a multiple vulnerability factor. When people are in an irregular administrative situation, workers cannot obtain a legal permit to reside or work. This irregular situation leads to a situation that has the following consequences:

1. No access to an employment contract and, consequently, no social security protection. This means that if they work irregularly and are dismissed from their job, they are not entitled to unemployment benefits.
2. Being in an irregular situation, they are more likely to accept wages below the minimum wage or collective agreements, as well as working much longer hours.
3. Their vulnerability is increased by certain language barriers, especially in relation to women from North Africa and Eastern Europe.

This is because in Spain, we have a migrant regulation that allows them to stay in the national territory for two years, but does not allow them to have a work or residence permit. Furthermore, care workers are not allowed to enter Spain legally, as it is not considered a difficult-to-fill occupation.

It is important to mention that irregular administrative workers and regular workers have the same rights on paper.

One of the common working conditions faced by these workers is a lack of professional recognition. Many workers do not have formal educational qualifications that recognise their work. These workers are often entrusted with complex care tasks, including administering medication and assisting with hygiene. Sometimes, they are even responsible for people with chronic illnesses and/or dementia. According to the study, many of these complex medical tasks are performed without any medical training or supervision, putting both the worker and the care recipient at risk.

Even though they perform these types of tasks, these workers are not professionally classified as care professionals.

The undervaluing of these workers' skills perpetuates the idea that care work does not deserve a decent wage, labour rights or social protections.

It has been identified that many of these women are excluded from training programmes due to a perceived lack of vocation among female workers, resulting in zero possibility of career advancement and the impossibility of doing so due to a lack of opportunities. The failure to create policies that recognise work and professional experience, acknowledge informal work and transform it into certificates to create more protective roles.

One of the key points regarding legislation on care work in Spain occurred in 2022, when Convention 189 of the International Labour Organisation on domestic workers was ratified, affecting more than 600,000 workers throughout Spain. This marked a turning point in terms of the rights of these workers, as from that moment on, they were recognised as having the right to receive unemployment benefits, measures to combat discrimination and equal social security rights with any other worker in any other sector.

This move by the Spanish state was not accidental but was the result of the European Court of Justice ruling against Spain that same year for indirect discrimination for not granting domestic workers unemployment benefits.

As a result, in addition to ratifying ILO Convention 189, Spain amended the legislation governing the labour rights of these workers. Thus, after many years, Royal Decree 16/2022 included basic rights for these workers, although it should be noted that it did not propose any improvements for workers who might be in an irregular administrative situation or without the possibility of accessing an employment contract.

However, even with this new regulation, there are currently legal and political loopholes in Spanish legislation regarding the fight against discrimination and the protection of the rights of these workers.

Although Spain has extensive anti-discrimination legislation, including Law 15/2022 on equal treatment and non-discrimination and the ratification of ILO Convention 189 on domestic workers and Convention 190 on violence and harassment, its practical application remains partial.

However, since last year, Spain has had a new regulation for domestic workers: Royal Decree 893/2024, of 10 September, which governs the protection of health and safety in the context of household employment.

The justification for compliance with the principles of necessity, effectiveness, proportionality, legal certainty, transparency and efficiency is included and the progress that the regulation represents in meeting the Sustainable Development Goals approved by the United Nations, specifically target 8.5 of the 2030 Agenda for Sustainable Development, namely to achieve full and productive employment and decent work for all women and men, including young people and persons with disabilities, as well as equal pay for work of equal value, and target 5. 1, which aims to end all forms of discrimination against all women and girls worldwide.

This is a big step, but despite this progress, enforcement and control measures remain very difficult to apply. There are some challenges to address:

1. The regulation maintains the inviolability of the home, which may affect both the assessment and inspection by the Labour Inspectorate.

2. The employer must conduct an initial risk assessment for the job, update it when circumstances change, and provide the worker with adequate protective equipment.
3. The employer may lack the willingness and/or ability to carry out such assessments and provide the necessary protection

In summary, no discrimination is embedded in laws and policies, but it persists in practice, particularly affecting migrant women

There is an urgent need for structural reforms, not only in terms of employment rights, but also in migration policy, skills recognition, and workplace inspections.

We need to start thinking about regular ways to ensure that migrant care workers have guaranteed labour rights when they arrive in the country. This suggests that for high-quality care, we need to start protecting the rights not only of our care patients, but also of these workers who sustain our system through invisible work. Care is work, and it is essential to start recognising it.

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