



Inspectorate SZW
Ministry of Social Affairs and Employment

Exploratory study of labour exploitation and serious disadvantage in domestic work in the Netherlands

Labour exploitation and serious disadvantage in domestic work is an important focus area for both national and international organisations. The results of the exploratory study conducted by the Inspectorate SZW were, therefore, shared with partners at an EMPACT analytical meeting, in two meetings of the Joint Action Days (JAD), with the Dutch Centre of Expertise on Human Trafficking and People Smuggling, and with various Dutch partners who collaborated on the study. This article will present the main outcomes of the exploratory study.

The Inspectorate SZW is seeing an accumulation of risks for workers with a vulnerable employment status. Low job security coupled with low social and economic security increases workers' position of dependency. This dependency leads to a risk of underpayment, excessive working hours, illegal employment, and exploitation. Labour exploitation is a form of human trafficking that is defined in the Dutch Penal Code (273f) and the subject of criminal investigations. In order to protect vulnerable groups against poor employment practices, exploitation, and human trafficking/labour exploitation, the Inspectorate SZW launches criminal and administrative-law investigations in response to reports and indications of abuses. Prioritising the tackling of labour exploitation and serious disadvantage, the Inspectorate has adopted a coordinated integrated approach focused on prevention, detection, ending abuses, and protecting victims.

To get a better idea of the various vulnerable groups, the Inspectorate SZW has conducted a study into the nature and extent of labour exploitation and serious disadvantage in domestic work, i.e. work in private households. The study focused on four groups with a heightened risk of serious disadvantage or labour exploitation that were identified from the existing literature: au pairs, private servants, migrant workers working in 24-hour live-in home care, and undocumented domestic workers. These groups work inside private persons' homes and sometimes also live in their employer's home, meaning that their work and living environment is invisible to and hidden from the outside world. With this study, the Inspectorate has attempted to make the invisible visible through desk research, multiple interviews, and the analysis of reports of abuses, inspections, and criminal investigations.

The overarching question in this study was the following: 'what is the nature and extent of labour exploitation and serious disadvantage in domestic work and what leads are there for the Inspectorate SZW to tackle this issue?' The exploratory study will answer this question based on the following sub-questions:

1. What is the extent of labour exploitation and serious disadvantage in domestic work?
2. To what degree can we distinguish different risk groups within the domestic work sector?
3. How do the risk groups and employers in the domestic work sector get and stay in contact?
4. What signs of labour exploitation/serious disadvantage are typical of the domestic work sector?
5. What leads for action are there for the approach to tackle this issue?

The extent of labour exploitation and serious disadvantage in domestic work

In the domestic work sector, CoMensha registered a total of 146 (presumptive) victims of labour exploitation over the 2014-2018 period, but the actual number of victims of labour exploitation and serious disadvantage in this sector is expected to be higher. The exact number remains unknown.

Risk groups and their contact with employers in domestic work

After defining four risk groups early on in the study, the question was whether these groups were exposed to the same level of risk and which factors affect their vulnerability to labour exploitation and serious disadvantage. These factors in the domains of laws and regulations, working and living conditions, the employer/host family, and the domestic worker himself/herself include the domestic worker's residency status and whether the domestic worker lives in the employer's home, as well as factors such as isolation, network, language barrier, and knowledge of Dutch laws and regulations. These risk factors are detailed in the following:

- Laws and regulations:

The legal provision that says that private servants' residency status is linked to the employer is a risk factor. As a result, private servants are unable to change jobs or terminate their employment without being sent back to their country of origin. Combined with their employer's diplomatic immunity, which complicates

possible prosecution, this is something that makes them vulnerable to labour exploitation. Another example is that au-pair regulations stipulate that au pairs must live with their host family.

- Working and living conditions:

Domestic workers who live with their employer or host family are at a greater risk of labour exploitation than domestic workers who do not. After all, they depend on their employer both for employment and for accommodation.

- Employer or host family:

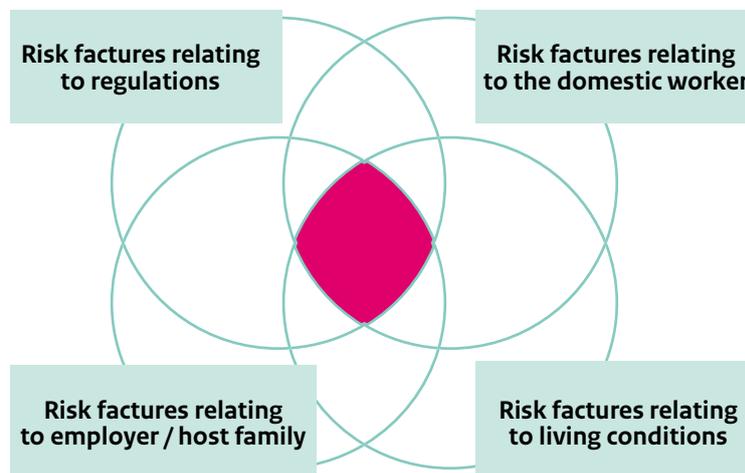
It is impossible to compile a profile of the kind of employer or host family that is more likely to seriously disadvantage or exploit their domestic workers. A possible indicator is running a business. The risk that looms in that case is that the family also has the domestic worker work in the family business. This increases the chance of labour exploitation.

- Domestic worker:

There are a number of factors that have a bearing on domestic workers' vulnerability, such as their legal status (i.e. whether or not they are documented), dependency on one single employer, level of isolation, the domestic worker's network, language barrier, and poor knowledge of Dutch laws and regulations.

Signs of labour exploitation and serious disadvantage are most prevalent in groups exposed to multiple risk factors, although there can also be major differences within the various risk groups. Risk groups generally migrate from their country of origin with the help of an intermediary who puts them into contact with their employer, albeit that we do see that this modus operandi is not the same for all groups, due partly to regulations.

Figure 1: Risk factors and vulnerability



Signs that are typical of this sector

Signs of labour exploitation or serious disadvantage are overly long working days, underpayment, and abuse of risk groups' vulnerable position. In some cases, this includes workers not being paid, the employer retaining a domestic worker's passport or not giving them documents, limiting the worker's freedom of movement, providing sub-standard or poor accommodation, threats, (subtle) coercion, sexual harassment, or use of violence. The Inspectorate SZW has identified cases of low wages, long days, heavy labour, and employers not putting anything down in writing. Live-in (undocumented) domestic workers are particularly vulnerable to exploitation by their employer. They often live in isolation, lack a social network, do not speak Dutch, and have no knowledge of their rights under Dutch laws and legislation. When they fall victim to abuses, domestic workers do not always know where to go or they are afraid to speak up because they are scared to lose their job, place to live, and residency status in the Netherlands. There are employers who are very good at tapping into that fear by, for example, threatening to report a worker to the authorities.

While signs of serious disadvantage among groups of domestic workers have been reported, it is rare for a case of labour exploitation to be confirmed for an individual domestic worker and for the worker to be entitled to help and support. Domestic workers from outside the Netherlands who face serious disadvantage, whereby their employer violates labour legislation and is fined as a result, are not considered victims of labour exploitation in criminal law, meaning that they are left with nothing. They have to claim unpaid wages and find a place to live themselves, while au pairs can only hope to find another host family. Or they are sent back to their country of origin (private servant, undocumented).

When they put up with poor conditions, they make more money than they could make in their home country and can still hope for a longer stay in the EU, and thus for more opportunities to make money. What prospects can the Netherlands offer these people when they report abuses, and when their cases are dealt with properly by the authorities and violations are found?

Leads for action

Willingness to report abuses is low in all risk groups. They often lack good command of the Dutch language, barely have any knowledge of Dutch laws and legislation, and generally have no idea where to report abuses. The reluctance to report abuses is further reinforced by a fear of being sent back to their country of origin. As a result, a clear picture of what is going on behind the front doors of private employers is lacking.

This study provides leads for action to get a better idea of what is going on in those homes. Firstly, better provision of information about rights in the Dutch labour market can help boost willingness to report abuses. Secondly, there are various regulations, such as the regulations governing au pairs, that involve a risk of abuse or improper use of the regulations. Furthermore, personal support for domestic workers from a cultural mediator and/or someone from a non-governmental organisation could help increase confidence among risk groups to report abuses.

The Inspectorate SZW contributes to tackling violations of labour legislation in domestic work. While the Inspectorate SZW can perform proactive workplace inspections at companies, including unannounced inspections, to check compliance with labour legislation, current legislation on entry into dwellings¹ prohibits us from doing the same for domestic work. One unit of the Inspectorate SZW works with the Dutch Immigration and Naturalisation Service to verify whether au pair firms meet their obligations as a recognised sponsor (under Dutch alien legislation) and whether host families comply with the conditions of the Dutch Foreign Nationals Employment Act (*Wet arbeid vreemdelingen*) for their au pairs. Another unit of the Inspectorate SZW actively works to stop intermediary agencies in 24-hour live-in home care that do not comply with laws and regulations. To do this, they both perform inspections and issue alerts. Reported cases of labour exploitation are dealt with by SZW's investigative unit.²

In closing

Without the collaboration and openness of the target group itself and the organisations and foundations interviewed, this exploratory study could never have been conducted. The Inspectorate is eager to engage with other organisations to discuss the leads for action to better protect vulnerable domestic workers, who are from very different backgrounds but have in common that they do their work hidden away behind the front doors of private homes.

¹ *Algemene Wet op het binnentreden*, or Awbi (General Act on Entry into Dwellings).

² Part of the Inspectorate SZW's Investigative Board.