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EXPERIENCES FROM THE PAST. DOMESTIC HELP WORKERS AND LEGAL SOLUTIONS

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ABSTRACT

Domestic service has become a subject of many legislative interventions, nevertheless domestic work still remains elusive from state policy. At first, domestic workers have been frequently singled out from enjoying rights and protective legislation. However, even if domestic workers were given formal recognition of rights, regulations generally arrived later than for many other workers and didn't influence on real empowerment of domestic workers. This durable question of their "problematic position" regarding rights and entitlements can be found in "sectoral disadvantage" which is the direct consequence of the past historical categorization, where legal situation of domestic workers is rooted.

Keywords: domestic help workers, legislation, history, Carniola, paternalistic order

ESPERIENZE DEL PASSATO: LAVORATRICI DOMESTICHE E SOLUZIONI LEGISLATIVE

SINTESI

Sebbene il lavoro domestico retribuito è stato oggetto di molti interventi legislativi per rendere le condizioni di lavoro il più possibile eque, la regolamentazione è rimasta sfuggente e non è mai stata pienamente adottata dalle politiche statali. Inizialmente, le lavoratrici domestiche erano prive di diritti del lavoro e di una legislazione di protezione. Nei periodi successivi è stato loro concesso un riconoscimento formale dei diritti, ma le normative erano generalmente tardive rispetto a molti altri lavoratori e non hanno influenzato il reale potenziamento delle lavoratrici domestiche. La questione persistente della loro «posizione problematica» riguardo ai diritti deriva dallo «svantaggio settoriale» che è la diretta conseguenza della passata categorizzazione storica nella quale è radicato lo status giuridico delle lavoratrici domestiche.

Parole chiave: lavoratrici domestiche, legislazione, storia, Carniola, paternalismo

INTRODUCTION[1]

Domestic service has become well established category in policy papers which deal with work and a subject of many legislative interventions. However, even though more and more effort is given to establish fair conditions in this area of work the consequence of legislative initiatives is that remains elusive from state policy and it is one of the most challenging categories in labor law (Neetha, 2009; Einat, 2012, 231). The nature of this elusiveness of domestic work can be recognized also in historical research as servants and domestic workers have been fighting for their rights for at least a couple of centuries, nevertheless domestic workers have been frequently singled out from enjoying rights and protective legislation. However, even if domestic workers were given formal recognition of rights, regulations generally arrived later than for many other workers and didn't influence on real empowerment of domestic workers. This durable question of their "problematic position" regarding rights and entitlements is now part of scholars' vivid discussion. In light of that, historians also have an important role to play. R. Sarti (2014, 312) calls for comparisons over time and space as she argues "historians bear responsibility for supplying evidence about past experiences which can contribute to the elaboration of new interpretations and new tools, possibly contributing to a more just future."

In the context of this appeal the article will present how the position of domestic help/workers was regulated by legislation in the area of today Slovenia and would put Slovene legislation in international perspective. We will see how legal intervention only tried to regulate current situation and law had no social reform effect. Relationship between private space of family where domestic work is done and public concern – paid work which has to be regulated by working legislation is problem which has since 19th Century been continuously opened and different solutions were implemented yet none of them has been completely successful. Some focused on employer, other on employees, some on informal economy. The state formed focused regulations only for domestic workers and also in other times legislation that dealt with domestic worker as any other worker. Yet relationship between householder and domestic worker remained elusive and grey zone for many practice, employed women found out new ways to remain out of the picture of the government and to adjust to new legislation according to their needs by their "micro-entrepreneurship" initiative which was depended also on condition in general labor market. While some householders in many vulnerable employees recognized opportunity for explotation.

1 This article was elaborated within the EIRENE project (full title: Post-war transitions in gendered perspective: the case of the North-Eastern Adriatic Region), founded by the European Research Council under the Horizon 2020 financed Advanced Grant founding scheme [ERC Grant Agreement n. 742683].

FROM PATERNALISTIC SOCIETY AND DOMESTIC SERVANT TO WELFARE STATE

Let us now look "at the beginning" of the problem where according by some experts "sectoral disadvantage" (meaning a situation in which the *rules* of a specific sector – its structure and culture – impact on workers in the direction of disadvantage) starts that is in the past historical categorization where legal situation of domestic workers is rooted, as "continuity extends between that historical category and the current sectoral disadvantage of domestic workers." (Einat, 2012, 232). Historical roots of disadvantage can be traced in different labor law, made for each particular group of workers, each with its own set of rules which started to be more exactly defined with the modernization and formation of the urban population. We can speak about Napoleon Civil Code or English Law of Master and Servant with different categories of workers or Prussian Master Servant Code (1810) which solely focused on domestic workers. Those laws had all in common that domestic servants were treated as special category of workers who were dependent on their employer in the physical and spiritual meaning as it was demanded to show "silent subordination" in the house of the master. G. F. Budde (2004) calls attention on imbalance of power in which the ambiguities of the Servant Orders can be presented. The working relationship of the domestic worker was contracted in the form that could be terminated yet on the other hand it was subordinated to patriarchic principle which treated employer as prudent and protective master – pater familias which dealt with the domestic worker as she/he was a minor. After "unwritten laws" the domestic workers needed to fulfill their duties much more precise than their masters. While their revolt against the master was punishable with the jail, the master's offences were much harder to be punished. This was also very much connected with the place where the work of the servants was going on. In domestic sphere of the family, where the state with legislation regulated position of working-class men and women as well as family members in the manner of certain roles, they were part of perpetuating alteration of the domestic sphere to suit gender order and social inequality. Already in the second half of 19th century this was opposite with other workers where the state tried to regulate their position with social protection laws that would reduce social inequality. Power imbalance in domestic sphere became part of public/private (domestic) binary (Wright & TeSelle, 2012).

In the nineteenth century the main legislation that regulated the position of female domestic labor in Carniola, where most of the Slovenes lived in the times of Hapsburg monarchy, was the Civil Code adopted in 1811 and Servant Order for Carniola accepted in 1858 and for the City of Ljubljana in 1859. None of this regulation was meant only for domestic servants. Civil Code was all about civil law that regulated many aspects of private life, position of women, family, inheritance, law of contracts and it was believed that this sole complicated law as a homogenous system should be enough in regulating private life. While the Servant Order was supposed to regulate the life of all servants in the city and in the farms, men and women, minor and adults.

The Civil Code tackled the position of servants through the law of contract as it regulated the working contract or a servitude contract. The Civil Code regulated the payment of the domestic worker, resignation, sickness, working condition and above all the principle of working agreement.[2] Servants were according to legislation part of family (družina) as legislation made distinction between family (družina) as a productive unit and kin family (rodbina) a unit of kins (Vilfan, 1996, 248–249; Obči državljanski zakonik, 1928, 40 and 683 article). The work relationships were based in paternalistic system. By paternalism we can understood the manner of organizing productive unit, which in ideological manner regulates social relations and provides normative legitimation in hierarchical and very dependent way. The power of legitimization is also found in absence of institutional arrangements. The nature of servant contracts was in the middle of 19th century mostly oral and informal, and it was already mentioned heavily dependent on personal relationships between two very different individuals in terms of social and economic status. In this period persons stepped in contract relationship not as equal agents but because of the differences to their access to power and resources as unequal individuals (Abercrombie & Hill, 1976). There is no doubt that this relationship between paternalist and subordinate included strong "ties of personal dependence" which included all aspects of subordinate's life and which for other professions began to reduce since 1848 (Levy, 2009, 70).

While the Civil Code arranged the position of servant more in general the Servant Order was more precise in this aspect. Those changes in the legislation matched as Einat (2012) wrotes to the separation between domestics and other groups of workers ('labourers', 'apprentices' and the ministerial and clerical workers) which only began to be covered by other protective legislation. In the Carniolian Servant Order from 1858 we can find more detailed provisions on the everyday life of servants. In there we can find the authoritarian and paternalistic understanding of the family life. By the provisions in Servant Order the servant became the part of the family and was subjected to strict control of the master/father of the family or household. That meant that servant was in position of subordination not only during working hours but for the whole day. Without master's consent he/she could not leave the

2 That was with the possibility of advance payment; in it we can find the right of the servant to get the payment if he/she is excusably sustained for not more than one week. If he/she could not perform the job because of the guilt of the employer, he /she should also receive the payment. If the servant is accepted in the household, he/she has also the right for money compensation, care and medical treatment in the case of the sickness for 14 days if he/she was employed more than two weeks and for the period of 4 weeks if he/she was employed for more than 6 months. The employer may reimburse the money spend on the care for the sick servant if he/she has any income from the health insurance. In the Civil Code was also stipulated that appropriate accommodation for sleeping and nutrition should be provided. In the last articles the employee notice was regulated. The contract can be abolished during the first month by both, the employer and employee. If the contract is arranged for the lifetime or more than five years employee may cancel the contract after 5 years with the employee notice of 6 weeks. In other cases, four or two weeks employee notice was arranged. If the employer prevented the servant to search for a new job, he/she should receive the reimbursement. With the special decree from 1916 also free time searching for a new job was determined (Obči državljanski zakonik, 1928).

area of the house and stay absent somewhere else for more than an hour. There was no regulation on working hours, Sunday break, holidays. The master could check his/her assets any time, he had the right to open his/hers chest and to enter his/her room any time. The master also controlled that the servant was not overdressed as regard to his/her class and was responsible as the study of Andrej Studen (1995, 156) shows for morality of the employee The shortest time period of the employment for domestic helpers was four months while for the farm workers one year. According to servant order also the advance payment for the servant is necessary. The contract could be broken only in exceptional cases, the employer could dismiss the servant: if the job was not performed well, if the servant slandered the master and his family, if a criminal act was committed, if master assets was in jeopardy, if the servant went to jail for more than 8 days, if he/she got some disgusting disease (sexual for example), if the servant was sick for more than four weeks. The servant could abolish the contract if he or she is no more capable to perform the job without the threat of his/hers own life (the pregnancy is not the case) or if the servant was persuaded to do unmoral things or woman had the opportunity to marry and men the opportunity to possess their own household. Those servants who left their job on their own should repay the damage to the master. According to Servant order the corporal punishment was also part of the custom. Women and children were beaten with rod and men with sticks.[3] Especially last provision was in northern Europe abolished already at the end of 19th century while it was still part of servant legislation in Germany but considered outdated (Sogner, 2004, 184; Jastrow, 1899, 631). In most of European countries servants were not included in protection laws at the beginning of the 20th century so in that regard Austrian legislation was no exception (Sarti, 2005a, 48). Paternalistic discourse prevailed and used the language of personal obligation and moral duties between individuals in order to consolidate the relationship of employers and employees (Abercrombie & Hill, 1976, 418). As we could see the emphasize of those laws is on the obligations of the employee (servant) and the protection of the employers – householders probably also because the supply of the potential servants was great and masters could choose. But there are also other reasons as protection of the "natural" order and deep seated trust in the higher authority of the strict father figure. In that paternal order the servant is considered as child of the family with no privacy yet a child that can be easily rid of after sickness or death of the old master.

Yet even before the First World War across the Europe new job opportunities for young women (who were prevalent in the work force of domestic workers) started to appear all over Europe, modernization of labor market happened with unprecedented pace. New jobs for women as clerks and typist, factory workers and shop assistants were appearing and in that regard also Carniola was no exception

3 *Kmetijske in rokodelske novice*, 21. 4. 1858: Nova cesarska postava za posle, 121–122; *Kmetijske in rokodelske novice*, 28. 4. 1858: Nova cesarska postava za posle, 129–130; *Kmetijske in rokodelske novice*, 5. 5. 1858: Nova cesarska postava za posle, 138–139.

(Žnidaršič, 2000, 193; Selišnik & Cergol, 2019, 269; Louvier, 2019, 593). As new job opportunities were increasing working in private household slowly became less and less good opportunity. Women started to appreciate "only the money bond" that connected the employer and employees' (Louvier, 2019, 593). New job opportunities in contrast with domestic work offered increased independence (social and financial) and more free time to workers who were not expected to live on their place of work. From both a social and political standpoint, therefore, domestic service – with its lack of private space, sparse free time and nosy mistresses – was casted as a dated occupation or as seen by other by workers as position belonging to a lower social status (Louvier, 2019, 591–592). Labor movement which demanded better social protection for workers and social insurance in light of new emancipation also influenced on the first demands to regulate the position of domestic workers. In the urban and bourgeois discourse the servant was changed in the professional profile of the domestic worker, however Austrian legislation make sure that the categories of worker and domestic servant were still very much separated and not overlapping categories with of course the position of domestic worker being something "special".

This first became to change with the leader of Slovene Christian Social movement Janez Evangelist Krek who took special interest in female workers and after the first association for women workers was established also the first Slovene association[4] for servant question was established in Trieste, Poselska zveza in 1910.[5] The fact that this establishment took place in Trieste can be understood in the context that Trieste was the fourth biggest city in the Habsburg monarchy (and the third in the Austrian part of the monarchy). It was a cosmopolitan port, that invited women from Slovene countryside that surrounded the city and offered them almost unlimited opportunities of employment (Verginella, 2006). Because of this there is no surprise that also in Trieste the first women's led Slovene social reform association for domestic workers came into existence (Verginella, 2006, 171). In official newsletter of Christian Social movement first demands were expressed that the abolition of the old Servant Orders is necessary and new national Austrian legislation should be proposed.[6] Old servant order was in the eyes of Christian Social movement marked as "terroristic" and repressive.[7] Future new regulation should contain rules for maximum 11 hours long working day, for Sunday and holidays only 9 working hours schedule, 9 hours night rest. While in the Habsburg metropola, Vienna, demands from Social democrats and Christian Social activist were raised that gainful domestic work should be codified as any other contractual labor (Richter, 2015, 490).

4 Before Poselska zveza existed two Slovene association for domestic servants that dealt with humanitarian and social work, Zavod sv. Nikolaja which was established and lead by a group of womens' activists in Trieste and Društvo sv. Marte in Ljubljana.

5 *Gospodinjska pomočnica*, oktober 1937: Petrič Franja, Dr. Janez Ev. Krek, 73–75.

6 *Naša moč*, 10. 6. 1910: Poselska spomenica, 3.

7 *Naša moč*, 25. 2. 1910: Trst, 2.

Table 1: Number of domestic workers in Ljubljana (Žagar, 1986, 29–30; Žnidaršič, 2000, 136).

	18th c.	1890	1910	1931	1935	1945	1965
Number of domestic workers in Ljubljana	1471	1876	2300	2726	3500	1700	1049

As First World War started all union activities diminished, but in labor market never the less important changes happened that will later influence also the position of domestic servants. While men were mobilized and went in the front lines, women stepped in and took over new professional duties. Because of that soon in Ljubljana and elsewhere in Europe female servants were hard to get (Milčinski, 2000, 282, 315, 362). After the war the problem of getting proper domestic workers persisted.[8] Percentage of domestic servants in the economically active population declined in several countries (Sarti, 2014; Sarti, 2006; May, 2011, 112). With this changes in labor market and new democratic aspiration and anticipation when the new Yugoslav state was established according to union activist positive changes in lives of the servants should happen. We have to have in mind that after the First World War Ljubljana became the capital of Slovenian part of the monarchy and the main employer of domestic help as Littoral cost and it cities became part of Italy. Slovene labor movement and its demands were based in Ljubljana where immediately after the war new union Catholic domestic service organizations were established as Zveza Služkinj and Podporno društvo za služkinje in 1919. Those organizations started to promote their claims which were in Kingdom Yugoslavia emphasized in the political discourse of social welfare and the importance of social politics yet only partial improvement was made as still the work of domestic worker and "other workers" was understood as two different categories as personal relationship of domestic worker differed from other employment relationships.[9]

Slovenian associations especially carefully followed the new legislation that was accepted in Austria,[10] women's newspapers reported about Marta Tausk demands that old Styria Servant order is annulled and working relationship between domestic servant and employer is regulated the same as any other working relationship. This was in line with the most radical claims in USA and Europe (May, 2011, 118). However catholic domestic workers association in 1919 didn't agree with those demands, when presented their own proposals, we can still find in it old beliefs that domestic worker is part of the family, but never the less appropriate night rest, Sunday rest and yearly 14 days off should be

8 *Slovenka*, I, 5–6, 15. 6. 1919: Ivica Neznan, Naše služkinje, 105–108.

9 An article about an agreement reached between Meščansko žensko društvo and Zveza služkin on how servents should be treated was published in the periodical *Slovenec*. No state intervention was required, merely an agreement beetween two private associations. *Slovenec*, 24 February 1920: Sporazum, 3.

10 *Slovenka*, I, 2, 15. 2. 1919: Za ureditev poselskega vprašanja, 48.

regulated in the new legislation as well as pensions and health insurance.[11] Some of the catholic supporters emphasized that free Sunday afternoon would be dangerous for morality and that domestic servants should be treated as "daughters" which was a discourse characteristic for the 19th Century legislation.[12] While the socialist party associations could see no difference in the position of domestic and factory worker and demanded something unthinkable – 8 hours working day also for servants.[13] In 1921 special decree from the Provincial government of Slovenia for domestic workers was accepted, while in the process of framing legislation different women's association took part.[14]

In decree from 1921[15] there is more emphasize on the rights of the domestic servant, free time is for the first time exactly stipulated as well as monthly payments, servant has the right for safe keeping of his/hers clothes, five hours break on every second Sunday and second holiday. Nine-hour night rest per day was also stipulated from 21 to 6 o'clock. In free time she/he could leave the house freely. After two-year employment the servant has the right for one week pay leave. In the case if it is evident that the employer dismissed the servant only to prevent vacation the servant has the right to demand reimbursement. More articles were prepared for the regulation of dismissal of the servant. Both employee and employer may retract the working relationship. The employer may do that in the case: if a servant keep secret of something important when the contract was affirmed, if a servant doesn't do her job well, if a damage was made to the employer, if she/he drinks, if she/he insults the master or his/her family, if she/he doesn't take care of her personal hygiene. The servant may abolish the contract if he/she could not perform its work without danger for his/her health, if the master mistreats him and if it is not paid. After 10 years he/she has the right for the compensation in case of dismissal. In the case if the servant has given notice to the employer without the cause the employer has the right to demand reimbursement. Another decree from 1922 stipulated health insurance in which also domestic workers in the whole Kingdom SHS were included (Žagar, 1986, 28). Soon domestic workers association demanded higher wages.[16]

Laws in Slovenian part of monarchy were created according to Austrian legislation Gesetz über den Dienstvertrag der Hausgehilfen (Hausgehilfinnengesetz) accepted in 1920.[17] In Slovenian and Austrian law we can find numerous similar regulations as 9 hours long night rest from 9–6 o'clock, every second Sunday free but for example as in Austrian case Slovene legislation didn't abolished Poselsko knjižico (Dienstbücher) and it didn't contain provision on two hours daily break (Richter, 2015, 489). After the First

11 *Slovenka*, I, 2, 15. 2. 1919: Za ureditev poselskega vprašanja, 48.

12 *Slovenec*, 12. 2. 1920: Milica dr. G., K poselskem vprašanju s stališča krščanske družine, 2.

13 *Učiteljski tovariš*, 4. 3. 1920: Črnagoj, Za staro pravdo, 4.

14 We can trace vivid lobbing for the new law from the liberal and catholic women's associations as they organized lectures on position of the domestic help (SI ZAL, LJU 285, Letno poročilo SŽD 1920; *Slovenec,* 11. 1. 1920: Meščansko žensko društvo, 4; *Slovenec*, 18. 1. 1920: Meščansko žensko društvo, 3).

15 Uradni list deželne vlade za Slovenijo, 82, 16. 7. 1921, 403.

16 *Novi čas*, 15. 10. 1921: V trezen pomislek, 2.

17 Staatsgesetzblatt für die Republik Österreich, 37, 10. 3. 1920, 46; *Večerni list*, 28. 2. 1920: Novi poselski zakon, 2.

World War we can there for find new legal solution that put the employees very much in the forefront, as according to the provincial Slovene government those were "socially just provisions".[18] Those changes were possible as legitimation in discourse changed. The state has now new role to play, because the horrible conditions of domestic workers cannot be solely solved by them or their professional organization this is the new responsibility of the state because of the unjust economic system.[19] State intervention slowly but for sure started to replace omnipresent and omniscient master. Yet this was only the beginning of the changes in legislation as all over Europe law proposals suggested domestic work should be changed into wage labor (Richter, 2015; Sarti, 2014). In spite of shortcomings however Slovenian legislation was in Yugoslav context vanguard piece of legislation as in no other part of the state such legislation existed.[20]

FROM SOCIAL WELFARE STATE TO DOMESTIC WORKER WITH EQUAL RIGHTS AS ANY OTHER WORKER

However, those "just legislative provision for domestic work" soon became "problematic" as legislation from 1921 became obsolete and new initiatives were taken place. The laws on domestic help accepted in Austria in 1926 and 1928 were used as good practice in draft of the law which was in preparation before the Second World War but was later never accepted.[21] One of the most important questions in the discussion before the Second World War was why the rights of ordinary workers are different from the domestic workers. Those debates were part of the wider process that was going on in Yugoslavia which included the improvement of position of workers and ratification of International conventions that stipulated protection of workers, working hours and insurance in case of injury at work (Bajič, 1936, 34). But the most important change in regard of better position of domestic workers was the fact that the relationship between employers and domestic workers in interwar period transformed dramatically. Economic crisis changed the structure of working force as women from rural areas were joint with unemployed female workers, widows and divorces (Žagar, 1986, 21). They had behind them different life experiences connected with formalization of work relationship. At the same time economic crisis contributed to even higher percentage of employed women as their share in workforce raised up to 40% (Lazarević, 2015, 95). The opportunities to find the job (also undeclared work) outside domestic help sector were bigger than in the past. The problem of scares supply of domestic workers was

18 Sejni zapisniki. Narodne vlade Slovencev, Hrvatov in Srbov v Ljubljani in deželnih vlad za Slovenijo, 1918–1921, 3, 350.

19 Slovenka, I, 5–6, 15. 2. 1919: Shod služkinj, 108–109.

20 For Croatia *Služinski red za gradove u Hrvatskoj i Slavoniji*, 19. 1. 1857, and *Služinski red za ladanje iz 1853* (11. 7. 1853). For Dalmatia *Privremeni pravilnik za poslužnike u gradovima i varošima krunovine Dalmacije*, 24. 10 1845. For Srbija *Pravila o odnosima slugu i njihovih gazda*, 12. 9. 1904. For Bosnia and Hercegovina *Privremeni služinski red*, 1. 10. 1900, and for Vojvodina *Izvod iz XII zakonskog člana od 1876.g. koji regulira odnose između čeljadeta i gazde*.

21 *Gospodinjska pomočnica*, maj 1936: Načrt zakona za hišno uslužbenstvo, 40.

also part of newspaper discourse (Testen Koren & Cegol Paradiž, 2021). So during the 30ies period domestic workers became less loyal as before the war, as they often changed jobs on few weeks or months (Žagar, 1986, 24). At the same time new organizations for domestic workers were established as well as special newsletter which focused especially on domestic workers and demanded new rights. This went in the context of discussion that was going on all over Europe, when the insubordination of domestic servants and the growing tension with their employers was reported in interwar period (Louvier, 2019, 583). Modernization brought with it also new feelings, because domestic service is dependent position as such was not particularly welcomed in egalitarian/democratic society (Sogner, 2004, 175). As new emancipation discourse for political and economic emancipation of women became intense and better school education was guaranteed paternalism became more and more obsolete and market relationship replaced old relations.

Central Committee for work according to instruction of Ministry for social work started the debate about new state servant law in 1930 which should be accepted for the whole Kingdom of Yugoslavia and it was based on the Slovenian case.[22] Soon Splošno žensko društvo sent to the Ministry of social politics and national health the proposals that also health and pension insurance should be taken into consideration for the domestic help.[23] Newly established associations for domestic workers liberal Zveza gospodinjskih pomočnic and its leader Franja Petrič demanded 12 hours working day, later also a proposal of at least one hour break in a working day was added.[24] Catholic organization demanded 14 hours working day, pensions, daily break and eight hours night rest.[25] In 1936 they demanded that Slovenian legislation should be supplemented that minor domestic help under 16 years old should be monitored and school education should be provided[26]. Months before the war a special Union for domestic help was established in 1941 yet the collective contract could not be reached because of the war (Žagar, 1986). During the Second World War there was again a great shortage of domestic service workers in Slovenia which again prolonged after the war with exception being border areas of Trieste and Gorizia (Verginella, 2006, 146).

In the new socialist Yugoslavia equality presented the norm and the sign of democratization so the challenge how to solve the problem of the subordinate position between employer and domestic worker appeared. Even in socialist Yugoslavia domestic help was still needed especially in the families where women were employed in higher professional positions of communist regime. The same as in Soviet Union after revolution also here the old customs didn't vanish overnight (Spagnolo, 2006; Klots, 2017). But new questions and peculiar situation appeared as for example the one mentioned in memoirs as state clerk demanded from the families that equal relationship

22 *Nova doba*, 22. 4. 1930: Pred uzakonitvijo poselskega reda, 1.
23 *Ženski svet*, 4, 1930: Občni zbor „Splošnega ženskega društva" v Ljubljani, 123–124.
24 *Ženski svet*, 2, 1931: F. Petrič. Organizacija gospodinjskih pomočnic?, 51–53.
25 *Slovenec*, 8. 12. 1935: Za nov poselski zakon, 7.
26 *Gospodinjska pomočnica*, 8, 1936: Še enkrat k načrtu za službeni red, 66.

between families and domestic workers became a norm and comradeship is established (Šuštar, 1993, 15). In the eye of socialist regime domestic spehre became the place of antagonistic interest of people involved in it and its position in private sphere made the state intervention especially problematic. However new authority tried it best to regulate the position of domestic worker to every detail.

Immediately after the war special municipality decree stipulated the minimum wages for domestic workers and taxes for the employers (Šuštar, 1993). In 1946 a state Union of Domestic help was established but soon reorganized.[27] Then a special decision of the government was published with the minimum wage and time table, which stipulated free Thursday and Sunday afternoons and night rest from 21 till 6 o'clock. Later laws on social insurance of workers in which also domestic helpers were included were published for the case of disease, pregnancy, death, pension (Šuštar, 1993). In the years to come more regulation on domestic work was accepted that ever before in spite of decreased number of domestic workers. In 1959 in Official gazette new law on working relationship of domestic help and daily helpers was accepted. In it, daily helper was defined as a person that works less than full time and domestic worker as a person that workers full time. It regulated work for outdoor and indoor domestic workers. In this law the work of domestic help was defined as cooking, cleaning, washing laundry, ironing, darning and other similar activities including baby-sitting. The working contract could still be agreed by oral approval. Only girls older than 16 years could be employed and for them nine hours long night rest was stipulated, for the rest of the domestic helpers 8-hour rest. Twice a week 5 hours of free time was assured (Šuštar, 1993). It is interesting that at the time more progressive laws were accepted in Croatia and Macedonia as there 8 hours working hours were stipulated, but not in Slovenia.[28] The paid leave was prolonged. Also more articles on dismissal were added, the domestic help could terminate the contract also if the food and accommodation were not appropriate. The termination is valid also in cases if a domestic worker doesn't come to work for three days without any contact to employer. If the employer doesn't treat domestic help correctly he or she could be prosecuted by penal code. Some of the proposals from the interwar period were put in the law.

In 1966 another act was established which regulated work for private employers part of it was also the relationship between domestic workers and householders.[29] In there it was for the first time stipulated that only written working contracts were acknowledged and there is no difference between the domestic worker and other workers, this "quite late regulation" is interesting as communist regime in Soviet Union stipulated this regulation immediately after revolution (Klots, 2017, 76). Work for domestic worker should be as long as 8 working hours, payment, employee notice, safety of workers at work should be

27 It lost its independence and was incorporated in Zveza delavcev krajevne industrije in obrti (1948) and later in the Union Sindikat obrtnih delavcev (1950).

28 *Delo*, 21. 10. 1959: V. K., Kako naj zakon uredi delovno razmerje?, 2.

29 Uradni list Socialistične republike Slovenije, 41, 22. 12. 1966, 293–297; Sejni zapiski Skupščine socialistične republike Slovenije, 1966, 502.

no different in relation to other employees.[30] Yet in spite of the equality between different occupations special articles regulated the outstanding position of domestic workers. In the cases where domestic worker lives with employer the right to use appropriate living space and appropriate food was written. Domestic work force is also obliged to protect the reputation of the employer. The expenses of care in the case of sickness should be reimbursed to the employer. This regulation from 1966 made domestic workers to enjoy the same rights as other workers was still accepted relatively early in comparison with the rest of Europe. As for example Spain, Italy still had no laws that will explicitly claim the equality, while for example Belgium started to regulate 8 working hour and paid holidays already in 1936 (Sarti, 2005a). If we again compare it to Austria, the country accepted The Law on Home Help and Domestic Work in 1962 and there still different working hours schedule was regulated from other workers (10 hours rest which period shall include the time between 9 pm and 6 am, the daily working hours shall be interrupted by breaks totalling at least 3 hours, where at least two uninterrupted periods of 30 minutes each shall be granted for the purpose of consuming the main meals).[31]

The problem with domestic workers was in new socialist society seen as the "remains" of the old bourgeois or traditional world. Domestic worker jobs would in the long run ceased to exist (Šuštar, 1993, 18). Yet reality was something different, still in 1966, 16% babies were baby-sitted by domestic help[32] and many politicians discovered that "this kind of job is still necessary", especially in families with small children.[33] As in the Soviet union the socialist government in Yugoslavia had a goal that domestic workers became "skillful and reliable executors of state goals in the home" and state had many unsuccessful proposals to regulate their qualifications. But after the Second World War situation changed a lot. Domestic workers demand was greater than supply, in that regard domestic workers received better wages as housewife's had much more trouble with finding help. After the war for many women (especially from rural areas) the job as domestic help became only the launching pad for new job in the city as she steadily progressed towards factory worker or employment in service sector. Because of that many women saw domestic service job as temporary situation for which is best to do it under the radar of authority. Women adopted their own strategies to improve their position as Verginella (2006, 148) discovers for Slovene domestic workers in Trieste. In the border regions women exploited the difference in the amount of the income, as domestic work in Italy was far better paid, as they performed work in Italy illegally they could still exploit Slovene welfare state and with lesser problems balance domestic and professional life than as they would perform factory work. Socialist state similar as Soviet Union soon discovered that it was extremely difficult to

30 Domestic workers should work not more than 48 hours per week, 30 minutes of break should be provided, 12 hours of rest between work, free weekends should be guaranteed or at least two free days during the week.

31 Hausgehilfen- und Hausangestelltengesetz, 1962.

32 *Delo*, 21. 10. 1966: Kako preživi dan naš dojenček?, 8.

33 Sejni zapiski Skupščine socialistične republike Slovenije, 1960, 85.

monitor what was going on in private households and to ensure that domestic workers' rights were respected (Klots, 2017, 79). But Yugoslav state also found itself before very modern challenge – how to combat informal work which is characteristically done only a few hours per week from outdoor worker. As in other European countries it seemed that widening of domestic workers' rights was connected with irregular work which became obvious also in Yugoslavia in 80s. This relationship is still in the center of debate all over Europe and the governments are looking for proper strategies to answer those challenges (Sarti, 2005b, 24).

CONCLUSION

In decades after the Second World War in Ljubljana and Slovenia the number of domestic workers declined while finally in 1994 there were only 20 registered professional helpers in all of Ljubljana.[34] This of course didn't mean that domestic workers ceased to exist as undeclared work raised dramatically especially after Yugoslav wars numerous refuges found its shelter in Slovenia. The wishful thinking of the state to regulate every aspect of working relation between domestic worker and employer was obviously not successful as well as the conversion of labour law to a more unitary regime has been almost entirely ineffective for this group of workers. These tendencies supported the claim that legal equality of domestic and other workers is not enough. Especialy as domestic workers moved in the sphere of unregulated work and they became part of the discussion of informal economy which was in Slovenia put on the public agenda at the end of 90ies and at the beginning of 2000.[35] In 2014 domestic workers were especially addressed when new Prevention of Undeclared Work and Employment Act was accepted together with special decree that made possible vouchers (vrednotnice), which made the householder act as "customer" and the domestic worker as a self-employed person. This regulation was accepted according to German model (Hrženjak, 2015). Laws offered the opportunities for more flexible forms of work contracts. However primarily focus of Slovene legislation that fights undeclared work remained on the employers who didn't want to regulate the status of their workers.

34 *Delo*, 11. 3. 1994: Gospodinjske pomočnice so izginile, 8. After the Second World War the number of domestic workers declined in 1965 there were 4583 women working as domestic help in Slovenia. In 1972 there were only 750 women working as domestic helpers (or at least this is the number of registered domestic workers), while in 1983 their number increased on 884 (*Jana*, 16. 3. 1972: Bogdan Finžgar, Robot – ali desna roka, 20–21; Šuštar, 1993, 17). When the state tried to include domestic workers in the collective agreement for restaurant, hotel industry and tourism, yet the partner with whom to sign the contract was nowhere to be found. That is why the collective contract from 1974 or 1976 had no special article on domestic workers (*Jana*, 19. 5. 1976: Brigita Bavčar Anzeljc, Za ureditev razmerij, 6). The articles on minimum wages were not renewed (the last one accepted in 1972: Uradni list Socialistične republike Slovenije, 10, 8. 3. 1972, 297).

35 The first Zakon o preprečevanju dela in zaposlovanja na črno was accepted in 2000. Cf. ZPDZC, in: Uradni list Republike Slovenije, 36, 26. 4. 2000, 4191. In 1997 programme for detecting and preventing undeclared work was lunched.

The nature of the domestic helpers' work (its structure and culture) in domestic sphere makes every legislative initiative "problematic" the previous ones with the paternalistic characteristics or the last ones which are ignoring non-regulatory situation of those associated with the household establishment and the boundaries between private and public, closeness to the family and personal relationship (emotions and grey zones, unstable work hours etc.) (Einat, 2012). As no regulation could change that personal relationship or informality which is tightly bound to the history of domestic service employment, and is in "today's world of work closely associated with what in legal language are termed 'undocumented', 'informal' or 'illegal' relationships" (Einat, 2012, 244). Even the initiatives of International Labour Organization which has only as late as in July 2011, adopted the Convention on Domestic Workers and finally recognized domestic workers as workers with the same rights as other workers had limited effect. Domestic work stil has pecular status and is only rarerly considered as proper job (Blackett, 2019, 59). As Einat writes the division between private and public established in legislation from previous centuries still persists and creates divisions between the home and other spheres, especially when the home is a work establishment in itself. The more problematic position of this type of work is also that from additional research became evident that among many domestic help workers in Slovenia as elsewhere are migrants, their position is especially vulnerable so again problematic "dependency" still persist in modern domestic work.[36]

Domestic work is obviously taking place in "the private sphere of the employer which is the public sphere of the employee' (Blackett, 2004, 261) but we have to also point out that it is also on the other hand connected with social stratifications and economic situation in the labor market. Dependent position of the employee can be very quickly changed with scares option for hiring people which enables their empowerment as we have seen or vice versa – great numbers of potential workers makes working conditions deteriorate (May, 2011). However as last circumstances are exposed to international development as economic crises and political stability the only possible answer is to focus on domestic worker and give he/she place for more autonomy in decision making (Jaehrling, 2004, 244) and that labour law to "become effective for domestic workers' detaches "itself from its embedded legal thought and become attuned to the detailed sectoral disadvantage of domestics." (Einat, 2012, 245). Legal initiatives should focus on this "special nature" of domestic work in which it differs from ordinary work as encompassing protecting laws in Yugoslavia in case of domestic workers had no innovative function (as re-construction of everyday life was not triggered by any of them). But the initiative of the state should be seen in correlation with different union organizations that in the past successfully implemented legal initiatives and put the domestic worker and its special "sectoral disadvantage" uniqueness in the focus which would today be also connected with their precarious legal position.

36 Women from Bosnia and Herzegovina started to come to Ljubljana to do domestic work already in the 70s (*Jana*, 8. 3. 1972: Bogdan Finžgar, Bajtarske princese, 20–21).

IZKUŠNJE IZ PRETEKLOSTI: GOSPODINJSKE DELAVKE IN PRAVNE REŠITVE

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POVZETEK

Plačano domače delo je bilo predmet mnogih zakonodajnih intervencij, ki naj bi vzpostavile, kar se le da poštene delovne pogoje. Toda navkljub temu je ureditev plačanega gospodinjskega dela ostala zmuzljiva in je državne politike nikoli niso v celoti zaobjele. V tem procesu so bile hišne pomočnice preobražene v gospodinjske delavke. Sprva so bile tako izvzete iz delovnih pravic in zaščitne zakonodaje, v kasnejših obdobjih pa so delavske pravice vedno bolj zahtevale tudi same, tako kot formalno ureditev svojega statusa, ki je skoraj vedno prišla kasneje kot v drugih poklicih. Aktualna delovna zakonodaja za gospodinjske delavke pa navkljub vsem intervencijam ni omogočila njihovega opolnomočenja. Zakonodaja se je osredotočala na zaposlovalca in na delavke ter v nekaterih primerih na neformalno ekonomijo, kljub vsemu pa je ostajalo vprašanje »problematičnega statusa gospodinjskih delavk« nerešeno. Problem je izhajal tudi iz specifičnosti sektorja in pomanjkljivosti v njem, ki je posledica zgodovinskega procesa in minulih zgodovinskih kategorij, v katerih je zakoreninjen pravni položaj gospodinjskih delavk. Zgodovinske izvore zapostavljenosti lahko zasledimo v različnih pravnih ureditvah položaja za različne skupine delavcev in delitvi na javno in zasebno, ki za seboj potegne neenakosti v moči, saj je ravno v sferi gospodinjstva zakoreninjena dihotomija na javno/zasebno (družino). Hkrati pa je položaj gospodinjske delavke povezan s socialno stratifikacijo in ekonomskim položajem na trgu delovne sile. Odvisen položaj zaposlenega se lahko namreč tudi spremeni s pomanjkanjem delovne sile in obratno, veliko število potencialnih delavcev in delavk lahko še poslabša delovne pogoje. Avtorica predlaga, da naj se zakonodajni ukrepi za ureditev plačanega gospodinjskega dela osredotočijo na slednje sektorske pomanjkljivosti.

Ključne besede: gospodinjske delavke, zakonodaja, zgodovina, Kranjska, paternalizem

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