

Between Private Home and Public Responsibility

Legal Vulnerabilities of Migrant Care Workers in Switzerland

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Abstract

This article examines the legal and structural vulnerabilities of migrant care workers employed in private households in Switzerland. Drawing on observations from FIZ Fachstelle Frauenhandel und Frauenmigration (Advocacy and Support for Migrant Women and Victims of Trafficking), it explores how care work, performed in the intimate sphere of the home, remains largely invisible to labour protections and public oversight. The piece argues that the exclusion of domestic and live-in care workers from key labour laws reflects a deeper tension between the privatization of care and its social indispensability. Despite Switzerland's ratification of ILO Convention No. 189¹, regulatory gaps persist, leaving many migrant women exposed to exploitation. Rethinking the legal boundaries between the private and public spheres is essential to ensure dignity and justice in care work.

Focusing on forms of care work—labour performed within the domestic sphere that encompasses physical, emotional, and relational dimensions—offers a crucial lens through which to understand contemporary dynamics of migration, gender, and inequality. In Switzerland, as in much of Europe, the increasing demand for affordable household and care labour has been met largely by migrant women. They clean, cook, and provide essential care for children, the elderly, and persons in need of assistance, often under conditions that remain legally and socially precarious.

Care work takes place in a space that is both personal and political. The private household is traditionally viewed as inviolable—a site of family intimacy and privacy. Yet when this space becomes a workplace, it occupies a grey zone between public

¹ International Labour Organization, Convention No. 189 concerning Decent Work for Domestic Workers

regulation and private autonomy. In Switzerland, this ambiguity translates into limited state oversight: Many domestic workers remain effectively excluded from the protection of the Swiss Labour Act² (ArG, Art. 2 para. 1 lit. g). The result is a situation where some of the most intimate and socially necessary forms of work are performed under some of the least protected conditions.

For migrant women, these vulnerabilities are compounded by their residence status. Many hold permits tied to a specific employer or are employed under short-term or irregular arrangements. Losing a job often means losing the right to stay in the country. This dependency creates an environment in which exploitation can flourish, as workers may fear reporting abuse or violations of labour standards. FIZ has repeatedly documented cases where this precarious legal status was used by employers to exert control, delay wage payments, or impose excessive working hours.

The forms of exploitation that emerge in this context are often subtle but pervasive. Workers report being permanently “on call,” expected to provide emotional and physical support far beyond contractual obligations. Live-in carers, in particular, experience a near-total blurring of personal and professional boundaries. The home—supposedly a place of rest—becomes a site of surveillance and unpaid availability. This dynamic, while shaped by individual relationships, is structurally produced by laws that treat domestic space as private and thus beyond the reach of collective protections.

At the policy level, Switzerland’s framework for regulating domestic and care work remains fragmented. *When a care worker is directly employed by a private household, rather than through an agency, the Swiss Labour Act does not apply.* Instead, the federal ordinance on the Standard Employment Contract for Domestic Work³ applies, which sets a mandatory minimum wage. The protections included in the Labour Act—regulations on working hours, presence and rest periods, protection in cases of incapacity due to illness or accident, and maternity leave—do not apply.

² Bundesgesetz vom 13. März 1964 über die Arbeit in Industrie, Gewerbe und Handel (Arbeitsgesetz, ArG); SR 822.11

³ Normalarbeitsvertrag für Arbeitnehmerinnen und Arbeitnehmer in der Hauswirtschaft (NAV Hauswirtschaft); SR 221.215.329.4

These aspects are instead regulated by cantonal standard employment contracts, which vary considerably in their minimum standards across cantons. What is particularly problematic, however, is that these cantonal contracts are *not legally binding*, meaning that employers can contractually limit or waive these rights—a practice that occurs frequently in reality.

The ratification of ILO Convention No. 189 on Decent Work for Domestic Workers in 2015 was an important symbolic step, signalling Switzerland's recognition of domestic work as work deserving of dignity and protection. Despite the ratification, many care workers remain without legal safeguards, highlighting a structural inconsistency in Swiss law. The planned inclusion of live-in carers employed through agencies into the scope of labour law represents some progress, but the majority of directly employed care workers—those hired by private individuals—remain outside the law's reach.

This exclusion raises significant questions regarding the conformity of Swiss law with both constitutional and international standards. It is legally debatable whether it is compatible with Switzerland's obligations under the Constitution and international law that the Labour Act does not apply to directly employed care workers, especially in light of the country's ratification of ILO Convention No. 189. While the convention affirms that domestic work is entitled to the same protections as other forms of employment, Swiss law continues to leave a substantial portion of care workers without the safeguards provided by labour legislation.

The persistent exclusion of this group highlights a core contradiction: while the state relies on private households to meet growing care needs, it simultaneously absolves itself of responsibility for ensuring decent working conditions within them. Addressing this legal gap would require not only formal legislative adjustments but also a critical evaluation of how Switzerland implements its international commitments, ensuring that the protections envisioned by Convention 189 are genuinely accessible to all care workers, regardless of the contractual arrangements with their employers. This contradiction reflects a *broader societal undervaluation of care*. Historically feminized and racialized, care work has long been perceived as an extension of “natural” female roles rather than as skilled labour. By locating care within the private sphere, the state reproduces a model in which care obligations are individualized and

delegated, often to migrant women from economically disadvantaged regions. This process not only reinforces global inequalities but also shifts the burden of social reproduction from the welfare state to private actors.

FIZ's work reveals the human consequences of these structural conditions. In its counselling services, the organization supports women who face unpaid wages, psychological abuse, overwork, or the threat of deportation. In its advocacy, FIZ calls for the extension of basic labour protections to all domestic and care workers, regardless of residence status or employment form. The FIZ-project for 2025–2028 aims to improve access to counselling, raise awareness among employers, and advocate for a stronger integration of care work into existing labour and migration policies.

These efforts underscore that the problem is not merely one of legal omission but of conceptual boundaries. As long as the home remains framed as a purely private space, the state's duty to protect workers' rights is curtailed. Reimagining this boundary is therefore essential. Protecting care workers does not mean invading privacy; it means recognizing that privacy cannot justify exploitation. Ensuring dignity in care work requires acknowledging the home as both a site of intimacy and of labour—and as such, a space where human rights must be upheld.

The Swiss case offers an instructive example for broader debates on migration, care, and the welfare state. It demonstrates that even in contexts with strong legal systems and high living standards, the intimate nature of care work can render it invisible. Addressing this invisibility demands not only better enforcement and clearer legal frameworks but also a *shift in societal understanding*: care must be recognized as central to collective well-being and treated as a matter of public concern.