



EKONOMI-  
HÖGSKOLAN

# Forced labour under a microscope

How people are subjected to forced labour  
within domestic work.

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Kandidatuppsats - arbetsrätt

15 högskolepoäng

HARH16

HT 2023



## Abstract

The paper focuses on forced labour in domestic work. This paper examines how forced labour in domestic work is addressed internationally and nationally. To fulfil this purpose, the report examines how forced labour is defined in international law and how it is legally combated. It also examines how Sweden and the UK meet international standards. The thesis is based on two methods: legal science using empirical material and legal sources, and a comparative approach.

Forced labour is a global issue that has been growing over the years, making more people fall victim to forced labour. A common vulnerable group of workers includes domestic workers, as working conditions for domestic workers are poorly described in legislation, making them particularly susceptible to exploitation. Forced labour is defined by the ILO in the ILO Forced Labour Convention. Decent working conditions for domestic workers are set out in the Domestic Workers Convention. Together, these conventions aim to prohibit all forms of forced labour and increase protection for domestic workers. Both conventions bind Sweden and thus have an obligation in national legislation to criminalise forced and provide decent working conditions for domestic workers. The UK is only bound by the Forced Labour Convention.

Sweden and the UK differ broadly in how national legislation is designed to prohibit and criminalise forced labour, even though the Forced Labour Convention binds both. The protection for domestic workers is comprehensive, with some gaps in the Swedish legislation. In contrast, in the UK legislation, criminalisation is insufficient, and the safety of domestic workers is weak. In turn, the UK should increase protection against forced labour and address the shortcomings of the legal framework. Sweden has come a long way but still has some flaws that should be addressed.

**Keywords:** *forced labour, domestic work, modern slavery, exploitation.*

# Table of content

<b>Abstract .....</b>	<b>4</b>
<b>Acronyms.....</b>	<b>6</b>
<b>1 Introduction.....</b>	<b>7</b>
1.1 Background.....	7
1.2 Purpose and Questions.....	9
1.3 Delimitation .....	9
1.4 Method and Materials .....	10
1.5 Legal families.....	12
1.6 Structure.....	12
<b>2 International Legal Framework on Forced Labour and Domestic Work.....</b>	<b>13</b>
2.1 UN’s Instrument on Forced Labour.....	13
2.1.1 Content .....	13
2.1.2 Universal Declaration of Human Rights.....	14
2.1.3 UN Global Impact.....	15
2.1.4 Agenda 2030 .....	16
2.2 International Labour Organisation (ILO).....	17
2.2.1 Modern slavery.....	19
2.2.2 Definition of forced labour in the Forced Labour Convention (No.29).....	20
2.2.3 Definition of domestic work in the ILO Domestic Work Convention (No. 189).....	24
2.3 European Convention on Human Rights .....	28
<b>3 Forced labour within domestic work in Sweden and the UK.....</b>	<b>28</b>
3.1 Sweden.....	28
3.1.1 Forced Labour in Swedish Legislation.....	30
3.1.2 Ratification of Domestic Work Convention (No. 189).....	33
3.1.3 The Domestic Work Act .....	34
3.1.4 Gothenburg District Court, case B 8170-22.....	36
3.2 United Kingdom (UK).....	37
3.2.1 Introduction .....	37
3.2.2 Forced Labour within the legislation .....	38
3.2.3 Non-ratification of the ILO Convention on Domestic Work .....	39
3.2.4 Forced labour within domestic work.....	40
3.2.5 C.N v. United Kingdom .....	42
<b>4 Comparative analysis .....</b>	<b>42</b>
4.1 Introduction.....	42
4.2 ILO ratification .....	43
4.3 Definition of forced labour .....	43
4.4 Protection and working conditions .....	44
4.5 Case law application .....	44

<b>5 Conclusion .....</b>	<b>45</b>
<b>Bibliography.....</b>	<b>47</b>

# Acronyms

EU	The European Union
ILO	International Labour Organisation
ECHR	European Court of Human Rights
UNGC	United Nations Global Compact
UN	United Nations
UK	United Kingdom
BrB	Brottsbalken (SFS 1962:700)
RF	Regeringsformen (SFS 1974:152)
UDHR	Universal Declaration of Human Rights
CPS	The Crown Prosecution Service
ICCPR	International Covenant on Civil and Political Rights
UNGC	United Nations Global Compact
OECD	the Organisation for Economic Cooperation and Development
ILO	International Labour Organisation

# 1 Introduction

## 1.1 Background

In 2021, Global Estimates indicated that over 49.6 million people were subjected to modern slavery, a figure that highlights the prevalence of slavery in today's society.<sup>1</sup> Far from history, modern slavery continues around the world, often behind closed doors.<sup>2</sup>

Contrary to social justice and sustainable development, modern slavery is a hidden crime that affects all countries.<sup>3</sup> It is characterised by circumstances where individuals are held captive in situations that they cannot refuse or leave due to threats, violence, coercion or abuse of power. At the heart of modern slavery is the deprivation of a person's freedom and self-determination. The concept of "modern slavery" is an umbrella term covering a range of forms of exploitation, such as human trafficking, forced labour, forced marriage, debt bondage, child labour and sexual exploitation. Specifically, forced labour refers to work or service performed under the threat of reprisals to which the victim has not voluntarily agreed.<sup>4</sup>

While modern slavery takes various forms, forced labour is one of the most common, affecting around 27.6 million people internationally, both in the private and state sectors. It is a form that occurs in secret and applies control over another person's freedom through threats, violence and coercion.<sup>5</sup>

*"I started at 4:30, I go and wake up the kids and make breakfast and go to the school. When I come home in from the school, I prepare lunch and dinner. I had no rest. Just continuous".*

– UK

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<sup>1</sup> ILO, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, (International Labour Organisation, 2022), p. 2. [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---ipec/documents/publication/wcms\\_854733.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_854733.pdf).

<sup>2</sup> Anti-slavery, "What is modern slavery?", *Anti-slavery*, [viewed 2023-12-15], <https://www.antislavery.org/slavery-today/modern-slavery/>.

<sup>3</sup> ILO, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, (2021), p. 1.

<sup>4</sup> Walk free, "What is modern slavery", *Walk free*, [viewed 2023-12-15], <https://www.walkfree.org/what-is-modern-slavery/>.

<sup>5</sup> Anti-slavery, "What is forced labour?".

“I endured a great deal of humiliation. Sometimes I even had to sleep on the floor, lying just over a duvet.”  
– Portugal.<sup>6</sup>

Within the broad spectrum of forced labour, domestic work, among others, emerges as a vulnerable and exposed occupational category to forced labour.<sup>7</sup>

Most often, the working conditions of domestic workers are poorly identified in legislation,<sup>8</sup> and from public inspection, making them particularly vulnerable to exploitation.<sup>9</sup>

“The worst part was that there was no rest. I slept for two hours a night. There was no going out and no days off. When the bosses were out, the house was locked. As soon learned that if we refused to work, the police would be brought in to make us work. Once I was slapped around the face for not ironing my employer’s scarf properly.”

– Lehmeire, Mauritanian domestic worker in Saudi Arabia.<sup>10</sup>

The International Labour Organisation (ILO) adopted the Domestic Work Convention in 2011, highlighting the critical state of forced labour in domestic work.<sup>11</sup> The implementation was seen as a historic opportunity to make decent work for domestic workers a reality, recognising that “domestic work is work” and that they are entitled to the same rights as all other workers.<sup>12</sup> With several countries’ efforts to eradicate forced labour, most ILO members have ratified the Convention, with countries like Sweden.<sup>13</sup>

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<sup>6</sup> FRA, *Out of sight: migrant women exploited in domestic work*, (European Union agency for fundamental rights, 2022), p.1, [viewed 2023-12-15]. [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-migrant-women-labour-exploitation-domestic-work\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-migrant-women-labour-exploitation-domestic-work_en.pdf).

<sup>7</sup> Ibid, p. 2.

<sup>8</sup> Ibid, p. 10.

<sup>9</sup> Adelle Blackett, “Everyday transgression: domestic workers’ transnational challenge to international labor law”, (New York: Cornell University Press, 2019), p. 8-11.

<sup>10</sup> Anti-slavery, “What is forced labour?”.

<sup>11</sup> Blackett, *Everyday transgression*, p. 8-11.

<sup>12</sup> ILO, *Making decent work a reality for domestic workers: Progress and prospects ten years after the adoption of the Domestic Workers Convention, 2011 (No. 189)*, (International Labour Organisation, 2012), p.11. [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---travail/documents/publication/wcms\\_802551.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_802551.pdf).

<sup>13</sup> ILO, “Ratifications of C189 – Domestic Workers Convention, 2011 (No. 189)”, *International Labour Organisation*, [viewed 2023-12-15], [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300\\_INSTRUMENT\\_I D:2551460](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_I D:2551460).



While ratifying the Domestic Workers Convention (No. 189) is a sign of progress in prohibiting forced labour for domestic workers, gaps in legal coverage remain.<sup>14</sup>

## **1.2 Purpose and Questions**

This paper aims to analyse modern slavery with a primary focus on forced labour in domestic work and how it is being addressed at the international and national levels. This will be done by examining the regulation of forced labour in domestic work in the conventions of the ILO and UN. Furthermore, a comparative analysis between Sweden and the UK will be presented to gain a deeper insight into whether and how two relevant European countries have chosen to implement international law to prevent forced labour in domestic work in their respective jurisdictions. This will be done through an analysis of the two countries' legislation.

To achieve this purpose, the following questions will be examined:

- How does international law define forced labour in domestic work, and how does it combat it?
- How do Sweden and the UK comply with such international standards?

## **1.3 Delimitation**

Modern slavery exists in many forms around the world. One of the most common forms is forced labour, which today accounts for more than half of the people enslaved. Forced labour occurs in various occupational categories, such as industrialisation, agriculture, and domestic work. However, the focus will only be on domestic workers. Other concepts, such as labour exploitation and human rights, will be referred to from the perspective of forced labour. Other areas of modern slavery and forced labour will be excluded.

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<sup>14</sup> ILO, "Making decent work a reality for domestic workers", p.11.

This study will analyse reports and conventions on forced labour in domestic work published by the ILO and the UN to gain insight into international efforts to prohibit forced labour. The ILO and the UN are influential organisations that, through their work to prevent forced labour, have led several hundred countries to create or amend national legislation for national prevention.

Examining these standards on slavery and forced labour provides a more distinct view of the framework for combating forced labour for domestic workers, although other organisations and bodies have also contributed.

Furthermore, relevant legislation on forced labour and domestic work at the national level will be discussed. The focus will be on two selected countries, Sweden and the UK, exclusively Northern Ireland. The choice of countries is based on the fact that both have been members of the ILO for several years and have ratified the ILO's fundamental conventions, of which forced labour is one. However, only Sweden has chosen to ratify the Domestic Workers Convention. A comparative analysis of the two countries makes it possible to determine whether there are any differences or similarities in whether and how the ILO and UN legal instruments have been implemented and what effect this has had.

Lastly, two legal cases will be presented to analyse how forced labour in domestic work is being legally addressed. The purpose of the cases is to reproduce the issues to some extent but only to mention relevant facts deemed to be of interest to the paper.

#### **1.4 Method and Materials**

Both legal and non-legal regulations cover forced labour. To fulfil the purpose of this thesis, two methods will be used – a legal dogmatic method and a comparative method.

The legal-dogmatic method is a traditional method within law and is usually used as a basis for legal work but can be complemented by other methods. This method seeks answers in legislation, case law, legislative history, doctrine, and other legal sources.

This is done mainly by establishing “current law” (lat. *lex lata*) rather than examining how the law “should be” (*le lege ferenda*).<sup>15</sup>

The method will be used to identify the international and national legal framework, i.e., to analyse ILO and UN legal instruments and domestic legislation to determine the applicable law. The ILO Forced Labour Convention (No. 29) and UN treaties will be investigated first to structure the work. Furthermore, statutory law, common law, case law and legal literature will be used to structure the legal framework internationally and the legal framework in the UK and Sweden.

The comparative method, the second method, is most often used in legal work to compare two or more countries’ legislation with each other to identify differences and similarities.<sup>16</sup> This methodology will be used when examining how Sweden and the UK have implemented laws by the ILO and UN to prevent forced labour. Comparing legislation in different countries can contribute to a better understanding of how they deal with forced labour and how they have chosen to implement conventions in existing legislation. Furthermore, any shortcomings and strengths can be identified in addressing the issues.

When studying foreign law, in this case, British law, problems can occur. Gathering correct and current legislation by using primary sources to prevent further issues is essential. In this case, when English is not the first language, a language barrier can take place, and therefore, secondary sources can be used in the essay to create a better understanding of new legal systems. This can also lead to the exclusion of some legal concepts from the translated legal texts.<sup>17</sup>

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<sup>15</sup> Frantzeska Papadopoulou Skarp and Björn Skarp, ”Juridikens nycklar - introduktion till rättsliga sammanhang, metoder och verktyg”, second edition (Nordstedts juridik: Stockholm, 2021), p.159.

<sup>16</sup> Michael Bogdan, ”Komparativ rättskunskap”, second edition, (Nordstedts juridik: Stockholm, 2003), p. 28.

<sup>17</sup> Ibid, p. 39ff.

## **1.5 Legal families**

In labour law, the UK follows the Anglo-Saxon legal family with a solid common law tradition and a secondary role for legislation, giving trade unions considerable room for manoeuvre in the labour market.<sup>18</sup> Sweden, on the other hand, follows the Nordic legal family, which prioritises framework laws and the influence of the social partners, with collective agreements and negotiations primarily resolving labour disputes.<sup>19</sup>

## **1.6 Structure**

The in-depth part of the thesis, the legal research, will begin in chapter 2 by examining the definition of forced labour within domestic work and the ILO and UN regulations. The third chapter studies how Sweden and the UK have chosen to implement the presented conventions to identify similarities and differences, following by a comparative analyse. Lastly, the fifth chapter will offer reflections and conclusions on the paper's findings.

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<sup>18</sup> Birgitta Nyström, *EU och arbetsrätt*, Sixth edition, (Nordstedts juridik: Stockholm, 2017), p. 62.

<sup>19</sup> *Ibid*, p. 63.

## 2 International Legal Framework on Forced Labour and Domestic Work

### 2.1 UN's Instrument on Forced Labour

#### 2.1.1 Content

The United Nations (UN) is an international organisation founded in 1954. The UN is an instrument of international law to which its members are bound, guided by the principles and objectives set out in the UN Charter.<sup>20</sup> The UN Charter deals with the UN's tasks, powers, rules of procedure and organisation. It also specifies the rights and obligations of Member States towards the UN and each other. Among other things, it prohibits states from using force against other conditions except in self-defence.<sup>21</sup> Furthermore, it serves as a global forum for cooperation, decision-making and agreement on matters of importance to humanity. The UN has 193 member states based on voluntary association and state sovereignty. However, Member States must comply with the UN Charter and the principles of international law.

In addition, the organisation belongs to the UN System, which consists of funds, programmes and specialised agencies with their area of work. Among these bodies, you can find the ILO.<sup>22</sup>

International law did not start with the UN, but the organisation has played a crucial role in developing and consolidating the rule. The basic framework of the law has been created through agreements and conventions drawn up by the UN, together with other sources and standards of behaviour.<sup>23</sup>

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<sup>20</sup> UN, "United nations charter", *United Nations*, [viewed 2023-12-17], <https://www.un.org/en/about-us/un-charter>.

<sup>21</sup> FN, "FN Fakta", p.11, <https://fn.se/wp-content/uploads/2016/08/Faktablad-3-15-F%C3%B6renta-Nationerna.pdf>.

<sup>22</sup> UN, "UN System", *United Nations*, [viewed 2023-12-17], <https://www.un.org/en/about-us/un-system>.

<sup>23</sup> FN, "FN-fakta", *Förenta nationerna*, p.11.

The Charter established four main objectives that remain valid today:

- Establish international peace and security.
- development of friendly relations
- International cooperation to promote human rights and development.
- Act as a focal point for member states to work together to achieve these goals.<sup>24</sup>

### **2.1.2 Universal Declaration of Human Rights**

The UN General Assembly created the Universal Declaration of Human Rights (UDHR) after the Second World War to prohibit human rights violations.<sup>25</sup> Published on 10 December 1948, the Declaration was an essential part of the history of human rights. The document was created by representatives from all over the world, from different cultures and legal backgrounds. The document contains 30 articles covering fundamental principles of human rights.

The document is not legally binding, but parts have been extracted, and over 70 human rights treaties have been created and applied at the global and regional levels.<sup>26</sup>

Of the 30 articles, Article 4 states that slavery is prohibited: *“No one shall be held in slavery or servitude: slavery and slave trade shall be prohibited in all their forms.”*<sup>27</sup>

Article 23(1) states that everyone has the right to work, free choice of employment, and the right to decent and sustainable working conditions.<sup>28</sup>

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<sup>24</sup> Ibid.

<sup>25</sup> UN, “Universal declaration of human rights – History of the Declaration”, *United Nations*, [viewed 2023-12-15], <https://www.un.org/en/about-us/udhr/history-of-the-declaration>.

<sup>26</sup> UN, “Universal Declaration of Human Rights”, *United Nations*, [viewed 2023-12-15], <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

<sup>27</sup> Ibid., article 4.

<sup>28</sup> Ibid., article 23.1.

Furthermore, the declaration states that all workers have the right to rest and leisure, including a reasonable limitation of working hours and the possibility of regular paid holidays, art 24.<sup>29</sup>

### **2.1.3 UN Global Impact**

In 2000, the United Nations launched an initiative, The Global Impact, to get businesses globally to align their operations and strategies with promoting human rights, labour, environment and anti-corruption. This is by working towards ten universal principles. The UN Global Impact is built on the belief that business plays a critical role in improving the world and that it fundamentally starts with responsible business behaviour.<sup>30</sup>

Over the course of its existence, the initiative has evolved into a leading platform for implementing, developing, and publicising responsible business practices. Today, it is the world's largest sustainability organisation, with over 9,500 corporate members from more than 160 countries.<sup>31</sup>

The ten principles are intended to guide companies in decision-making and ensure that financial gain is not generated at the expense of people, society and the environment.<sup>32</sup> The principles are not binding but serve as guidelines for companies to work preventively.

The first two articles focus on human rights and stipulate that companies should not be complicit in human rights abuses. Furthermore, companies should eliminate all forms of forced labour.<sup>33</sup>

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<sup>29</sup> Ibid., article 24.

<sup>30</sup> UN Global Compact, *United Nations global compact progress report – business solutions to sustainable development*, (2017), p.13, [https://d306pr3pise04h.cloudfront.net/docs/publications%2FUN+Impact+Brochure\\_Concept-FINAL.pdf](https://d306pr3pise04h.cloudfront.net/docs/publications%2FUN+Impact+Brochure_Concept-FINAL.pdf).

<sup>31</sup> Ibid.

<sup>32</sup> Ibid., p. 15.

<sup>33</sup> UN Global Compact, *UN Global Compact 2022 annual report*, (2022), p.13, <https://ungc-communications-assets.s3.amazonaws.com/docs>.

#### 2.1.4 Agenda 2030

The 2030 Agenda was created as a joint plan for UN member states to act together for peace and prosperity for all people and is built on the decent work of the UN and other countries. The Agenda was established in 2015 and has been adopted by all member states. The Agenda includes 17 Sustainable Development Goals (SDGs) that call on all countries to act urgently in a global partnership. It also states a clear link between eradicating poverty and other ills, which must go hand in hand with other measures to improve health and education, reduce inequality and strengthen economic growth. At the same time, climate change and forest conservation must be addressed globally.<sup>34</sup>

SDG 5 stands for "achieving gender equality and empowering all women and girls". The goal is recognised as having a crucial role in development progress globally. It further states that women's potential has yet to be fully developed due to the persistent economic, social and political inequalities in the world.

Gender inequalities have been deeply rooted in every society since long ago and even today. Today, women suffer from not having access to decent work and are subject to both occupational segregation and poorer pay conditions than men. In addition, women are denied access to primary education and health care and are subject to violence and discrimination.<sup>35</sup> Goal 5 aims to achieve gender equality and empower all women and girls. The importance of this goal includes ending all forms of discrimination and violence, eliminating harmful practices and recognising and valuing unpaid domestic and care work. The other goals also emphasise the importance of promoting women's full and effective participation in their careers and giving them equal leadership opportunities.<sup>36</sup>

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<sup>34</sup> UN, "The 17 goals", *United Nations*, [viewed 2023-12-15], <https://sdgs.un.org/goals>.

<sup>35</sup> UN, "Gender equality and women's empowerment", *United Nations*, [viewed 2023-12-15], <https://sdgs.un.org/topics/gender-equality-and-womens-empowerment#description>.

<sup>36</sup> Ibid.



Decent work, as emphasised in Goal 8, has a central role in achieving sustainable development, which aims to "promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all".<sup>37</sup> The objective is to achieve full and productive employment and decent work for all, women and men, including persons with disabilities and young people. Furthermore, everyone should receive equal pay for equal work.

Countries should also take immediate and effective measures to eradicate forced labour and stop modern slavery and human trafficking. Ensure the prohibition and elimination of the worst forms of child labour, including the recruitment and use of child soldiers, by 2025.<sup>38</sup>

## **2.2 International Labour Organisation (ILO)**

The constitution of the International Labour Organisation (ILO) was founded in 1919, after World War I, by member states of the Treaty of Versailles to combat poverty and promote social justice. The constitution became a tripartite organisation, the only one existing, which brings together representatives of employees' and employers' organisations and governments.<sup>39</sup> This mission was achieved by working on international issues related to better working conditions, increased employment, the right to organise, freedom of association and collective bargaining.<sup>40</sup> The principle can now be found in the ILO Declaration on Fundamental Principles and Rights at Work (1998), which was launched to achieve universal ratification.<sup>41</sup>

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<sup>37</sup> UN "Goal 8", *United Nations*, [viewed 2023-12-15], <https://sdgs.un.org/goals/goal8>.

<sup>38</sup> UN, "Goal 8 - Targets and Indicators", *United Nations*, [viewed 2023-12-15], [https://sdgs.un.org/goals/goal8#targets\\_and\\_indicators](https://sdgs.un.org/goals/goal8#targets_and_indicators).

<sup>39</sup> ILO, "History of the ILO", *International Labour Organisation*, [viewed 2023-12-15], <https://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm>.

<sup>40</sup> ILO, *Rules of the Game: An introduction to the standards-related work of the International Labour Organisation*, (International Labour Organisation, 2019), p.9, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/publication/wcms\\_672549.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_672549.pdf).

<sup>41</sup> *Ibid.*, p.14.

From 1944 onwards, the ILO's primary mission has been to ensure social justice globally by formulating international labour conventions and recommendations and collaborating with member countries to encourage the ratification of the regulations into national legislation. Since 1919, the ILO has adopted 190 conventions and 204 recommendations relating to labour relations. The ILO standards can be seen as legal instruments developed by ILO member countries tasked with establishing fundamental principles and rights at work. Conventions are legally binding treaties that member countries can ratify, meaning governments must implement basic principles. Recommendations, another standard type, act as non-binding guidelines designed to complement the conventions by providing detailed guidance on how to apply the patterns.<sup>42</sup>

According to the ILO, 188 countries have become members of the organisation, with the last update in 2023.<sup>43</sup>

When a Member State opts to ratify a standard, it must provide important information to the competent authority. Typically, it is up to the Parliament to consider and analyse the standard for potential incorporation into existing national legislation. It can only be processed for one year, after which it enters into force for the general public. Once ratified, the country must implement it in national law and practice. Additionally, the country is obliged to report to the ILO on its implementation. Representation and complaint procedures can be initiated if a country violates a convention.<sup>44</sup>

The governing body of the ILO comprises eight fundamental conventions, and among them is the Forced Labour Convention of 1930 (No. 29). Although the Convention against forced labour came early on, it focused heavily on child labour and migrant labour without domestic work.<sup>45</sup>

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<sup>42</sup> Blackett, *Everyday transgression*, p.4.

<sup>43</sup> ILO, "Member states", *International labour organisation*, [viewed 2023-12-17], <https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/member-states/lang--en/index.htm>

<sup>44</sup> Blackett, *Everyday transgression*., p. 14

<sup>45</sup> *Ibid.*, p. 8f

However, domestic work has been covered by most international labour standards, including some fundamental ones, but concrete regulations were needed to rationalise slavery and forced labour in domestic work.<sup>46</sup> Over many years and on many occasions, proposals to regulate domestic work have been put forward but have never been fully implemented.<sup>47</sup> In a historic aspect, the ILO took decisive action, marking a significant milestone by adopting a new convention, the Domestic Work Convention (No. 189). This historic decision aimed to provide a comprehensive framework for protecting the rights and welfare of domestic workers worldwide, addressing the historical gap in protection for this crucial segment of the workforce.<sup>48</sup>

### **2.2.1 Modern slavery**

The word “slavery” is most often associated with the transatlantic slave trade, where millions of people were transported on slave ships. According to a UN article, there are more enslaved people in the world than ever before in our history. A UN secretary-general has further stated that “every day, in every corner of the world, women are sold into sexual exploitation, children work in mines [...], men are separated from families, forced to work on plantations or live in confinement [...]”.<sup>49</sup>

Modern slavery is not fully defined by law. However, it is used as an umbrella term since it covers several areas of slavery: forced labour or marriage, sexual exploitation, human trafficking, and debt bondage. Although it covers several places, it still refers to the same situation: “a person has lost (fully or partially) her freedom because of threats, violence, extortion, and deception”.<sup>50</sup>

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<sup>46</sup> Ibid., p. 18

<sup>47</sup> Ibid., p. 8f

<sup>48</sup> Ibid., p. 11

<sup>49</sup> FN, ”Slaveri – en skam för vår tid”, *Förenta nationerna*, [viewed 2023-12-15], <https://unric.org/sv/slaveri-en-skam-foer-var-tid/>.

<sup>50</sup> ILO, “Global estimates of Modern Slavery”, p.19.

This includes people who have been sold, kidnapped, brought into slavery, or cheated out of existing labour conditions and wages. Modern slavery takes place all over the world; it exists not only in the poorer countries but also in the rich ones. Slavery is linked to global challenges. People fleeing conflict, natural disasters, or repression of their rights, or migrating to another country in the hope of finding work are particularly vulnerable to exploitation.<sup>51</sup>

Despite numerous international laws and regulations prohibiting slavery, it is still widely practised. Shortcomings in legislation, practice and governance create space for various forms of slavery to occur.<sup>52</sup>

### **2.2.2 Definition of forced labour in the Forced Labour Convention (No.29)**

Modern slavery includes two main elements, whereas forced labour constitutes one of them. Of the 49 million people subjected to slavery, 27.6 million people were trapped in forced labour worldwide. In line with the development of modern slavery, forced labour has increased, becoming more widespread over the last decades.<sup>53</sup> This practice typically occurs when labour is imposed on people by state authorities, private companies, or individuals.<sup>54</sup>

The two fundamental ILO conventions, Conventions 29 and 105 prohibit forced labour. When Convention 29 was established, it provided an open definition of forced labour prohibition without directly specifying it. The definition applies to all forms of forced labour and all workers in the private and public sectors. Convention 105 was established a few years later to develop the prohibition of forced labour.<sup>55</sup>

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<sup>51</sup> Walk free, "Global slavery index", *Walk Free*, [viewed 2023-12-15], <https://www.walkfree.org/global-slavery-index/>.

<sup>52</sup> ILO, "Global estimates of Modern Slavery", p.77.

<sup>53</sup> ILO, "Global estimates of Modern Slavery", p.2.

<sup>54</sup> ILO, "Forced labour", *International Labour Organisation*, [viewed 2023-12-15], <https://www.ilo.org/global/topics/dw4sd/themes/forced-labour/lang--en/index.htm>.

<sup>55</sup> Anton K. Donald, "Introductory note of 2014 to the forced labour convention, 1930 (I.L.O.)", *International Legal Materials*, Vol. 53, No. 6 (2014), pp. 1227-1235, p.1, <https://www-jstor-org.ludwig.lub.lu.se/stable/10.5305/intelegamate.53.6.1227>.

Forced labour is identified in Article 2(1) of the Forced Labour Convention (No.29) and is worded as follows:

“For the purpose of this convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”<sup>56</sup>

The Convention does not define the type of work performed, focusing on the nature of the relationship between the parties.<sup>57</sup> Although the definition applies to all workers, regardless of employment status, forced labour is studied in the context of the employer-employee relationship between the parties. The problem with this is that in many cases, recruiters and employers force the worker to adopt the legal status of “self-employed”, especially in those countries where labour law is firmly entrenched or where migration legislation is restrictive. By making workers self-employed, employers can avoid paying social benefits and minimum wages or complying with rules on working hours and leave entitlements, among other things. However, it allows the employer to impose various things on the worker without being visible.<sup>58</sup>

In some cases, forced labour may not apply if the work is related to a military career, regular civic duties, or a job related to court convictions, emergencies and minor municipal services.<sup>59</sup>

According to Convention No. 29, forced labour is further defined as “all work or service is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”<sup>60</sup> It is also referred to as inhuman and deficient working conditions.<sup>61</sup>

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<sup>56</sup> Forced Labour Convention, 1930 (No. 29), article 2, p.1.

<sup>57</sup> ILO, *ILO Global estimate of Forced Labour: Results and methodology*, (International Labour Organisation, 2012), p. 19, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_182004.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf).

<sup>58</sup> ILO, *Harder to see, harder to count – Survey guidelines to estimate forced labour of adults and children*, (International Labour Organisation, 2012), p.13, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_182096.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182096.pdf).

<sup>59</sup> Convention No. 29, article 2, p.2.

<sup>60</sup> ILO, “Global estimates of Modern Slavery”, p.2.

<sup>61</sup> ILO, *A global alliance against forced labour*, (International Labour Organisation, 2005), p.5, <https://www.ilo.org/public/english/standards/realm/ilc/ilc93/pdf/rep-i-b.pdf>.

The ILO divides forced labour into two components: work performed under threat of punishment and work performed involuntarily. These components do not necessarily imply the existence of criminal sanctions but may also mean the loss of privileges and rights. Threats of retaliation can take different forms, including psychological, physical, financial or other hazards.

The threat can be overt and visible, for example, through surveillance, but it can also be covert and subtle. Subtle threats can be when identity papers are taken away or the employer threatens to go to the authorities.<sup>62</sup> Financial hazards often involve pressurising debts that can be financially linked to the dangers of not receiving reduced or no pay if the victim refuses to work or works overtime.<sup>63</sup>

Involuntariness is mainly about the lack of choice and the possibility of withdrawing consent. A common sign of involuntary situations is when the worker's freedom of movement is restricted. A common way is that the worker is locked in the workplace or can only move within a particular "space". According to the ILO, the intention is to limit the worker's contact with relatives and outsiders to extract labour.<sup>64</sup>

Forced labour takes place around the world, unaffected by the economic conditions of the countries. The majority of forced labour exploitation occurs in middle- and high-income countries.<sup>65</sup> Most victims of forced labour are adult migrants. According to the ILO, migrants are three times more likely to be vulnerable than non-migrants. This is mainly because migrants are often not protected due to poorly managed migration systems or unethical and unfair recruitment.<sup>66</sup> The length of time people are trapped in forced labour can vary, but a 2021 study found that, on average, victims are trapped for around 15.4 months.<sup>67</sup>

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<sup>62</sup>ILO, "ILO Global Estimate of Forced Labour", p. 19.

<sup>63</sup> ILO, "A global alliance against forced labour", p.5

<sup>64</sup> ILO, *Human trafficking and forced labour exploitation: Guidelines for legislation and law enforcement*, (International Labour Organisation, 2005), p.20, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_081999.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081999.pdf).

<sup>65</sup> ILO, "Global estimates of Modern Slavery", p.3

<sup>66</sup> Ibid., p.4.

<sup>67</sup> Ibid., p.30.

A large number of people who fall victim to forced labour usually end up in the situation on their own, sometimes through fraud or deception, with the subsequent realisation that they cannot escape the situation.<sup>68</sup>

Underlying factors of poverty and discrimination have historically laid a groundwork for forced labour, and individuals facing economic hardship are obligated to exchange their work for money or forced to take out loans for survival.<sup>69</sup> Their vulnerable situation makes them susceptible to forced labour, subjecting them to utilisation conditions causing prolonged working hours for minimal or no remuneration. In many cases, the number of hours worked far exceeds the value of the money they once borrowed or were paid.<sup>70</sup>

According to Article 25 of Convention 29, forced labour shall be regarded as a criminal offence for which punishment shall be provided. It is up to each Member State to fulfil and ensure that the penalties in national law are adequate. How each State chooses to criminalise forced labour, in criminal and labour law, is entirely up to each Member State to decide. The penalty can include fines and imprisonment if it is dissuasive.<sup>71</sup> The Convention is binding on those Member States that have registered ratification.<sup>72</sup>

Most countries in the world have legislation against various forms of forced labour. Unfortunately, law enforcement is weak, with widespread corruption, providing opportunities for an increasing number of perpetrators to continue putting people into forced labour without being punished.<sup>73</sup>

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<sup>68</sup> ILO, “A global alliance against forced labour”, p.6.

<sup>69</sup> OECD, *Forced Labour and Trafficking in Persons*, (2008), p.1, <https://www.oecd.org/dac/gender-development/44896368.pdf>.

<sup>70</sup> Ibid.

<sup>71</sup> ILO, “Human trafficking and forced labour exploitation”, p.18.

<sup>72</sup> Convention No.29, art 28 p.1.

<sup>73</sup> OECD, “Forced Labour and Trafficking in Person”, p.1.

### 2.2.3 Definition of domestic work in the ILO Domestic Work Convention (No. 189)

In 2011, the ILO adopted Convention No.189 on decent work for domestic workers, which was a significant step for social equality in the past. Several international and national regulations have been established on forced labour for domestic workers. However, there are shortcomings - unfortunately, many domestic workers lack access to social security.<sup>74</sup>

In numerous countries, domestic workers are excluded from essential laws such as minimum wages, social security, compensation, and holidays. This exclusion denies them the same rights to protection as other employees under the law.<sup>75</sup>

Convention No. 189 aims to improve millions of domestic workers' working and living conditions. Domestic workers are a growing category in the labour market. However, their work is often hidden from the outside world. The treaty is aimed at providing domestic workers with minimum labour protections and reducing the risk of forced labour and modern slavery.<sup>76</sup> The definition of domestic work is when a person has a professional employment relationship and performs work in or for a household.<sup>77</sup> The term refers to individuals working with tasks related to housekeeping or caring for dependents.<sup>78</sup> Their work involves various responsibilities within the employer's household, including cooking and serving, washing, ironing, cleaning, shopping, and caring for children or elderly family members.<sup>79</sup>

When standards were put in place by the ILO to prevent forced labour for domestic work, no in-depth statistics were available. However, based on available information, it was estimated that there were 51-100 million domestic workers. In recent years, the estimated number of people in domestic work has changed to 67 million.

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<sup>74</sup> ILO, *The road to decent work for domestic workers*, (Geneva: ILO, 2023), p.10, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---travail/documents/publication/wcms\\_883181.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_883181.pdf).

<sup>75</sup> Human rights watch, "Decent work for domestic workers", p.4.

<sup>76</sup> Domestic Work Convention, 2011 (No. 189), article 3.

<sup>77</sup> Ibid., article 1.

<sup>78</sup> FRA, "Out of sight: migrant women exploited in domestic work", p.3.

<sup>79</sup> Blackett, *Everyday Transgression*, p.3.



Despite this high figure, numerous countries must still undertake measures to improve labour conditions. Instead, many countries rely on migration systems and have done so historically to meet the demand for cheaper labour.<sup>80</sup> Regardless of the critical role played by domestic workers, they suffer the most vulnerable exploitation and violence. The workers often endure unreasonable workloads with a lack of compensation and protective measures.

When working within private households, the workers usually exist in a “hidden” state, increasing their vulnerability to various forms of violence. Moreover, they may be subjected to non-payment of wages, forced to work long hours without adequate rest, and deprived of sufficient food.<sup>81</sup>

The convention states that it’s essential to guarantee protection against all forms of abuse, harassment, and violence. Domestic work should be treated on an equal footing with other types of employment, with fair terms of employment and working conditions.<sup>82</sup>

The Convention further stipulates that national legislation should ensure that domestic workers are informed of their terms and conditions of employment. This should be done in a clear, simple, and appropriate manner. Ideally, it should be done through a written employment contract drawn up following national legislation, regulations, or collective agreements.<sup>83</sup> To reduce the risk that migrant domestic workers arriving in a foreign country will end up in captivity or be deceived about the conditions of employment; the Convention requires that there should be clear laws and regulations on requirements to be met before the worker arrives in the country. The country in question should need the migrant domestic worker to present a written employment contract or job offer from the employer and that it be linked to the country. The agreement must fulfil the requirements set out in Article 7 for the migrant to be able to cross the border.<sup>84</sup>

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<sup>80</sup> Blackett, *Everyday Transgression*. p.2.

<sup>81</sup> *Ibid.*, p.3.

<sup>82</sup> Domestic Work Convention, 2011 (No. 189), article 5.

<sup>83</sup> *Ibid.*, article 7.

<sup>84</sup> *Ibid.*, article 8, p.1.

The contract should also clearly state that domestic workers can return to their home country when it expires or is terminated. Thus, they should not be forced to remain in the land of work.<sup>85</sup>

Forced labour in domestic work is often shared among migrants, making them highly vulnerable to this issue.<sup>86</sup> Migrants opt to work abroad to enhance their work opportunities and economic well-being, aiming to support their families or themselves financially.

Unfortunately, agencies responsible for recruiting foreign positions exploit these situations, coercing people into forced labour. This often involves providing the workers with inaccurate information about the job tasks or misleading details about the employment conditions.<sup>87</sup>

To ensure good working conditions and a prosperous life for domestic workers, they should be able to decide on their living arrangements in consultation with the employer. To ensure good working conditions and well-being for domestic workers. They also have the right to keep their belongings and do not have to hand over their travel and identity documents.<sup>88</sup>

Working hours should be scheduled by the regular working hours under national law. Overtime compensation should also be paid, and the employee should have the right to rest during the day and the week.<sup>89</sup>

The Convention states that pay should be included in the minimum wage if it is regulated by national law. Furthermore, wages should be paid at least once a month. Wages should be delivered in physical money, but if other provisions in the Member State allow payment by bank or cheque, this should also apply here.<sup>90</sup>

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<sup>85</sup> Ibid., article 8, p.3.

<sup>86</sup> Human rights watch, “Decent work for domestic workers”, p.11.

<sup>87</sup> Ibid., p.17.

<sup>88</sup> Convention No. 189, article 9.

<sup>89</sup> Ibid., article 10.

<sup>90</sup> Ibid., article 12, p.1.

Each Member State shall take measures through national legislation to ensure that domestic workers do not have other conditions that affect their social protection less favourably than different occupational categories. These measures should be implemented in cooperation with employers' organisations and organisations representing domestic workers.<sup>91</sup>

To protect recruitment by private employment agencies, the country must define and establish laws on how recruitment should be carried out. Appropriate procedures must be in place to investigate complaints, abuses, or fraudulent practices. Fees from recruitment must also be kept from the employee to prevent financial extortion.<sup>92</sup> Finally, each country must set up penalties and conduct labour inspections to ensure employers do not violate the law.<sup>93</sup>

Article 20 of the Convention stipulates that when ratifying the Domestic Work Convention, a member country must notify the Director General of the International Labour Office when it chooses to register the Convention.<sup>94</sup> The Convention becomes binding on countries that have registered ratification with the Director-General of the International Labour Organisation. The convention shall come into force when at least two countries have registered at least two member countries have registered. After, this Convention shall enter into force for each Member State 12 months after the date of registration of ratification.<sup>95</sup>

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<sup>91</sup> Ibid., article 15.

<sup>92</sup> Ibid., article 15, p.1.

<sup>93</sup> Ibid., article 17, p.1.

<sup>94</sup> Ibid., article 20.

<sup>95</sup> Ibid., article 21.

### **2.3 European Convention on Human Rights.**

The ECHR (European Convention on Human Rights) is the Council of Europe's first convention and has played an essential role in its activities.<sup>96</sup>

The primary purpose of the Convention is to guarantee people's fundamental human rights in law.<sup>97</sup>

As a result of the implementation of the Convention, the European Court of Human Rights was created. The task of the Court is to monitor the implementation of the Convention. The Court can hear cases from individuals who believe there has been a violation of human rights. The issue can be created if all other possibilities for appeal in the national state are no longer possible.<sup>98</sup>

## **3 Forced labour within domestic work in Sweden and the UK**

### **3.1 Sweden**

In 1920, Sweden chose to join the ILO and became a member.<sup>99</sup> Sweden is one of the founding member states of the ILO and is recognised as a critical player in the promotion of Decent Work. As a member, Sweden has ratified 10 out of 10 fundamental conventions and 97 conventions; among them there are both the Forced Labour Convention (No.29) and the Domestic Workers Convention (No. 189).<sup>100</sup>

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<sup>96</sup> Council of Europe, "A Convention to protect your rights and liberty", *Council of Europe portal*, [viewed 2023-12-16], <https://www.coe.int/en/web/human-rights-convention>.

<sup>97</sup> Liberty human rights, "What is the ECHR and why does it matter", [viewed 2023-12-16], <https://www.libertyhumanrights.org.uk/issue/what-is-the-echr-and-why-does-it-matter/>.

<sup>98</sup> Council of Europe, "A Convention to protect your rights and liberty".

<sup>99</sup> Prop. 2016/17:93, "2014 års protokoll och rekommendation till ILO:s konvention om tvångsarbete", p. 4.

<sup>100</sup> ILO, "Ratifications for Sweden", *International Labour Organisation*, [viewed 2023-12-16], [https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200\\_COUNTRY\\_ID:102854](https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102854).

Sweden officially abolished the transatlantic slave trade in 1847 but was one of the last countries in Europe to do so. Although the decision was made hundreds of years ago, the fight to ban slavery and forced labour has continued.<sup>101</sup>

When the ILO Convention on Forced Labour came into existence, Sweden was one of the first member states to ratify the Convention.<sup>102</sup> In 1931, Sweden ratified the Convention and became bound by the definition of forced labour.<sup>103</sup>

Forced labour exists in various forms in Sweden, but under national legislation, the concept is included as human trafficking or labour exploitation. A report released in 2020 by the Swedish National Audit Office concluded that forced labour was a major and growing problem.<sup>104</sup>

In 2023, the Swedish Migration Agency reported that around 500 suspected cases of human trafficking and forced labour had been detected in 2022, a figure that has increased from the previous year.<sup>105</sup>

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<sup>101</sup> Union to Union, *Mänskliga rättigheter i arbetslivet – Om internationell arbetsrätt och ILO*, (2021), p. 27, [https://www.uniontounion.org/sites/default/files/material\\_files/mr\\_i\\_arbetslivet\\_2021\\_uppslag.pdf](https://www.uniontounion.org/sites/default/files/material_files/mr_i_arbetslivet_2021_uppslag.pdf).

<sup>102</sup> ILO, “Ratifications of C029 - Forced Labour Convention, 1930 (No. 29)”, *International labour organisation*, [viewed 2023-12-16], [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300\\_INSTRUMENT\\_ID:312174](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312174).

<sup>103</sup> Prop. 2016/17:93, p. 10.

<sup>104</sup> Globalportalen, ”Modernt slaveri – förekommer det i Sverige?”, *Globalportalen*, [viewed 2023-12-16], <https://globalportalen.org/artiklar/modernt-slaveri-forekommer-det-i-sverige>.

<sup>105</sup> Migrationsverket, “Fler fall av misstänkt människohandel identifierade 2022”, *Migrationsverket*, [viewed 2023-12-16], <https://www.migrationsverket.se/Om-Migrationsverket/Pressrum/Nyhetsarkiv/Nyhetsarkiv-2023/2023-03-09-Fler-fall-av-misstankt-manniskohandel-identifierade-2022.html>.

### 3.1.1 Forced Labour in Swedish Legislation

A person's freedom is emphasised in the Swedish constitution, which states in Chapter 2. Section 8 of the Instrument of Government "that every citizen is protected against deprivation of liberty to the public".<sup>106</sup> On the contrary, the Constitution does not cover individual actors.<sup>107</sup>

In criminal law, the Criminal Code (1962:700) is the primary law regulating offences against forms of forced labour.<sup>108</sup> However, other laws connected to forced labour fall under the human rights framework, but they will not be discussed here.

In Swedish legislation, forced labour is mainly defined in the criminal code's provision as human trafficking, which can be read in Chapter 4, section 1a§ BrB. It also states that human trafficking is criminalised.<sup>109</sup>

A person who commits a crime of human trafficking using unlawful coercion, deception, exploitation of already vulnerable persons, or unlawful recruitment, transportation, transfer, harbouring, or receipt of a person for sexual exploitation, forced labour, etc., will be sentenced to imprisonment.<sup>110</sup> The Swedish term "human trafficking offences" refers primarily to the violation of a person's freedom and not to the exploitation itself. This means that a crime can be considered to exist even before exploitation occurs.<sup>111</sup>

To strengthen criminal law protection against forced labour, a new offence of human exploitation was introduced in the Penal Code and is a subsidiary of human trafficking. The crimes consist of "exploiting a person in forced labour by unlawful coercion, deception or exploitation of someone's dependency, vulnerability or difficult situation", 4:1a§.<sup>112</sup>

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<sup>106</sup> Kungörelse (1974:152) om beslutad ny regeringsform, article 2:8.

<sup>107</sup> Ibid.

<sup>108</sup> Brottsbalken (1972:700).

<sup>109</sup> Ibid., article 4:1a§.

<sup>110</sup> Prop. 2016/17:93, p. 10f.

<sup>111</sup> Ibid., p. 11.

<sup>112</sup> 4:1a§ BrB, [translated from Swedish to English].

Criminal liability requires more lenient evidence than in the human trafficking offence, which means that the victim does not have to be in a situation without any choices to become a victim of exploitation.<sup>113</sup>

Foreign domestic workers can, in many cases, be employed by a Swedish household. To hire an overseas employee, the employer must have a work permit.<sup>114</sup> An application for a work permit must be made in connection with an employment procedure in Sweden and is granted if the employment offers the possibility of a good livelihood and that conditions such as salary, insurance cover and other terms of work are not worse than those that follow the practice or collective agreements.<sup>115</sup> The work visa is valid for a maximum of two years. It may not be for a period longer than the period of employment. The work permit must also be linked to a specific employer and a specific job for it to be issued.<sup>116</sup>

For violations of the Aliens Act in situations where an employer has employed a foreign person, intentionally or gross negligently, who does not have the right to reside in Sweden or has the right but lacks a prescribed work permit, the penalty is a fine or imprisonment in aggravated circumstances.<sup>117</sup>

The offence of unlawful threat may exist when a worker is forced to work by threat or violence, 4:5§ paragraph 1 BrB.<sup>118</sup> If a person is imprisoned or deprived of the freedom to move freely, the perpetrator can be convicted of unlawful deprivation of liberty under Section 4:2§ BrB.<sup>119</sup>

When the employee's documents, such as passports, are detained, the employer can be convicted of unauthorised conduct under Section 8:8§ BrB.<sup>120</sup>

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<sup>113</sup> Polisen, "Människohandel för sexuella och andra ändamål – lägesrapport 22", (2020), p. 151, <https://nspm.jamstalldhetsmyndigheten.se>.

<sup>114</sup> Utlänningslagen (2005:716), article 6:1§.

<sup>115</sup> Ibid., article 6:2§.

<sup>116</sup> Ibid., article 6:2a§.

<sup>117</sup> Ibid., article 20:5§.

<sup>118</sup> BrB, article 4:1a§.

<sup>119</sup> Ibid., article 4:2§.

<sup>120</sup> Ibid., article 8:8§.

Furthermore, a person can be convicted of fraud if they have promised remuneration for work but chosen not to pay as a form of punishment, 9:1§ BrB.<sup>121</sup>

In the case of forced labour, when a person is forced to work long hours under pressure, the employer can be convicted of usury, according to 9:8§ BrB.<sup>122</sup> Usury can be divided into two parts, the first of which is traditional and covers situations where an offender takes advantage of another person's weakness or inferiority, such as, in this case, forced labour.<sup>123</sup>

If an offence under the Criminal Code can be presumed to have been committed, the offender may receive a criminal sanction such as a fine or imprisonment.<sup>124</sup>

Swedish legislation includes several laws governing working conditions for employees, but it is essential to highlight that these are not directly related to the prohibition of forced labour.

The state has aimed to ensure good working conditions for all workers through appropriate regulations and other instruments. When a foreign worker comes to Sweden to work, it is the responsibility of the employment service, workers' organisations, police authorities and tax authorities to detect abuses in the workplace.<sup>125</sup>

In labour law, the Employment Protection Act (1982:80) strongly impacts good working conditions in the workplace. The Act covers both foreign and non-foreign workers.<sup>126</sup>

The law regulates, among other things, which forms of employment are permitted and that a worker has the right to receive written information on all conditions essential to the employment when the worker is hired.

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<sup>121</sup> Ibid., article 9:1§.

<sup>122</sup> Prop. 2016/17:93, p. 11.

<sup>123</sup> BrB, 9:5§ p.1.

<sup>124</sup> Ibid., 1:3§.

<sup>125</sup> Prop. 2016/17:93, p. 23.

<sup>126</sup> Lagen (1982:80) om anställningsskydd.



If an employer violates the law, they must pay wages, other forms of employment, and compensation for the damage caused. If the contract violates any provision of the law or the employee's rights, the agreement is null and void.<sup>127</sup>

Every employee has the right to holidays, time off, and holiday pay and compensation, regulated in the Holiday Act (1977:480). The Act states that employees are entitled to at least 25 paid holiday days each year, 4§ SemL. If employers violate the law, there are sanctions in the form of financial compensation for damage incurred, which must be paid to the victim.<sup>128</sup>

Furthermore, there is a specific law regulating conditions for working hours, which can be found in the Working Hours Act (1982:673). However, the law does not apply to all workers, such as domestic workers, uncontrolled workers, ship labourers, etc.<sup>129</sup> Specific regulations for domestic workers can be found in a separate law.

In its third paragraph, the ILO Forced Labour Convention states that Member States must take measures to identify, protect and rehabilitate forced labour victims and offer other forms of support and assistance. In Sweden, victims can receive help from the Crime Victim Compensation and Support Authority, municipalities, social services, and health care.<sup>130</sup>

### **3.1.2 Ratification of Domestic Work Convention (No. 189)**

The ILO Decent Work for Domestic Workers Convention (No 189) entered into force in 2011 and was ratified by Sweden in 2019.<sup>131</sup>

Under Swedish labour law, domestic workers are considered as any other worker. However, domestic work is divided into general and domestic

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<sup>127</sup> Prop. 2016/17:93, p. 24.

<sup>128</sup> Semesterlag (1977:480), article 32.

<sup>129</sup> Arbetstidslag (1982:673), article 2.

<sup>130</sup> Prop. 2016/17:93, p. 25.

<sup>131</sup> ILO, "Domestic workers: Sweden ratifies the Domestic Workers Convention, 2011 (No. 189)", *International labour organisation*, [viewed 2023-12-16], <https://www.ilo.org/global/standards>.

workers within the employer's household. The ILO Convention focuses on the second part.

Domestic workers are subject to the same legislation as other workers when regulating holidays and working conditions. In employment law, the main rule is that the Employment Protection Act and the Working Hours Act apply. However, persons employed in the employer's household are excluded and covered by a particular law, the Act (1970:943), on working hours, etc., in domestic work.<sup>132</sup>

Despite the legislation for domestic workers, Sweden chose to ratify the ILO Convention to ensure that domestic workers could fully enjoy their rights.<sup>133</sup> However, it was decided that the existing law did not need to be amended as the definition was covered by Swedish law.<sup>134</sup>

### **3.1.3 The Domestic Work Act**

The law on domestic work is a special law that applies to workers who work in the employer's home. It is exempt for family members.<sup>135</sup> Furthermore, the law states that agreements between the parties may not contravene this law and are otherwise null and void.<sup>136</sup> However, the law can be derogated from by a collective agreement, provided that it is not less favourable to the worker.<sup>137</sup>

Generally, the maximum number of working hours for domestic workers is 40 hours per week over a four-week period. However, this may be extended by 12 hours per week if the work involves care providing for children or other household members who cannot look after themselves.

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<sup>132</sup> Prop. 2017/18:272, "ILO:s konvention om anständiga arbetsvillkor för hushållsarbetare", p. 10.

<sup>133</sup> Ibid., p. 12.

<sup>134</sup> Ibid., p. 14.

<sup>135</sup> Lagen (1970:943) om arbetstid m.m i husligt arbete, article 1.

<sup>136</sup> Ibid., article 1§ st 1.

<sup>137</sup> Ibid.

There is also no direct provision for a fixed rest period, but the worker is free to use their rest period, with the right to leave the workplace.<sup>138</sup>

In addition to the extension period, the worker may be required to work overtime in specific cases, up to a maximum of 48 hours a month and 300 hours in a calendar year. This applies in situations where the parties have explicitly or implicitly agreed.

Exceptional cases can be if the employer is temporarily away and needs help with childcare, guests are visiting, and support is needed with cooking, serving, etc.<sup>139</sup> When working overtime, the employer must keep a record of the hours worked.<sup>140</sup> Similarly, the worker can be paid in cash or extra time off as compensation for overtime work.<sup>141</sup>

As mentioned before, there is no statutory rest period during the day. However, it states that the worker has the right to leave during the night with a guideline between 24:00 and 05:00. During each week, an uninterrupted rest of at least 36 hours must be prepared.<sup>142</sup>

Suppose an employer violates any of the provisions of the Act. In that case, the Swedish Work Environment Authority can conduct inspections at home or by other means in situations where a report has been received from an authority or a relative of the employee.<sup>143</sup> If a rule is found to be breached, the employer is allowed to rectify it. If the employer fails to do so, the employer can be fined.<sup>144</sup>

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<sup>138</sup> Ibid., article 2.

<sup>139</sup> See Blyme, Lagen (1970:943) om arbetstid m.m i husligt arbete, art 3, karnov (JUNO) [viewed 2023-12-05]

<sup>140</sup> Hushållslagen (1970:943), article 5.

<sup>141</sup> Ibid., article 6.

<sup>142</sup> Ibid., article 9.

<sup>143</sup> Ibid., article 15.

<sup>144</sup> Ibid., article 19.

#### **3.1.4 Gothenburg District Court, case B 8170-22**

This case<sup>145</sup> is not about forced labour but about human exploitation. However, this case is still interesting because it shows how the Swedish legal system judges crimes related to forced labour. The case involves two foreign women a Swedish family employs as domestic workers. At the beginning of their employment, the parties agreed on specific employment conditions: a certain salary, the employer would pay all expenses, promised leave and holidays.

When the employment started, the women instead had to work unreasonably long hours without rest, taking care of and sleeping with the children during the night. Furthermore, they were constantly monitored through exposed surveillance cameras and GPS transmitters on their house keys. Passports were confiscated, and economic threats were made when the women complained about dismissal.

The district court ruled that the women had been exploited and subjected to human exploitation. The court said that it had found a clear causal link between deception and exploitation and that they had endured manifestly unreasonable working conditions. Furthermore, there had been a tangible violation of privacy through surveillance, which was not included in the judgment.<sup>146</sup>

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<sup>145</sup> Göteborgs tingsrätt, mål nr B 8170–22.

<sup>146</sup> Ibid.

## 3.2 United Kingdom (UK)

### 3.2.1 Introduction

The United Kingdom of Great Britain and Northern Ireland (UK) has been ILO members since 1919.<sup>147</sup> During its membership years, the UK has ratified 87 conventions, including the fundamental Conventions.

Furthermore, the country has ratified the ILO Forced Labour Convention but not the Domestic Work Convention.<sup>148</sup>

Modern slavery exists in different forms in the UK, involving domestic slavery or forced labour, sexual exploitation and more. In contrast, forced labour is the second most common form within the UK.<sup>149</sup>

In the UK, forced labour is reported in many sectors, including hospitality, manufacturing, domestic service and service industries, and many of these sectors rely on migrant workers with a government's seasonal worker visa scheme. Domestic workers are often migrant workers and are seen as particularly vulnerable when it comes to modern slavery. An investigation found that domestic workers were often being held in domestic servitude in the homes of London-based diplomats, where they were subjected to non-payment of wages, passport confiscation, food deprivation and confinement to the home, among other abuses.<sup>150</sup>

Despite its challenges, the UK is one of the strongest governments in dealing with modern slavery. It takes strong measures to establish criminal law and tackle forced labour. However, significant gaps still allow forced labour to continue in the country.<sup>151</sup>

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<sup>147</sup> ILO, "United Kingdom of Great Britain and Northern Ireland", *International labour organisation*, [viewed 2023-12-10], <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEX>

<sup>148</sup> ILO, "United Kingdom – ILO Cooperation", *International labour organisation*, [viewed 2023-12-10], <https://www.ilo.org/pardev/donors/>.

<sup>149</sup> Anti-slavery, "Slavery in the UK", *Anti-slavery*, [viewed 2023-12-10], <https://www.antislavery.org/slavery-today/slavery-uk/>.

<sup>150</sup> Walk Free, "Modern Slavery in United Kingdom", *Walk Free*, [viewed 2023-12-10], <https://www.walkfree.org/global-slavery-index/country-studies/united-kingdom/>.

<sup>151</sup> *Ibid.*

### 3.2.2 Forced Labour within the legislation

The UK has a strong history of preventing forced labour. When the ILO adopted the Forced Labour Convention, the UK was one of the countries that was quick to ratify it. In March 2015, the UK Modern Slavery Act was implemented to strengthen legislation in order to prevent forced labour.<sup>152</sup>

When ratifying the ILO's Forced Labour Convention, the UK evaluated that existing legislation had already achieved the Convention's aims and objectives. By implementing the new legislation, the Modern Slavery Act further strengthened the vulnerable requirements of the Convention.

In addition, the UK indicated that the legislation would provide a range of commitments and measures to combat forced labour, including by working with international partners.<sup>153</sup>

The Modern Slavery Act regulates slavery, servitude, forced or compulsory labour and trafficking of human beings.<sup>154</sup> The law defines forced labour as a form of modern slavery and human trafficking. However, the majority of the law focuses on modern slavery.<sup>155</sup> The definition of forced labour can be found in Part 1, paragraph 1. Still, it is written from the offender's perspective and when they are committing an offence: when a person commits the violations of slavery, servitude, and forced or compulsory labour in two stages:

1. the person should or knows that they are holding another person in slavery or servitude.
2. the person requires the other to perform forced or compulsory labour.<sup>156</sup>

Furthermore, section 71 of the Coroners and Justice Act states that forced labour, together with slavery and servitude, is a criminal offence.<sup>157</sup>

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<sup>152</sup> ILO, "United Kingdom joins renewed fight to end forced labour", *International labour organisation*, [viewed 2023-12-10], <https://www.ilo.org/global/standards>.

<sup>153</sup> UK Government, "Protocol of 2014 to the Forced labour Convention, 1930", p.2, <https://assets.publishing.service.gov.uk/>.

<sup>154</sup> Modern Slavery Act 2015, (UK), p.1.

<sup>155</sup> Ibid.

<sup>156</sup> Modern Slavery Act 2015, article 1:1§.

<sup>157</sup> Coroners and Justice Act 2009, (UK), article 71.

For the perpetrator to be guilty of slavery or servitude, an overall assessment must be considered in the judgement.<sup>158</sup> The law also states that it is not legally permitted to commit an offence to commit human trafficking.

If the intent to commit a crime is proven, the person can be sentenced to 10 years imprisonment on conviction on indictment or a maximum of 12 months on summary conviction.<sup>159</sup>

The law, overall, provides some protection from criminalisation, but its application is narrow as it does not apply to all crimes. This has been further expressed by the UK's Independent Anti-Slavery Commissioner, who stated that legal protection was not sufficient and that, in some cases, the police did not consider the possibility of coercive offences at the beginning of an investigation.

In 2014, the UK announced that the government would review a new strategy on forced labour, but more specific needs to be done since then. However, in 2018, the government decided to tackle forced labour in the supply chain, which resulted in several actions being taken. Nevertheless, there are still significant gaps in other vulnerable occupational groups regarding forced labour.<sup>160</sup>

### **3.2.3 Non-ratification of the ILO Convention on Domestic Work**

The majority of domestic workers in the UK is made of immigrants. Working in the UK requires an approved work visa. In the UK, there is a specific visa for domestic workers to apply for.

When the ILO adopted the Domestic Workers Convention in 2011, the UK was one of eight member states that voted against it. The UK did not choose to ratify the convention because they felt that their legislation already contained extensive employment and social protection for domestic workers. Despite this, the UK's Health and Safety at Work Act states that the Act does

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<sup>158</sup> Modern Slavery Act 2015, article 1:1§.

<sup>159</sup> James Hanes (2015), "The Modern Slavery Act 2015: A commentary on the legislation", *Statute Law Review*, Volume 37, Issue 1, (2016), Pages 33–56, p.39.

<sup>160</sup> Walk Free Foundation, "Country Studies: Modern slavery in United Kingdom," *Global Slavery Index*, [viewed 2023-12-10], <https://www.walkfree.org/global-slavery-index/country-studies/united-kingdom/>.

not protect domestic workers. Furthermore, developing the law for domestic workers in private households was also not considered 'appropriate'.<sup>161</sup>

### **3.2.4 Forced labour within domestic work**

In the UK, a domestic worker is defined as a person who works as a cleaner, driver, cook, or nanny or provides personal assistance to the employer or their family.<sup>162</sup>

UK law does not directly regulate forced labour for domestic workers, but instead, forced labour is covered by the Modern Slavery Act, with entitlements to minimum wage, breaks during working hours, holidays and paid leave. However, working time is not regulated by law, which can lead to overwork and underpayment.<sup>163</sup>

Furthermore, there's no direct legislation in the UK regulating the rights and working conditions of domestic workers in the workplace other than the prohibition of slavery and forced labour regulated by the Modern Slavery Act. However, there are guidelines created by the CPS linked to the section of the Coroners and Justice Act on slavery, forced labour and servitude. These guidelines inform how a prosecutor should identify when a person may be a victim of forced labour, such as when the employer assigns excessive working hours, poor accommodation and isolation from others. In other contexts, criminal offences are regulated by other legislation. In cases where domestic workers are subjected to violence or harassment under sections 4 and 4a of the Public Act 1986, the UK Government must ensure protection for all employees. For these offences, the employer can be prosecuted by imprisonment.<sup>164</sup>

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<sup>161</sup> Human Rights Watch, "Hidden away: Abuses against migrant domestic workers in the UK." [viewed 2023-12-10], <https://www.hrw.org/report/2014/03/31/hidden-away/abuses-against-migrant-domestic-workers-uk>.

<sup>162</sup> UK Government, "Overseas Domestic Worker Visa", [viewed 2023-12-10], <https://www.gov.uk/overseas-domestic-worker-visa#:~:text=Domestic%20workers%20include%3A,the%20employer%20and%20the%20their%20family>.

<sup>163</sup> Human Rights Watch, "Hidden away: Abuses against migrant domestic workers in the UK".

<sup>164</sup> Ibid.



The UK has already ratified the Human Rights Act and the ICCPR, which guarantees all workers, including domestic workers, the right to freedom.<sup>165</sup>

Circumstances when the employer confiscates the employee's passport are a way of exercising control. In UK law, this is not a specific offence, but in the CPS, it is listed as a coercive measure that may indicate forced labour, also stated in the ILO Convention. The information sheet encourages you to keep your passport or ID document when foreign domestic workers apply for a visa. However, if the employer confiscates the passport, the victim needs more information on suggested measures.<sup>166</sup>

There are also no specific measures in the legislation for domestic workers to ensure health, safety and well-being. However, a domestic worker can bring a claim against his or her employer in the labour court for non-payment of wages or unfair dismissal. However, domestic workers rarely act as many are immigrants and, in some cases, undocumented, which makes it difficult for them to have their case heard.<sup>167</sup>

Moreover, under national legislation, a domestic worker can contact organisations such as the National Crime Agency, the Human Trafficking Centre or Home Office, or the police if they are subjected to forced labour or any other crime. Given the prohibition of slavery and forced labour in national legislation and international treaties ratified by the UK, it must protect all people from abuse. However, despite alleged protection for domestic workers, it is not sufficient in situations where they are victims of abuse and exploitation.<sup>168</sup>

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<sup>165</sup> See Human Rights Act, Schedule 1, Article 5 and International Covenant on Civil and Political Rights (ICCPR), Article 9; [https://www.hrw.org/report/2014/03/31/hidden-away/abuses-against-migrant-domestic-workers-uk#\\_ftn61](https://www.hrw.org/report/2014/03/31/hidden-away/abuses-against-migrant-domestic-workers-uk#_ftn61).

<sup>166</sup> Human Rights Watch, "Hidden away: Abuses against migrant domestic workers in the UK."

<sup>167</sup> Ibid.

<sup>168</sup> Ibid.

### **3.2.5 C.N v. United Kingdom**

This case<sup>169</sup> is about the violation of human rights. This case is interesting because it provides insight into whether national legislation is sufficient to criminalise forced labour and what the consequences are if the assessment is not.

The case involves a foreign woman who moved to the UK for a better life and work. She worked as a domestic worker for an elderly couple, with unreasonably long working days and nights with no days off. The salary was paid to a third party who would pay the woman, but the compensation was never collected during her employment. Following a police report of forced labour, an investigation was launched and closed shortly afterwards. After an attempt at appeal, the case was sent to the ECHR to investigate whether there had been a human rights violation.

The ECHR ruled that forced labour existed and that the UK was obligated to criminalise forced labour by imposing deterrent penalties by ratifying the ILO Convention. The existing legislation was also considered insufficient to investigate or prohibit forced labour, and the UK had thus failed to protect victims from forced labour in the home.

## **4 Comparative analysis**

### **4.1 Introduction**

This comparative analysis highlights the legal framework in Sweden and the UK for protection against forced labour for domestic workers. The thesis has focused on how the two countries' laws comply with international regulations and whether they sufficiently protect domestic workers.

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<sup>169</sup> C.N v. United Kingdom, (App. No. 4239/08), ECHR, (2012)

## **4.2 ILO ratification**

The UK was quick to join the ILO in 1919 and ratified 87 conventions, including the fundamental ones, such as the Forced Labour Convention. Despite its solid international commitment to the prevention of slave labour, the UK chose not to ratify the Domestic Workers Convention.

Sweden joined the ILO in 1920, resulting in membership and work towards promoting decent work. During its membership, Sweden has ratified all ten fundamental conventions and several other conventions, including the Forced Labour Convention and the Domestic Workers Convention.

## **4.3 Definition of forced labour**

The ILO definition of forced labour covers all types of work and services without defining the exact nature of the threat of punishment that needs to be present for it to be considered a crime.

How the two countries have chosen to apply the definition in national legislation differs. Swedish legislation identifies forced labour as human trafficking or human exploitation, making the definition narrower than required by the ILO.

But despite its narrowness, the Swedish definition focuses on involuntariness and the threat of punishment, which means that it is adapted to protect the freedom of individuals.

Under UK law, forced labour is instead defined as slavery, which encompasses a broader term. It also lacks a clear description of the circumstances that criminalise forced labour, i.e. involuntariness and the threat of punishment. Thus, The definition does not fulfil the purpose of the ILO's requirements and has room for development.

#### **4.4 Protection and working conditions**

Concerning the protection of domestic workers in national legislation, there is also a slight difference between the countries. Under Swedish law, domestic workers are covered by all criminal and labour laws, just like any other worker. In labour law, most working conditions are laid down in the Employment Protection Act, supplemented by other laws. In some supplementary regulations, domestic workers are excluded, which can be found in the specifically designed direction for domestic work. However, despite being shaped to ensure a high level of protection for domestic workers, it has shortcomings. For example, working hours are regulated differently, which means that employees may have to work more hours than in another profession or that they have to decide when to take their breaks, which can be problematic in situations where they are not allowed to take a break.

Furthermore, in the UK law, no specific rules are dedicated to higher protection for domestic workers. According to the UK, the profession is subject to the same laws as all other workers, while some state that domestic workers are excluded.

There is also no other law that covers the lack of protection as in Sweden, which means that they do not have the same protection or rights as other workers in the legislation.

#### **4.5 Case law application**

According to a report by the Swedish Migration Agency, there is a high rate of suspected forced labour and human trafficking, with 500 cases detected in 2022. Additionally, the Swedish case presented provided insight into how the state justice system investigates and highlights forced labour offences. The case focused entirely on the human exploitation of forced labour and no other crimes, even though the circumstances indicated otherwise. Although the legal framework is developed in the Criminal Code, the Domestic Workers Act is not used in criminalisation or court judgements. This raises the question

of how adequate the protection of domestic workers in the labour law framework is.

In the UK, investigations have revealed the existence of domestic slavery, mainly in the households of diplomats. In the case presented, it was found that the current legislation to protect domestic workers from forced labour was not sufficient. This underlines that the law is not sufficiently comprehensive to ensure protection against forced labour even though they have ratified the ILO Convention.

## **5 Conclusion**

The paper aimed to analyse forced labour in domestic work and how it is defined internationally and nationally. It also studied how Sweden and the UK have chosen to comply with international standards.

A wide range of international regulations prohibit all forms of forced labour, much of which is created by the UN and the ILO. One important convention is the ILO's Fundamental Convention on Forced Labour, which is binding on member states. In a significant step to improve protection for domestic work, the Domestic Workers Convention was created. Sweden and the UK have different legislation and approaches to taking legal action to ban forced labour for domestic workers. Sweden has a relatively comprehensive framework of labour and criminal law, complemented by specific legislation for domestic workers. However, it is only considered partially complete to ensure robust protection for domestic workers, and there is room for improvement.

The UK has much tighter legislation and no specific legislation for domestic workers. The UK claims sufficient protection in the law, but at the same time, domestic workers are excluded from some key regulations. Furthermore, significant gaps in the law make it difficult for authorities to decide that a

forced labour offence exists, resulting in investigations being dropped. In other words, more than protection for domestic work is required.

The results of this study show that, despite Sweden's shortcomings, the legal system has a significant amount of protection for domestic work by incorporating specific provisions. Sweden has come a long way but still has weaknesses that can be improved. In contrast, the UK has significant flaws and needs to improve the legal protection against forced labour for domestic workers. How legislation can be further developed to strengthen protection is an interesting topic to explore in a future study.

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