

Recent Themes and Perspectives in the Analysis of Domestic Work in Latin America: Reflections on Remaining Challenges and Question

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The historic trend of domestic work as one of the main sources of employment among Latin American women continues even today. There is no doubt that among low-income women in the region, it is the occupational niche par excellence (ILO, 2012; CEPAL, 2015). As in the past, it is a job that is scarcely acknowledged and poorly paid while providing workers with limited social protection. The high levels of inequality in the region, the low barriers to entry to the occupation (in terms of required qualifications) and the lack of other job alternatives give the supply of poor women's labor a high degree of elasticity in terms of the demand for paid domestic work in more well off households (Cortés, 2010). However, there have been some changes and significant advances in the past few years that merit attention. The works included in this Dossier provide an overview of the transformations this sector has experienced over the years and present different approaches to analyzing this occupation.

The articles included here compare the cases of Brazil and Argentina. Due to their common elements and differences, these two national contexts represent a good starting point for a reflection on this kind of job. First, Brazil and Argentina have had similar macroeconomic and employment policies over the past decade, with both countries successfully diminishing the levels of inequality, unemployment and

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informality, in spite of the obstacles and significant challenges that remain. Concerning the regulation, both Argentina and Brazil have amended the legislative frameworks on domestic work in spite of the similar challenges that arose in both countries when it came time to enact the new legislation. Another common feature is the change both countries have witnessed in terms of the labor market composition, with a reduction in the number of full-time domestic workers. Just as there are fewer domestic workers in live-in arrangements (3.2% in Brazil and 1.8% in Argentina), there has been an increase in terms of women working by the hour or by the day (30% in both countries). With regards to the differences between the two, in Brazil the racial component of the composition of domestic work has played a much more important role in the configuration of this workforce and the dynamics of associated political action than it has in Argentina. In fact, mainly due to the force of black women's movements, domestic worker unions have historically been more dynamic, more articulate and more capable of engaging with government. However, it is in Argentina, not Brazil, where the first collective bargaining took place, mainly as the result of government sponsoring and support (Esquivel and Pereyra, 2016). Finally, although the relative weight of the sector is similar in both countries, the total quantity of domestic workers in Brazil—due to the sheer size of its population—is ten times

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higher than that of Argentina (ILO, 2013), thus suggesting greater complexities and challenges in terms of implementing policies aimed at this sector.

This text, which offers a sort of summary of the different works included in the Dossier, proposes to examine certain points in common between the different situations and trends analyzed in the articles. The aim is to reflect on approaches that appear particularly useful along with the challenges and questions posed by the set of works included here.

Undoubtedly, one of the recurring themes in the different works is *the improvement in the legislative framework on domestic work* in both Argentina and Brazil. The approval in 2011 of ILO Convention 189 on decent work for domestic workers is a key element to understand the legislative changes. This convention is the result of mobilizations and activism on the part of diverse international actors. Domestic worker associations such as CONLACTRAHO and the IDWN, NGOs like WIEGO and RESPECT and international unions like the IUTA joined forces with teams at the ILO to foster a discussion on an international labor standard (ILS) for domestic work (Kawar, 2014, Schwenken 2011, Goldsmith, 2013). In this regard, this convention is the first to be built "from the bottom up" (Boris and Fish, 2014). From a legal perspective, a fundamental element of Convention 189 is the acknowledgment of domestic work as simultaneously "a job like no other" and as "a job like any other." This differentiation, a topic of intense debate while the convention was being drafted, was ultimately expressed as complementary approaches (Blackett, 1998, 2014; ILO, 2010). These notions of domestic work were generally thought of as antithetical by legal scholarship. If domestic work is considered a job "like no other," then a special labor regime is needed. Frequently, this kind of labor regimes acknowledges limited rights. Defining domestic work as a job "like any other," by contrast, would mean integrating domestic workers to the general labor regime and thus ensuring that they have the same (or similar) rights as other wage earners (Poblete, 2015a). Convention 189—and Recommendation 201, which complemented it—establish a set of labor and social rights that both equate

domestic workers with other workers while also seeking special protection based on their particular features.

In both Argentina and Brazil, Convention 189 has had a major influence, though this has manifested itself in different ways. First, although both countries were part of the 2009 consensus that a binding international labor standard was needed (ILO, 2010), each took a different position in terms of ratifying the convention. Argentina was one of the first countries to ratify the convention in 2014; Brazil ratified it in January 2018. As argued by Creuza Maria de Oliveira, a member of different domestic worker unions (see the article by Castro et al.), Brazil has opted to modify the legislation on domestic work, without committing to a binding international standard. On the other hand, the legislative changes in the two countries vary according to the legislation in effect when Convention 189 was approved. In Argentina, until 2013 the regulation of domestic work was quite limited, mainly due to the scope of the special regime on domestic work in effect since 1956. As Gorbán and Tizziani emphasize in their article, the 1956 regime only applied to workers performing at least four hours of work per week for a single employer. However, the scope of the new law in 2013 is more broader since it recognizes the rights of all domestic workers, regardless of the number of hours worked or the quantity of employers. Unlike Argentina and most countries of the region, Brazil recognizes the labor rights of domestic workers in its Constitution. Before 2013, domestic work was regulated by the Article 7 of the Federal Constitution of 1988—in which domestic workers are entitled to only ten of the twenty-nine labor rights other employees are entitled to—and by two complementary laws approved in 2006 and in 2008 (Moreira Gomes & Martins Bertolin, 2010). The expansion of rights was achieved through Constitutional Amendment 72 in 2013, which grants domestic workers the same labor rights as other wage earners, and the 2015 law, which regulates some particularities of the sector, complements it.

Beyond these differences, one common element is that previous modes of legal exclusions persist in both countries. In the case of Argentina, even though all domestic workers are included *de jure* in the new legislative

framework, some of them are excluded *de facto* because of the “Special Social Security Regimen for Domestic Workers” instituted in 2000 still applies to the sector (Pereyra & Poblete, 2015; Poblete, 2015b). As Gorbán and Tizziani suggest, workers performing less than sixteen hours for a single employer need to make contributions to supplement those of the employer in order to obtain social security benefits (health insurance and retirement benefits). Given the low income that characterizes the sector, in most cases the workers are unable to make such contributions. In Brazil, although the rights of domestic workers are officially comparable to those of wage earners, law covers only monthly wage earning domestic workers. This means that workers without continuous work (meaning more than three days a week, paid on a monthly basis) are considered self-employed workers and are thus not covered by the regulation (Moreira Gomes & Martins Bertolin, 2010). As noted by Castro, Neves de Souza and Marques da Silva in this Dossier, the advances that have been made in the legislation in both countries can be thought of as a process of “fragmentary integration” given that domestic workers who are not employed full-time are excluded from the law *de jure* or *de facto*.

In fact, diversified types of *labor arrangements* are a recurring theme in all of the articles presented here. The situations described range from an increase in live-out arrangements since the mid-twentieth century as described by Pérez, to the more recent rise in hourly work in Argentina and work by the day in Brazil. As noted in the different studies referred to in this Dossier, this recent shift towards types of labor integration involving fewer work hours seems to be the choice of domestic workers, who are seeking more flexible options that allow them to articulate their productive and reproductive roles. The data also indicate that this type of labor market insertion has resulted not in moonlighting but instead in a reduction of the intensity of the labor participation of these women. This phenomenon belies a more general reduction of low-income women's labor participation over the past decade across the region (Gasparini and Marchionni, 2015; CEPAL, 2013). The trend has been attributed to a set of factors such as increased employment and income levels of male partners (when women have partners) favored by the

reactivation of the industry and construction during this period; increased social assistance for households such as conditional cash transfer programs and the persistence of mainly precarious job options among women from this social group. The fact that this type of integration is now an option for women—and there are fewer of the exhaustingly long workdays that have historically characterized domestic work—can and should be viewed in a positive light. However, challenges and questions still remain. The fact that jobs with shorter hours involve a greater risk that a domestic worker will go unregistered is naturally the most concerning issue. At the same time, and given how recent this phenomenon is, it is necessary to construct a critical body of knowledge on the differences between women who work shorter days and those who work full-time. In this sense, the study of how economic and family contexts increase or reduce women's margins for decision-making constitutes an important line of inquiry, along with the ways in which work experiences, perceptions and interests differ according to the type of labor arrangements. The ultimate aim is to clarify to what degree this polarization between full-time and part-time domestic workers merits differential policies, and which aspects must be taken into account in such policies.

In general terms, the works presented here concur that there has been *a rise in the registration levels of domestic work* in the two countries analyzed. Although this improvement is modest and insufficient, it is necessary to emphasize its importance in historical terms, given the almost nonexistent levels of registered work that has traditionally characterized this type of work. In the case of Argentina, twenty-six percent of domestic workers were registered in 2016 (Esquivel & Pereyra, 2016) and the majority of those who were registered were full-time workers (Pereyra and Tizziani, 2013 and Pereyra and Tizziani, 2014). The same occurs in the case of Brazil where most of the formal domestic workers work more than two days per week—so-called “*mensalistas*”—. In 2015, these workers represented forty-percent of all domestic workers (PED, 2016). The increase in registration can partly be attributed to simplifications to the process of registering a worker. In both Argentina and Brazil, IT

platforms have been designed to allow employers to easily register a domestic worker. In addition, a simplified regimen for the payment of social contributions was designed using the model for single-taxpayers already in force in both countries (Poblete, 2018 and Castro, Neves de Souza and Marques da Silva in this dossier).

Unfortunately, this increase in registration has not brought about greater respect for the rights acknowledged to these workers by law. As Rodgers notes, the state has to face the challenge of two different rights competing for recognition: the employer's right to protect the privacy of his or her own home, on the one hand, and domestic workers' right to decent work on the other (Rodgers, 2009). For this reason, Convention 189 contemplates different mechanisms for its legal implementation. Even though workplace inspections are very difficult in this particular case, Convention 189 recommends this classic method for verifying compliance with the law and sanctioning noncompliance (Article 17). In addition, the Convention 189 proposed two other strategies: to develop regular information campaigns for both employers and workers, along with the establishment of institutions that can accompany workers in staking claims to their rights (Article 15). In both countries, information campaigns have been developed in collaboration with the ILO. At the same time, the exchanges that take place at unions and in public spaces where certain activities take place—like squares or the entrance to schools—allow knowledge on the labor rights and on the mechanisms for ensuring their enforcement (Gorbán & Tizziani, 2015). However, as Gorbán and Tizziani note in this Dossier, "Beyond the challenge of registering workers and guaranteeing that they can exercise the rights stipulated in the law, legislative changes have a symbolic value: they serve as a benchmark for what is and is not appropriate."

In terms of the types of approach that are most useful for approaching the topic, Mary Castro and her colleagues make an interesting point with regards to the importance of considering *the dynamic relationship between the material and symbolic dimensions of the subordination of these female workers*. This means considering how "objective" categories such as inequality, low income, and social class

operate while also focusing on the categories associated with political, cultural and ideological values that tend to sustain and bolster the disadvantaged position of these workers. The text by Inés Pérez offers one example of this relationship, where domestic workers are portrayed by their employers as "others" who are ignorant, irresponsible, lazy and even dishonest because they belong to a certain social class (combined, on occasion, with their place of origin). The depiction of workers by their employers that Pérez describes takes shape in the context of post-Peronism and is interpreted as a position to defend class privileges in response to the new rights these workers acquired under Peronism. The same appeals to the behavior and values of the workers—who come from a social class that is viewed as lacking in terms of a "work ethic"—can be found in another recent study in Argentina on employers' perceptions of the progress in terms of domestic worker legislation (Pereyra, 2013). While clearly corresponding to the symbolic realm, reactions with moral overtones such as these have specific and very literal consequences in that employers use them—during post-Peronism and in recent times—as a way to justifying evading their legal obligations (attempting to simultaneously prolong their own economic advantages as well as situations of worker subordination, both of which worker registration could jeopardize).

However, this type of approach also points to renewed interest in the *multidimensional analysis of the situation and the experiences of domestic workers*. While the interaction between class and gender is a traditional way for researchers in this sector to explain the doubly subordinate position, the descriptions of Brazilian domestic workers included in this compilation evidence the importance of incorporating race as a category of analysis. In Brazil, race is crucial to explaining both the construction of domestic workers' subordinate position as well as their mobilization and struggle. However, the construction of a subordinate (or eventually insurgent) position is not restricted to class, gender or the designation of racial groups; instead, it covers a wide range of categories that appeal to otherness in terms of geographic, ethnic, social and national origin, among others (Segato, 2007). Undoubtedly, this type of approach evokes

"intersectionality" (Crenshaw, 1990), a concept that springs from feminist studies. According to intersectional theory, different axes of power do not act in isolation but instead interrelate, configuring the multiple dimensions of the experiences of groups and subjects: the discrimination they face, their resulting vulnerabilities and the construction of social identities, political stances, resistances and claims (Davis, 2009).

One additional point in common that some of the texts present has to do with the need to generate *a broader critique of the system that creates the inequalities domestic workers are subjected to*. Isabel Georges, for example, proposes that in spite of the rise in registration, domestic work continues to be a system where women put other women to work in reproductive tasks. Georges, like Castro, Neves de Souza and Marques da Silva, emphasizes that domestic work is set in economic and social logics that reproduce inequalities. Castro et al. speak of a capitalism that combines class exploitation, race and patriarchy, where paid domestic work is the only alternative for labor market integration among poor women. Thus, a true change in the work conditions of domestic workers in both Argentina and Brazil depends on long-term policies that address the situations that generate different forms of inequity: income distribution, the provision of public care services, the structure of social security systems, policies aimed at the sector and the creation of other work opportunities for these women, among others.

To conclude, the recent neoliberal shift in macroeconomic policies both in Argentina and Brazil, where successive "adjustments" have begun to have social consequences, is an invitation to closely track what is happening with paid domestic work. What will happen with the employment level in this sector, which tends to be pro-cyclical. In Brazil, there has already been a slight reduction in the number of available jobs (PED, 2016). Will part-time work continue to be a feasible alternative? Will it continue to be an "option" for workers or will a more restrictive labor market impose the different types of labor arrangements? What will happen with registration, which has slowly risen over the past decade? In this new scenario, it is useful to posit what sphere is most adequate for proposing ways to improve the

particularly critical situation of an important subsector of workers who do not work full-time. In Argentina, for example, a few bills in their preliminary phase have already been drafted with the aim of improving the levels of formalization of those who work by the hour. In this regard, it is interesting to closely observe the role those worker unions and employer associations can play in determining work conditions. Undoubtedly, and in more general terms, the underlying question to all of these queries could be phrased as follows: given the new regional context, to what extent will ILO Convention 189 continue influencing legislative changes and public policies that can pave the way towards equitable legal coverage for all domestic workers?

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