



International
Labour
Office
Geneva



Conceptualizing the role of intermediaries in formalizing domestic work

Judy Fudge
Claire Hobden

CONDITIONS OF WORK AND EMPLOYMENT SERIES No. 95

INWORK

Inclusive Labour Markets, Labour Relations
and Working Conditions Branch

***Conceptualizing the role of intermediaries
in formalizing domestic work***

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First published (2018)

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Conditions of work and employment series ; no. 95, ISSN: 2226-8944 (print); 2226-8952 (web pdf)

First published 2018

Cover: DTP/Design Unit, ILO

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Printed in Switzerland.

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Abstract

Domestic workers have long provided a range of services for families from cleaning and cooking to caring for children, the elderly and disabled, to driving household members and tending gardens. Despite the crucial services they provide, in many countries, domestic work is characterised by a high incidence of informal arrangements and contributes significantly to informality especially among women. The level of organization of the domestic work sector varies dramatically from country to country. In some countries, domestic workers are hired informally, by word of mouth, through social networks. In other countries, intermediaries – such as agencies, digital platforms, coops and others – play a role in recruiting, placing, and employing domestic workers. As the role of these intermediaries increases, questions arise about the impact intermediaries have on formalizing domestic work and providing decent work for domestic workers.

This paper focuses on the role of labour intermediaries in formalizing domestic work. A scoping study was conducted to construct a typology of intermediaries that are active in the domestic work sector in different countries, regions and locations. This typology also identifies the employment relationships and services that are associated with different types of intermediaries operating in the domestic work sector. The paper also proposes an adapted framework to measure the outcomes of various types of employment arrangements, according to the type of intermediary used. The paper found that intermediaries have the potential to improve labour market outcomes and formalize domestic work; however, they can also lead to a deterioration in working conditions and informal employment. While intermediaries can provide useful vectors for organizing and promoting compliance, they can also work against the identification of employment relationships and the implementation of the rights normally conferred through these. The paper concludes with suggestions as to the conditions under which such intermediaries can play a positive role in formalization, service provision and improvement of working conditions

Keywords: domestic work, formalization, care, intermediaries, digital platform

1. Introduction

Globally, some 67 million women and men work as domestic workers, caring for homes and families. Domestic work enables members of the employing household (most often the women) to shift larger shares of their time and energies from unpaid household and care work to remunerative work, leisure and social relations (ILO, 2016a).¹ In these ways domestic workers also support the functioning of economies and communities. Moreover, the number of domestic workers is likely to increase. Employment activation strategies for women and the rising proportion of the population that is elderly is likely to result in an increase in the demand for workers who are employed in private homes to provide much needed care and household tasks. The shift from institutional to domicile-based care for older or disabled persons with care needs, which is driven by a combination of care recipients' desire to have more control over their care and by governments' concern to reduce the cost of care to taxpayers, also contributes to a growing need for domestic workers.

Despite the significance of domestic work, many households do not make use of formal arrangements.² In fact, the incidence of informal employment among domestic workers is among the highest of all wage employees, with the ILO estimating that worldwide about 50 million of the 67 million domestic workers are in informal employment (ILO 2016a, 9). Cost concerns, complexity, lack of information or the belief that domestic work is not real work results in high levels of informality among domestic workers. So, too, does irregular migration. In 2015, the ILO estimated that there were 11.5 million migrant domestic workers in the world, a figure that does not include those migrant domestic workers who are not documented (Gallotti, 2015). The problem is that decent work deficits are most pronounced in the informal economy; ILO Recommendation 204 on transitions from the informal to the formal economy calls on member states to pay special attention to those who are especially vulnerable to the most serious decent work deficits in the informal economy, with specific reference to domestic workers, among others.³ Thus, the challenge is to find ways to facilitate the transition of domestic workers from the informal to the formal economy; promote the creation, preservation

¹ The ILO estimates put the number of domestic workers, aged 15 years and older, at 67 million globally as of 2013. (This is a conservative number based on national official employment statistics. Many more may be performing domestic work for households, within an employment relationship, but escape official labour force and employment surveys and censuses for various reasons (ILO 2016a, 3; ILO, 2015). The term “domestic work” encompasses the wide spectrum of services performed by persons in and for private households. ILO Convention 189, Article 1, defines “domestic work” as “work performed within or for a household or households... within an employment relationship”. Thus, domestic work includes domiciliary care for the elderly or for people with disabilities, whether publicly or privately funded, and whether the workers are hired directly by the household or through a private agency (profit or non-profit), as long as it is performed within or for a household or households. In some cases, such domiciliary care is subsidized, wherein households can gain access to public funds to purchase the services of a domestic worker directly. The variety of possible tasks – including cleaning, gardening, cooking and a range of personal care activities and services –carried out by domestic workers depends on the socio-economic situation of a particular area or country and the policy context, which determines the kinds of household and personal services demanded by private households.

² In 2003, the International Conference of Labour Statisticians (17th ICLS) adopted a broad statistical definition of informal employment that captures these diverse situations and criteria. Waged workers are considered to be in an informal employment relationship if their employment, in law or in practice, meets one of the following criteria: not regulated by national labour legislation, not covered by social security, not subject to income taxation, or if it does not provide access to certain employment benefits (for example, advance notice of dismissal, severance pay, paid annual or sick leave, among others).

³ ILO Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)

and sustainability of decent jobs in domestic work in the formal economy; and to help to prevent the informalization of formal jobs in domestic work.

While the vast majority of households are presumed to find domestic workers through word of mouth, employing them directly from the informal market, intermediaries also play a significant, and possibly growing role in the recruitment, placement and employment of domestic workers. What remains in question is the impact these intermediaries may have on working conditions in the sector. This paper focuses on the role of labour intermediaries in formalizing domestic work. Facilitating the transition of domestic work from the informal to the formal economy entails promoting the creation, preservation and sustainability of enterprises and decent jobs in the formal economy and the coherence of macroeconomic, employment, social protection and other social policies, as well as preventing the informalization of formal economy jobs (ILO Recommendation 204, Article 1). Intermediaries have the potential to improve labour market outcomes and formalize domestic work; however, they can also lead to a deterioration in working conditions for domestic workers and trap them in informality. This difference in outcomes is attributable to the fact that the regulatory and institutional context shapes the “market” for domestic workers and the role that intermediaries play in the market.

This paper develops a conceptual framework to make sense of the complexities surrounding the role of intermediaries in formalizing the employment arrangements of domestic workers. It is intended to serve as a first step towards, and basis for the development of methodologies to evaluate the impact of intermediaries on formalization and working conditions. The framework was developed on the basis of a review of articles, books, and published and unpublished studies, briefs and reports that discuss the role of intermediaries in the provision of domestic work. The purpose of the review was to gain a comprehensive picture of the different types of intermediaries, their functions and their influence on the nature of the domestic workers’ employment relations and conditions of work in a range of countries with different levels of development. The goal of the paper is to develop a framework that could be used to evaluate the impact of intermediaries on the working conditions and formalization of domestic workers. After explaining the framework, the paper then applies it to “real life” examples of intermediaries in action to see if a clearer understanding of the role of intermediaries can provide a better basis upon which to engage intermediaries in the process of formalizing domestic work and improving the conditions of domestic workers.

The paper has two sections: the first describes the framework, which has three components. It begins by setting out a typology of the different types of intermediaries that are involved in the recruitment and employment of domestic workers. The typology identifies the different types of intermediary, highlighting their legal status and defining characteristics; the services they provide; and the typical employment relationships with which they are associated.

The second component of the framework comprises the measurement criteria of formalization, along with proposed indicators that could be used to evaluate the employment outcomes for domestic workers (ILO 2016a, 13). The framework’s third element includes two dimensions of the broader regulatory context that influence the type and functions of labour intermediaries in relation to domestic workers. The general social and economic regulatory context, especially regulations pertaining to tax, immigration, and health and child care, influence the supply and demand for domestic workers as well as the type of labour intermediaries and the services that they provide. In addition, labour and social security law shape the immediate environment in which employers, intermediaries and domestic workers interact. These interactions create a spectrum of employment arrangements that are likely to result in different outcomes for domestic workers.

In the second part of the brief, the conceptual framework is used to evaluate the role of different types of intermediaries in the process of formalizing domestic work. The brief concludes by

identifying the conditions under which intermediaries can contribute to formalizing domestic work.

2. Conceptual framework for analyzing and evaluating the role of intermediaries

2.1 Typology of intermediaries

The term “labour market intermediary” traditionally referred narrowly to organizations that perform job brokering or matching activities. In the current environment, this definition of a labour market intermediary is too restrictive as it fails to capture the full range of strategies and institutional arrangements emerging in response to changing labour market realities. This brief adopts a broader understanding, one which recognizes that the functions of labour market intermediaries include: 1) working to improve the efficiency of the job matching process (accepting the labour market as given); 2) working to improve the ability of supply-side workforce development institutions to meet employer needs (accepting employer demand as given); 3) trying to change employer demand for labour in ways that reduce inefficiencies and inequalities in wages, benefits, job security, and advancement; and 4) providing personnel and human resource services (Autor 2009). In practice, not only do the boundaries between these different functions blur and overlap, with organizations that initially specialized in one approach experimenting with more varied and multi-faceted initiatives; moreover, a range of different types of actors and institutions can fulfill some or all of these functions.

There is a wide range of private intermediaries that provide a variety of services for households and domestic workers, as well as governments, which in some countries operate public agencies, or provide the funding for various forms of home-based social care. Private intermediaries can be for profit, or non-profit, suggesting a diverse range of objectives among intermediaries. It is possible to identify “ideal” types of intermediaries that can be distinguished on the basis of their legal status (which typically refers to how they are controlled), functions and associated employment arrangements. The different intermediaries involved in domestic workers’ employment arrangements can operate alone or in tandem with other intermediaries and they include informal networks of families, acquaintances and churches⁴; quasi-public or public authorities or enterprises; private (either for profit or not-for-profit) employment agencies; not-for-profit and for-profit enterprises, including workers’ cooperatives; digital platforms; and trade unions.

Intermediaries can provide services for the employing household (such as recruitment), the domestic workers (training and representation), or government funding agencies (the entire range of personnel services from recruitment to termination). These services can include matching domestic workers to households, recruiting (either intra-nationally or internationally) domestic workers and directly employing domestic workers. Unions not only engage in collective bargaining with employers or employer associations, they can be involved in training and placing domestic workers.

i) Private recruitment and employment agencies

Recruitment and employment agencies can either be private formal, legal entities, usually regulated by national or sub-national governments, or informal and unregulated entities. When they operate across national borders, these agencies can also be regulated through bilateral

⁴ While informal networks and churches sometimes play an important role in job matching on the informal market, they are not the subject of this paper, and therefore will not be discussed further.

agreements. They can be for-profit or not-for-profit, and these agencies provide one or more of the following labour market services:

- (a) matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;
- (b) employing workers with a view to making them available to a household, or
- (c) relating to jobseeking that do not set out to match specific offers of and applications for employment.⁵

This kind of intermediary can recruit either resident workers or migrant workers.

If the only services the agency provides pertain to recruitment and matching, then typically there is a direct employment relationship between the domestic worker and household. Intermediaries that provide recruitment and placement services may evolve into or overlap with those that provide a range of direct employment services. In these cases, the employment agency is the direct employer of the domestic worker, and it has a service agreement or contract with the household.

ii) Public authorities or enterprises

Public enterprises can also provide personnel and human resource services for households, match domestic workers and employers and, in some cases, provide training for domestic workers. They can both directly employ the domestic workers or they co-ordinate and fund another level of intermediaries that is the domestic worker's direct employer, sometimes through public private partnerships. In the first scenario, the public enterprise directly employs the domestic worker, and it has a service agreement with the household. In the second situation, the public authority enters into a service agreement with another intermediary, which may be a private employment agency, a private enterprise or a cooperative. In this case, typically the second intermediary is regarded as the direct employer of the domestic worker, and it has a service agreement with the household. In other cases, the public authority simply provides funds for private households to employ domestic workers, and the households may either directly employ the domestic worker or may enter into a service arrangement with another intermediary that is the direct employer of the domestic workers.

iii) Private enterprises

In some countries, private enterprises, organized on either a for or not-for-profit basis, not only recruit workers, they set the terms and conditions of work, determine schedules and may provide training for the workers.⁶ The private household is only a consumer whose contractual relationship is with the service-providing organization, although the workplace continues to be the private home and the householder may supervise the worker. Typically, the private enterprise has a direct employment relationship with the domestic worker. When there is no licensing system, this type of intermediary can overlap with those under section 1. If there is not a system of licensing for agencies, then the subjects under 1b can go under here.

iv) Cooperatives

Workers' cooperatives can also function as intermediaries that provide a range of services to domestic workers and the households that employ them. Workers' cooperatives are a form of enterprise that is owned and democratically controlled by their members, who are also

⁵ C181 Private Employment Agencies, Article 1.

⁶ These private enterprises can also be workers cooperatives, which is a category of intermediary that is discussed separately below.

workers/employees themselves.⁷ Cooperatives for domestic workers are considered as a form of social enterprise. They can recruit, train and place worker members, as well as function as the direct employer who provides services to households. Alternatively, workers' cooperatives can simply function as recruitment and placement services for domestic workers, with the household as the direct employer.

v) Unions

Unions are membership-based organizations that represent domestic workers. They can engage in collective bargaining with corporate enterprises, workers cooperatives and public authorities that directly employ domestic workers. In addition, when jurisdictions allow for sectoral collective bargaining, unions can negotiate sectoral agreements with employers' associations that represent individual households, as well as non-profit or for-profit enterprises (ILO, 2015). Some unions place and train domestic workers using a variation on the traditional hiring hall.

Table 1 Typology of intermediaries

Type of intermediary	Functions			Employment arrangements		
	Recruitment	Training	Personnel services	Direct*	Indirect**	Self-employ (incl. disguised)
Recruitment and employment agencies	X		X	X	X	X
Public or quasi-public authorities	X	X	X	X	X	
Not for profit enterprises	X	X	X	X		
For-profit enterprise	X		X	X		X
Workers' cooperative	X	X	X	X	X	
Trade unions	X	X		X		

* Direct refers to an employment relationship between the domestic worker and the private household.
**Indirect refers to an employment or other type of relationship between the domestic worker and the intermediary, on the one hand, and the intermediary and the private household, on the other.

vi) Digital platforms

Both domestic workers and consumer households are increasingly turning to digital platforms to match supply and demand. There are three key groups involved in the on-demand "triangle": 1) on-demand domestic work platforms; 2) those purchasing domestic work services (demand side); and 3) domestic workers offering services via on-demand platforms (supply side). As with other intermediaries, the existence of an employment relationship depends on the role and functions of the platform. In some cases, digital platforms simply match domestic workers with private households, and are not involved with directing the work and setting the working

⁷ A cooperative is defined by the International Cooperative Alliance, the International Labour Organization and the Government of South Africa as "an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise." ILO Promotion of Cooperatives Recommendation, 2002 (No. 193).

conditions. In other cases, digital platforms establish the payments that the domestic workers receive, ensure a certain quality of service, or a branding of their services. In these cases, it may be difficult to determine whether or not there is an employment relationship between the worker and the platform, and, if so, whether the platform or the household is the direct employer.

2.2 Measuring the impact of intermediaries on formality and decent work

In a given country, many such intermediaries co-exist, and many domestic workers use no intermediary at all. The type of intermediary used, and the labour and social protection frameworks in place, can generate different outcomes across the sector. For instance, a domestic worker directly employed by a household may not enjoy certain labour protections that cover a domestic worker hired by an enterprise and placed in a household, or vice versa, and their working conditions might differ as well. Two domestic workers may be performing the same tasks, and enjoy the same labour and social rights, but face different practical barriers to accessing their rights, depending on the type of intermediary used (or when no intermediary was used). Given the wide spectrum of domestic work and variety of employment arrangements, as well as the continuum between formal and informal employment arrangements, it is therefore critical to identify a common framework for measuring the outcomes of these various arrangements. This section proposes such a framework, with proposed indicators, based on ILO understandings of formalization and decent work.

Informality or formality may be conceived as a continuum. In 2016, the ILO proposed indicators of each end of the continuum in domestic work, wherein:

“the informality extreme of the continuum is represented by the absence of employee status and lack of any minimum rights and entitlements, such as social security and paid annual leave. At the other extreme is absolute formality in terms of social security access and registration, public registration of the employment contract, and written employment records (such as contracts or pay slips). In between these poles are found the varying forms and degrees of informality or formality” (ILO 2016a, 13).

As such, formality should be understood as a subset of conditions, each of which contributes to formality, but do not, by themselves, suffice as conditions to be considered formal. These conditions can be found in Table A1 in Appendix.

Because one of the goals the Recommendation 204 on the Transition from the Informal to the Formal Economy is to promote sustainable decent work, the list of proposed indicators also include outcomes that are associated with decent work. Thus, a job may be fully formal, but the working conditions may nonetheless be poor. The inclusion of working conditions indicators into the framework ensures that the effectiveness of protections is taken into account when assessing the impact of various employment arrangements.⁸

The choice of indicators will of course vary depending on the specific research questions to be answered, availability of data, and national context. Table A2 in Appendix provides some suggested indicators as a starting point. The list is not exhaustive, and indicators would have to be adapted to national contexts. These indicators could then be compared against the same indicators for the workforce at large, in order to assess the extent to which informal and/or indecent working conditions are concentrated in the sector.

⁸ For a discussion of the goal of decent work as it pertains to domestic workers see ILO 2010.

2.3 Regulatory context

i) Social and economic regulation

Broader tax and social policies influence the demand for different kinds of work performed within a private household. Moreover, this broader regulatory context also shapes the market for domestic service. In many countries, care for the elderly and persons with disabilities has shifted from being a matter that was primarily the responsibility of unpaid family members (mostly women), with some aid being given by the state through the provision of services, to a system in which the state provides cash allowances to purchase care hours on the marketplace (Mundlak and Shamir 2014). Social investment (namely, childcare, disability and elderly care programmes) in the care economy “creates a virtuous circle of redistribution and reduction of unpaid care work, along with the creation of paid work which can support economic growth, minimize the intergenerational transfer of poverty and increase social inclusion” (ILO 2016b 989). Immigration policies and laws can also be used to create a supply of migrant domestic workers, whose status may either be formal or irregular. In some, mostly developed, countries, the privatization of social and elder care combined with deinstitutionalizing has created a high demand for domiciliary care. In order to make formal jobs cost-attractive, some countries use fiscal instruments, such as income tax deductions or tax credits for households that employ domestic workers or pay for domestic services (such as in Belgium, Denmark, Finland, France, Germany, Italy, and Sweden), reduced social security contributions for domestic workers or employers (France, Germany); tax benefits to employers who pay domestic workers social security contributions (Argentina) or reduced VAT charges on domestic services provided by enterprises (France and Netherlands) (ILO 2016a). In other countries, especially those with low levels of economic development or where women are confined to traditional gender roles, the state has not accepted responsibility for providing for the population’s care needs, which may contribute to high levels of informal domestic work.

These kinds of regulations and policies influence the demand for different types of domestic labour and often create an important role for intermediaries. When the state responds to the social care needs of its population by funding domicile-based care, intermediaries, such as public authorities in California that function as employers with which unions bargain collectively (Delp and Quan 2002), can lead to formal employment arrangements and improvements in working conditions.

Immigration policies can also shape the supply of domestic labour and create a demand for intermediaries. For example, Canada has long relied on a dedicated immigration stream providing migrant workers with access to the Canadian labour market on conditions that they provided domestic services in a private household. Over time, the conditions for obtaining a work visa have changed, as has the nature of the work, shifting from domestic work, to childcare, and now including a range of highly skilled care services for elderly and disabled family members (Fudge 2011). Immigration laws in many jurisdictions, from the Gulf States to Hong Kong and the UK, provide dedicated streams that govern domestic workers. In other countries, migrant domestic worker may have an irregular migration status that makes them more likely to be employed in informal and unacceptable employment arrangements. Migrant domestic workers usually rely on some kind of intermediary (whether informal or formal) to facilitate their employment in the country of destination. Where the domestic worker’s employment falls on the spectrum of formal and informal employment depends on the type of intermediary and the regulatory context in which it operates.

Business and commercial regulations also influence the ease with which employment agencies can be established and the extent to which they can be held accountable for unscrupulous practices. In some countries, recruitment and employment agencies are highly regulated, with stringent licensing requirements. In the case of cross-border agencies, requirements can include the posting of bonds that can compensate workers for unpaid wages or illegal placement fees. In some countries, agencies can be the subject of inspections and other measures to promote

compliance. Regulations that require employment and recruitment agencies to be licensed and bonded may assist in formalizing domestic work or may result in informal jobs in domestic work. Digital platforms however may fall outside of the scope of such regulations. Some jurisdictions have regulations that are conducive to the establishment of workers cooperatives, whereas in others, this kind of entity is an anomaly. Thus, business regulation influences the nature, function and operations of intermediaries that are involved in the employment of domestic workers.

Thus, the aspects of the broader regulatory context that play a role in shaping the nature and function of intermediaries that are involved in the provision of domestic work include:

- Social policy – social care and child care – privatization, vouchers
- Immigration policy
- Tax policy
- Business regulation (especially for intermediaries and cooperatives), including licencing regulation

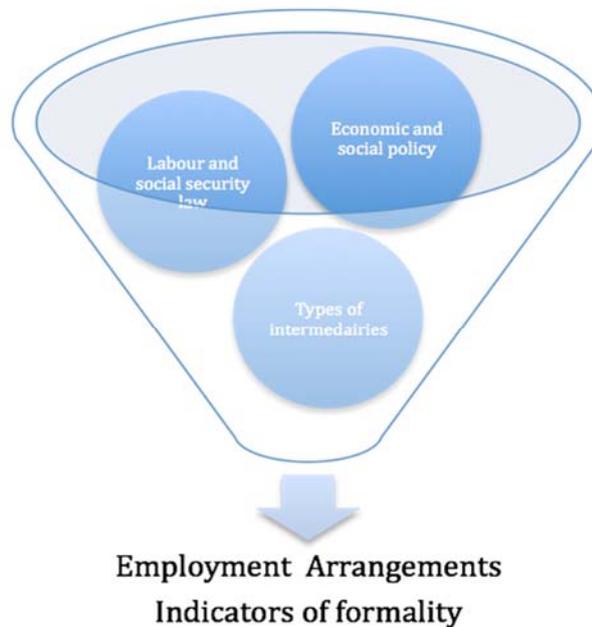
ii) Labour and social security law

Labour and social security law and associated regulation, and the extent to which these laws are complied with and enforced, will also influence the supply and demand for domestic workers and the arrangements under which they are employed. Restrictions on working age and training requirements, for example, influence who can work as a domestic worker, while requirements for employers to pay a minimum wage, overtime and social security contributions impose costs that influence demand and rates of formalization.

Falling within the scope of labour and social protections is an indicator and necessary precondition –albeit not a sufficient condition - of formalization, and thus the role of labour and social security law in formalizing domestic work is crucial. Domestic workers are often excluded from the scope of labour laws, in whole or in part. In other cases, categories of domestic workers may not meet threshold requirements for accessing benefits (ILO 2016a). Difficulties in implementing laws and ensuring compliance can also lead to low rates of effective coverage, informal employment practices, and poor working conditions. The actual result of laws is contingent, depending on a range of factors, including their scope and manner of implementation, and on the understandings and beliefs among “market actors” beyond the scope of the legal system, and on broader contextual factors (Deakin 2011).

The figure below attempts to illustrate how broader economic and social policies combine with labour law and social security laws and institutions *and* different types of intermediaries with a range of outcomes for domestic workers employment relations and conditions of work. It is the *interaction* of these three elements or dimensions that is critical influencing the extent to which the domestic workers’ employment relationship is formal or informal and the resulting employment outcomes.

Figure 1 Conceptual framework



3. Application of the framework

This section applies the framework to a selection of intermediaries who are involved in the employment of domestic workers in different national regulatory contexts. The examples discussed were chosen in order to illustrate the role that different types of intermediaries play in formalizing domestic work and the significance of the regulatory context in contributing to a positive process of formalization.

3.1 *Private recruitment and employment agencies*

Most private agencies simply match domestic workers to employers. When private employment agencies are effectively regulated, they can lead to higher rates of formalization. Formal and regulated recruitment and employment agencies are normally required to be licensed, although the requirements of licenses vary considerably from light touch regulation in the UK to a much more onerous regulation in several jurisdictions in Canada, which includes the posting of bonds when migrant workers are recruited (Fudge and Parrot 2013). In Ghana, there is a registration and licensing regime for recruitment and employment agencies that place (national) domestic workers in households. Although they are the exception rather than the rule in Ghana, licensed recruitment agencies provide health checks and training for domestic workers, in addition to requiring employers to enter into formal employment relationships with the domestic worker. In this instance, private employment agencies can be used to fashion more secure and full-time employment, and to ensure that labour relations and social security contributions are being met (Tsikata 2012, 261).

Lightly regulated private recruitment and employment agencies are often associated with the imposition of placement fees on domestic workers and unpaid wages, especially in situations in which migrant workers are being recruited (Fudge 2011). ILO tripartite guidelines on private agencies has taken a zero fee approach to ensure protection from abuse, in part because high up-front fees can lead to unacceptable forms of work, debt servitude and forced labour. The practice also exists within national recruitment systems: in China, most intermediaries are private recruitment and employment agencies that simply offer placement services, and many

charge placement fees. It is not infrequent for domestic workers to encounter fraudulent practices perpetuated by recruitment agencies. Contrary to those domestic workers hired by enterprises, domestic workers who are placed by intermediaries are not considered to be employees (Minghui 2017). The impact of such agencies on the domestic work sector therefore vary widely, indicating a need to ensure effective regulations and monitoring of compliance of these actors.

The type of recruitment and employment agency regulation and the extent of its enforcement are thus critical factors shaping whether or not domestic workers have a formal employment relationship with the household, whether the employment relationship is recognized or not, and the extent to which domestic workers enjoy effective protections. There also appear to be differences according to whether these agencies recruit workers from abroad.

3.2 Public authorities or enterprises

In some jurisdictions, California and Quebec for instance, public authorities play a pivotal role as intermediaries in the market for domestic workers. In California, a union launched a campaign to have the public authority established and recognized as the employer of record so that it could engage in collective bargaining for its members, the home care workers. First, it had to organize the home care workers, and then it worked in coalition with the consumers of home care to pressure county councils to recognize the benefits of collective bargaining for the workers and care consumers. Eventually, this coalition was able to persuade the state authorities to pass legislation establishing a public authority for the purpose of collective bargaining, which takes place at the county level. The collective agreement between the public authority and the union governs domestic workers' wages and working conditions. However, a distinctive feature of the arrangement is that the care recipient has the power to hire and fire the domestic worker (Delp and Quan 2002). The establishment of the public authority that acts as the direct employer has resulted in collective bargaining, formalized employment arrangements, social security coverage and led to improvements in domestic workers' terms and conditions of employment (see Figure 2). It is important to note that this arrangement applies only to those workers who are defined as home care workers under the law, and not to other occupations defined as domestic work, leaving a vastly informal market of domestic workers providing similar services, though without this level of formality and protection.

In Quebec, home support services are coordinated by public agencies “and include personal assistance (personal hygiene, help with eating and getting around in the home) and home help (housework, preparation of meals, laundry)” (Boivin 2016, 304-5). The local public agencies called health and service centres (CSSSs) have service contracts with non-profit organizations and cooperatives, called social economy domestic help enterprises (SEDHEs), to deliver home support services. In turn, the SEDHEs directly employ the domestic workers – mainly women – who provide short-term home care and support services (under three months) in private household to clients who need their services. Unions negotiate collective agreements directly with each SEDHEs (see Figure 3). Working conditions outcomes however are mixed: although the employment relationships are formal, and the workers are covered by social security into which the employers contribute, the way that the work is organized is based on many unpaid periods of compulsory availability (Boivin 2016, 313).

Figure 2 Unionized public enterprise as direct employer: California

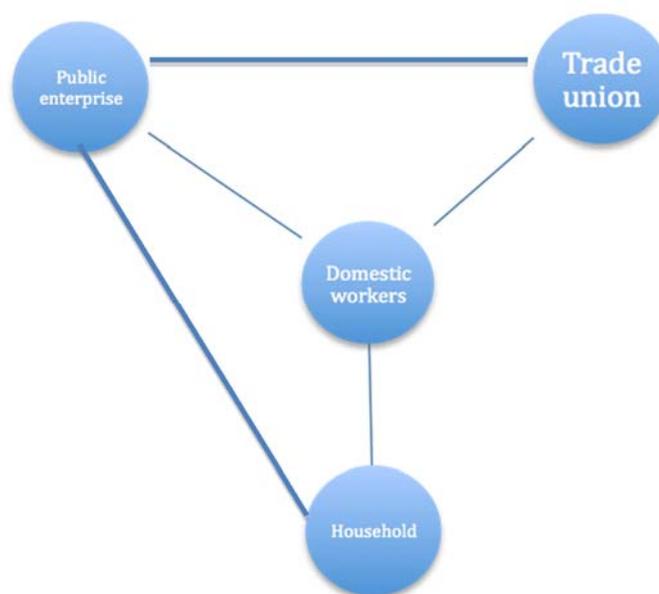
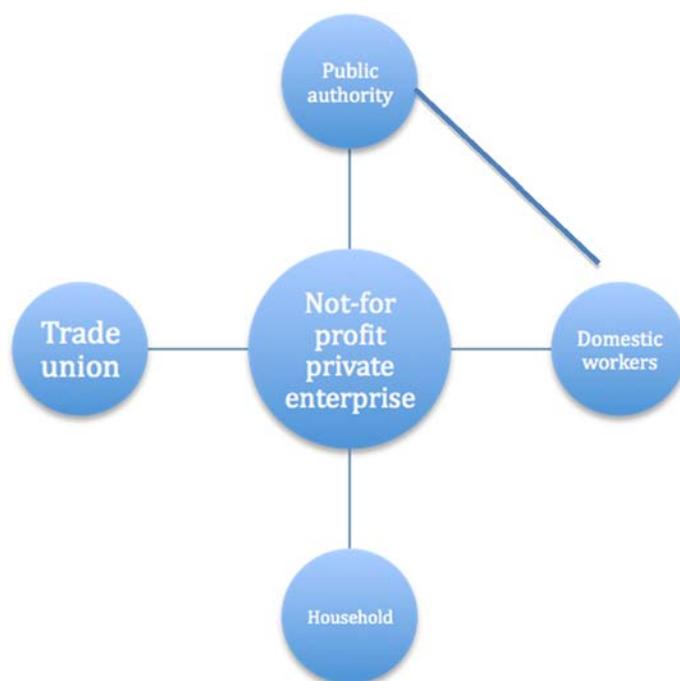


Figure 3 Public authority and private not-for profit enterprises: Quebec



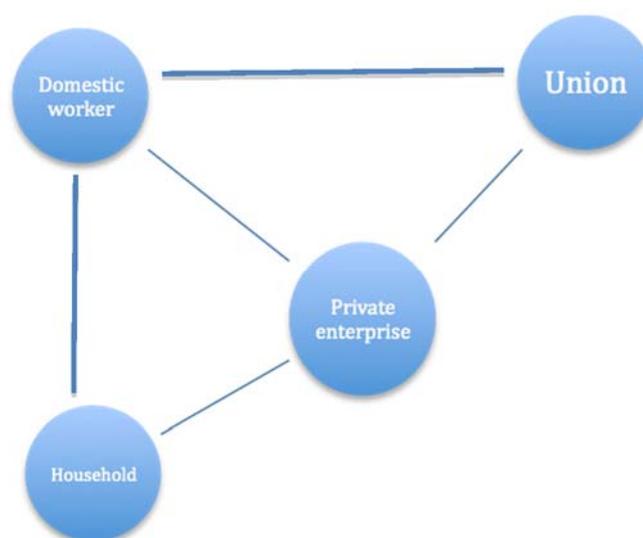
Thus, while public authorities that act as intermediaries in the market for domestic workers can help to formalize the employment arrangements and cultivate decent work through fostering collective bargaining, the nature of employment relationship depends upon the regulatory context, and the use of private intermediaries to provide care services to households. In California, for example, the public authority acts as the direct employer, although the private

household retains some employing functions. By contrast, in Quebec, the public authority is not directly involved in the employment relationship, although it funds and co-ordinates a network of not-for-profit organizations and cooperatives that directly employ the domestic workers. In the UK, by contrast, the public authority enters into service arrangements with private intermediaries, which directly employ the home care workers, who are often engaged in informal arrangements with poor working conditions and few labour rights (Hayes 2016).

3.3 Private enterprises

In France and Belgium, there are publicly funded voucher systems for households to subsidize their access to domestic work. In both countries, the households enter into a service agreement with a private enterprise. In France, private householders can purchase domestic services from a private sector, licensed company (“organisme prestataire”), which employs a team of domestic workers. In this case, the employment relationship is between the company and the domestic workers, and unions represent the workers and bargain with the companies (ILO 2016a, 22; and see Figure 4). However, direct employment of domestic workers by households predominates in France, and these workers are covered by the labour code and by a collective agreement (Tomei 2011). In both the mediated and direct employment relationships the employment relationship is formal, regulated by labour and social security law and providing access to social protection. Moreover, the voucher system is available to all domestic workers, irrespective of the type of intermediary (or absence of intermediary) being used. Although vouchers do normally formalize employment relationships, in that they offer access to social security, they do not necessarily lead to improved working conditions. In Belgium, some parts of the voucher system are virtually unregulated and the private employment agencies that participate in it are known to violate domestic workers’ labour rights (Michielsen et al. 2013).

Figure 4 Unionized for-profit private enterprise as direct employer: France



In China, in some cases, domestic service enterprises directly employ domestic workers, who are then dispatched to specific household to provide domestic service. The enterprise, which is private and for-profit, charges a management fee and sets the wages of domestic workers based on a Domestic Service Agreement signed with the client (typically the head of the household). The enterprise is required to provide free occupational training to the domestic workers and cover the cost of social insurance for the employees. It also helps to settle disputes between

domestic workers and their clients and assists domestic workers in protection their rights. In Beijing, the government subsidizes these enterprises in order to assist them in covering the domestic workers' social security insurance contributions. Domestic workers employed in the employee-system-based enterprises are considered employees under the law, and so are also entitled to be paid the minimum wage during breaks between assignments (Minghui 2017). As a result, staff turnover is reduced and the workers are very qualified. However, only the domestic workers employed by domestic service enterprises are covered by labour and social insurance laws, while the others only covered only by contract law under Chinese civil law.

In South Korea, the public Long Term Care Insurance has resulted in the emergence of private sector, for-profit enterprises that formally employ care workers who are deployed to private households. However, South Korea has also seen a parallel system of workers dispatched by private employment agencies to work in the homes of the ill and elderly. Since these workers fall outside the scope of labour law protection they are treated as informal workers (Yun 2017). These examples show the extent to which an intermediary contributes to either the formalization or informalization of domestic work depends both upon the type of intermediary involved and the specific regulatory context in which the intermediary operates.

3.4 Cooperatives

Domestic workers' cooperatives, run by their members, have offered an alternative to private employment agencies across a number of countries. They can assist domestic workers with economies of scale, voice and representation, as well as a wide array of support services that help formalize their work.

In India, workers' cooperatives have been successful labour intermediaries for domestic workers, creating and sustaining employment and contributing to decent work (Nirmananda). In some contexts, the cooperative may simply function as a recruitment agency and the household is the direct employer, but in others, such as in the Quebec example discussed above, the cooperative is the direct employer of the domestic workers. In the Quebec case, the members of the cooperatives joined trade unions, which collectively bargain with the cooperative. In South Africa, some trade unions launched or supported the formation of domestic workers' cooperatives so that members could gain access to employment via the cooperative as well as access to the services it offered such as education and training, child care, access to housing, etc. (Galani, Tiemeni and Du Toit 2015). Alternatively, a workers' cooperative of domestic workers may be able to register as a trade union, or to support its members in joining an allied trade union or, in the absence of such a union, to create a trade union consisting of members, for the purpose of entering into collective agreements and performing other trade union functions.

Workers' cooperatives can help to ensure that the householder abides by the terms of the employment arrangement, labour and social security law. When they operate as the direct employer, workers' cooperatives can pay the workers' social security contributions and abide by labour laws.

3.5 Unions

Some unions, such as the Hong Kong Federation of Trade Unions and Hong Kong Domestic Workers General Union, place and train domestic workers using a variation on the traditional hiring hall. A trade union run training center, the Confederation of Trade Unions Training Center, trains workers, while the union sets terms of employment that are implemented through a contract when employers come to the center to hire a worker (ILO, 2015). A similar model is run by the *Union Personal Auxiliar de Casas Particulares* (UPACP) in Argentina (Rodriguez Nardelli, 2016). In general, trade unions can – under the auspices of labour law and freedom of association – provide a singular venue for democratically asserting the voice of domestic

workers regardless of their citizenship or migration status. Trade unions provide a range of services for domestic workers, including legal assistance, helping to resolve disputes with employers, negotiating and upholding collective agreements, and participating on tri-partite boards that set the labour standards for domestic worker.

3.6 Digital platforms

On-demand platforms are emerging and growing rapidly in both developed and developing countries, driven by “increased digital connectivity and availability of financial services, as well as an increasingly tech-savvy and affluent middle class” (Hunt and Machingura 2016, 7). Most platforms are set up by for-profit private enterprises, although workers establish informal groups and workers’ cooperatives have used platforms. The platforms facilitate the access of consumers to a range of care and domestic work services, such as cooking, cleaning, child and elderly care. While they can increase the transparency of recruitment-related payments, they do not necessarily take responsibility for working conditions. For example, a study of digital platforms for domestic work in South Africa found that the two largest platforms operating in the country, Domestly and SweepSouth, expressly state that they are not employers or an employment service (Hunt and Machingura 2016, 21). For the purpose of domestic workers’ access to labour law and social protection, the critical question is the legal characterization of the platform; is the platform considered to be merely matching demand and supply of services, or is it actually intervening in directing the work, and establishing some of the working conditions such as working time, wages, and monitoring systems such as a traditional employer would?

The on-demand economy for domestic work presents specific challenges because of the problems of identifying employees and employers for the purpose of labour law and social protection. If the platform is characterized simply as matching supply and demand, then the domestic workers may find it difficult to claim to be employed either by the platform or the household; the services then risk being classified as provided under self-employment status. This may have implications on the right to organize, collective bargaining and labour protections, since these rights may be reserved exclusively for employees in many jurisdictions; this could be a driver of decent work deficits (De Stefano 2016). Moreover, since on-demand platforms are designed to facilitate service purchaser choice, trust and service quality assurance they provide systems that rate and review workers. Such rating and reviewing systems also allow consuming households to select workers based on demographic characteristics such as age or gender. As such, some studies have found that they disproportionately benefit purchasers, and reinforce the unequal power relations and discriminatory structures underpinning the traditional domestic work sector (Hunt and Machingura 2016, 6). In addition, some on-demand platforms seem to charge fees to workers for acceding to their services, something that can be at odds both with the ILO Domestic Workers Convention (189 and with international labour standards governing private employment agencies (De Stefano and Wouters forthcoming).

Yet, the on-demand economy also offers opportunities for organizing domestic workers and for formalizing their employment relationships since platforms pool together large groups of workers who may otherwise operate as isolated individuals (Dewan and Randolph 2016). On-demand platforms can be combined with other types of intermediaries to improve the working conditions of domestic workers, ensure their labour and social protection and to give them voice. For instance, domestic worker cooperatives are experimenting with Coopify, an emerging application and online platform that lets the users select the service they need through worker cooperatives, enhancing members’ competitive advantage. However, if, on the one hand, these intermediaries can play a role in formalizing domestic work, on the other hand, some scholars have highlighted that platform-work can give rise to practices that lead to misclassification of employment relationships, with a potential implications on social security and tax obligations, therefore driving undeclared and underdeclared work, and thus, informality (De Stefano 2016). The potential effect of these service providers or intermediaries depends

largely on the laws and policies regulating employment at large, domestic work and enterprises/agencies, as well as the platforms.

4. Conclusion

This conceptual framework began by providing a typology of different types of intermediaries, the services they provide and the types of employment arrangements associated with them. After identifying the indicators of formality, it turned to the regulatory context, emphasizing broader social, economic and immigration laws and policies, which together with labour and social security laws, influence the extent to, and ways in which, intermediaries can contribute to or undermine the formalization of domestic work. The conceptual framework was then applied to a range of real-life examples in which intermediaries are involved in the employment of domestic workers. This application leads to the following preliminary conclusions about the impact of intermediaries on the formalization of domestic work.

- State incentives on households (usually through some form of cost subsidy) to formalize domestic work are critical for the process of formalizing domestic work.
- Transparent, simple and effective regulation of the various forms of intermediaries (recruitment and employment agencies, cooperatives and platforms) promotes formal employment relations.
- Intermediaries that are accountable and give voice to domestic workers will foster formal employment relationships and decent work.
- Intermediaries that directly employ domestic workers and dispatch the workers to households are easier to regulate, more conducive to formal employment, and tend to have better employment outcomes for domestic workers.
- Intermediaries that respond to the needs of both domestic workers and households by reducing transaction costs, simplifying employment and registration procedures, and providing value to households (such as training for domestic workers) promote formal employment relations.
- Clear legal tests for establishing employment status and attributing responsibility for employment-related obligations are essential for combatting sham self-employment.
- Inclusion of domestic workers within the ambit of labour and social security laws is a necessary pre-condition for formal employment, although it is not a sufficient condition.
- Regulation of digital platforms that focuses both on consumers and the service providers will foster formal employment relationships.

A key finding is that the regulatory context, especially that pertaining to labour and social security laws, but also business regulation, immigration law and social care policy, plays at least as significant a role as the type of intermediary in the process of formalizing domestic work.

While this working paper offers some initial conclusions regarding the impact of intermediaries on the formalization of domestic work, empirical research will be necessary to measure the impact of intermediaries across a range of employment arrangements in the sector. To this end, the authors of this paper hope that the conceptual framework and proposed indicators will be put to use by researchers to generate further knowledge on the impact and potential role of such intermediaries.

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Appendix

Table A1 Suggested decent work and formalization indicators in law and practice

Dimensions	Indicators	Informality	Formality
Labour rights legal framework	<ul style="list-style-type: none"> • Legal recognition of employee status with associated entitlements as an employee (all occupations that fall within the definition of domestic work as per C189) 	<ul style="list-style-type: none"> • Not recognized by law; or partly recognized 	<ul style="list-style-type: none"> • Recognized and governed by law
Formal employment practices	<ul style="list-style-type: none"> • Registration with administrative unit (depends on national regulations) • Employment contract with terms of employment (tasks, wage, hours) • Record of payment: payslip 	<ul style="list-style-type: none"> • No agreement • No payslip 	<ul style="list-style-type: none"> • Oral or written contract • Payslip
Social security rights legal framework	<ul style="list-style-type: none"> • Legal recognition of social security coverage of domestic workers (by contingency). Note: Exclusions may still occur due to differences in entry and eligibility requirements (for example in case of exclusion of some categories of part-time workers, those with multiple employers, or those who work less than a certain number of hours per employer.) 	<ul style="list-style-type: none"> • Not recognized by law; or partly recognized 	<ul style="list-style-type: none"> • Recognized and covered by law
Declaration and registration with public authorities	<ul style="list-style-type: none"> • Social security registration • Payment of contributions to the social security system (for a given contingency) • Registration with administrative unit (depends on national regulations) 	<ul style="list-style-type: none"> • Not registered • Not paying • Not registered; undeclared 	<ul style="list-style-type: none"> • Registered • Paid • Registered; declared work

(Adapted from ILO, 2016a)

Table A2 Decent work indicators related to working conditions and employment

Dimensions	Working conditions indicators (among and between domestic workers)
Wages	<ul style="list-style-type: none"> • Average real wages (pro rata) • Average wage as percentage of median wage • Average wage as a percentage of minimum wage
Working Time	<ul style="list-style-type: none"> • Employment in excessive working time (% more than 48 hours per week) • Average actual and usual weekly hours • Short and very short hours of work (% less than 20 hours per week; % less than 35 hours per week) • Number of paid annual leave days taken in the past 12 months • Number of weekly leave days taken in the past two months
Violence and harassment	<ul style="list-style-type: none"> • Labour inspectors (per 10,000 employed in a given sector) • Occupational injury frequency rate • Instances of psychological abuse/harassment • Instances of sexual abuse/harassment • Instances of physical abuse/harassment
Right to freedom of association	<ul style="list-style-type: none"> • Number of domestic workers' unions • Trade union density rate • Number of organizations of employers of domestic workers • Employers' organization density rate • Number of collective agreements covering all or part of the sector • Collective bargaining coverage rate
Dimensions	Employment indicators (among and between domestic workers)
Creation of formal jobs	<ul style="list-style-type: none"> • Number of formal jobs created in the sector
Formality	<ul style="list-style-type: none"> • Informal employment rate by sex
NSE	<ul style="list-style-type: none"> • Temporary contracts by sex • Share of self-employed and of employees by sex • Occasional/casual work/no guaranteed hours

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