

# Care Work Migration in Germany: Semi-Compliance and Complicity<sup>1</sup>

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*In this article, we deal with contradictions and paradoxes of the German policies on migration and domestic care work. Although the demand for care workers in private homes is increasing, the German government has turned a blind eye to the topic of migrant care workers. As a result of the mismatch between demand and restrictive policies, a large sector of undeclared care work has come into being. This veritable ‘twilight zone’ can be coined an ‘open secret’ as it is the topic of extensive discussions among the populace and in the media. We will address various discrepancies in the debate on migrant domestic work in Germany by providing a view from multiple actors’ perspectives. Examining the intersections of gendered migration and care regimes, we assert that undeclared care migration is an integral part of German welfare state policies, which can be characterised as compliance and complicity.*

## Introduction

A professional in Munich . . . quickly found a solution for her 97-year-old mother. ‘It felt as if I was entering an underground people’s movement’, she remembered, ‘an army of scurrying helpers’. Under the pledge of secrecy, phone numbers were passed on among family members. Before that, she had tried a German nursing service. But proper care around the clock would have cost the daughter 10,000 euro a month: ‘Even with the nursing payment and my mother’s pension there was no way I could have afforded this as a freelancer.’ Eventually, a friend put her in contact with two sisters from the Czech Republic who took turns, for 900 Euro a month. (Longerich, 2006: 55)

This quote from an article in a German daily about the actual ‘care deficit’ describes a situation well known to families with an elderly member suddenly in need of care. In our analysis of press coverage of the theme ‘migration and care’ between 1997 and 2008, we found 279 articles dealing with this issue. Overall, the voices presented by the press utter complaints about the mismatch between the facilities offered by the health care system and the ‘needs on the ground’, namely a care arrangement – preferably payable live-in-care for elderly people. This kind of support is available, albeit in the informal market; the workforce consists of female migrants, the majority coming from East European countries.

To discover what the government knows about this ‘twilight zone’, we inquired with two federal ministries<sup>2</sup> about the role of care migrants in German households. While the Ministry for Family Affairs held no data relating to this issue, the Ministry of Labour

and Social Affairs presented the number of 3,051 'domestic helpers for households with members in need of care' that were recruited in 2008 under a recruitment programme (*Regulierung zur Vermittlung von Haushaltshilfen in Haushalte mit Pflegebedürftigen*) for domestic workers from the EU's new member states in Central and Eastern Europe (A8 countries). These examples illustrate the complex situation of care and migration in Germany today. While the official dealings with care for the elderly can be characterised as avoidance or *laissez faire*, individuals and families prefer informal market solutions on a broad scale.

In this article, we address those discrepancies by providing a view from multiple actors' (migrants, employers and state<sup>3</sup>) perspectives. First, we present available data on the phenomenon of (migrant) domestic care work in Germany. Examination of the data reveals inconsistencies and paradoxes between the *official welfare state policy* on domestic work, and the *unofficial reality* of a feminised work sector which lacks rules on workers' and clients' protection. In the second section, we focus on home-based care for the elderly as one of the main sectors of migrant domestic workers' activities. Through discourse analysis of the press coverage on this issue, we introduce public representations of care work migration in order to map the ambiguous 'cultural coding' of the care regime. In the third section, the German migration regime is characterised as an area of (contradictory) policies. The fourth section investigates theoretical explanations for the existence of this 'undeclared work' sector in the otherwise highly rationalised and organised German labour market.

## Data

The term 'domestic and care work' denotes household work described by Bridget Anderson (2000) as 'the three C's' – cooking, cleaning and caring. Distinguishing these separate domestic activities is very useful for analytical purposes. In reality, however, these tasks are not divided into separate working areas; rather, they usually coincide. This is even more the case in the situation of live-in elderly care. Drawing on feminist conceptualisations of care (Fraser, 1994), we perceive of domestic care work as a broad term for household activities with practical and social dimensions: *caring for* (cooking, cleaning and nursing) and *caring about* (caring and loving as emotional work and social support).

As illustrated above, the German government seems to have little interest in uncovering the actual scale of informal migrant domestic work, although relevant statistics reveal an increase in demand for domestic workers. While the Special Eurobarometer on undeclared work (EC, 2007) acknowledges that in the majority of EU countries (the exceptions being the Nordic States), private households are the main players in the undeclared work economy,<sup>4</sup> data collection in Germany on this issue remains unsatisfactory. According to the German Social Economic Panel survey, in 2007 no less than 11 per cent of German households were employing a domestic worker on a regular or irregular basis (see: <http://panel.gsoep.de/>). Although comparable statistics in other countries show that it is possible to ask questions about the share of migrants in this sector, the German survey does not. Another source, a study of Hessen (a federal state in Western Germany), reveals that one in two households make use of domestic services (including gardening, skilled manual work and personal services) (Trabert, 2008: 14).<sup>5</sup> The latter at least mentions informal migrant domestic work, albeit peripherally. At the

same time, a recently published survey on the scale of informal domestic elderly care work by East Europeans arrives at the impressive number of 100,000 migrants working in this sector, with a total demand for 145,000 such workers (Dip, 2009).

Considering the data given by the Ministry of Labour and Social Affairs (3,051 migrant domestic workers), the discrepancies between these numbers are obvious. Some authors derive their assessments from general quantitative estimates on informal work and the migrants' share in it (Dörpinghaus and Weidner, 2003: 17). Our own estimates suggest that a number of between 150,000 and 200,000 migrants working in this sector is more realistic (Lutz, 2009b: 43). We derive these numbers from the following calculation: according to the Federal Statistical Office (Statistisches Bundesamt, 2007: 11) there are 1.45 million elderly Germans registered as being *in need of care* and who receive benefits from the government to be used for their own care arrangements at home. As this home-based care is provided by family members (70 per cent) or by a combination of family members and nursing services (30 per cent) (*ibid.*: 4), one gets the impression that care is mainly carried out by family members. However, migrants often replace the declared *kin care* (Gather and Meißner, 2002), either alone or in cooperation with a private nursing service, as our ongoing study (Lutz and Palenga-Möllnbeck, forthcoming) shows. Given the fact that 40 per cent of those who are officially declared as 'kin carers' are coevally full-time employees (Deutscher Berufsverband, 2006), the likelihood that a large percentage of these family members is outsourcing their care responsibility (to a migrant worker) is high. There are other indicators for the scale of migrant domestic work: a growing number of commercial placement care agencies operate transnationally and place Eastern European care workers in German households. In an internet analysis, we counted 28 agencies in mid-2007; by mid-2008 there were 65 (see also Dip, 2009). Another important indication is a vivid public discourse on the 'care deficit' and the key role of migrant care workers in solving this problem.

In sum, it is quite clear that Germany is dealing with a situation where an intentional *official ignorance* of migrants' presence in private care on the one hand, and *blind spots* in data collection methods on the other are reinforcing each other. In search for a better understanding of this phenomenon, the analysis of the cultural coding of the German care regime is instructive.<sup>6</sup>

### Illusions and realities of family provided home-based care

In addition to the collision between official and unofficial numbers, there is much evidence for the assumption of a more fundamental collision between illusion and reality mirrored in the politically promoted home care by family members and the actual needs for care.

The German care regime is based on the premise that families (i.e. women in families) care for their elderly and that those elders prefer to be cared for by family members. This premise implies that family members of two or three generations live in the same household and that, therefore, a few hours of care-giving per day is sufficient.<sup>7</sup> Placement of elders in nursing homes is socially rejected by a majority of the population. Pfau-Effinger (2005:13) has therefore asserted that the 'official political semantics' are characterised by a family-oriented culture of care for dependent family members; the political discourse reinforces the cultural desire that care should be provided by the family at home. In contrast to care provided in nursing homes, kin care is perceived

as individual, comprehensive and an expression of love. In this respect, Germany, with its 'conservative-corporatist' (Esping-Andersen, 1990) or 'familialistic' (cf. Backes *et al.*, 2008: 21) welfare care regime is comparable to Southern European countries and Austria where the family is seen as primary carer. Today 70 per cent of people in need of care live at home, while only 30 per cent live in nursing homes (Statistisches Bundesamt, 2007: 4). The state's paying of individual allowances is certainly an important promoter of this situation; additionally, the public debate in which public shaming of nursing homes (Fussek and Loerzer, 2005) and administrative ignorance towards serious deficits in this sector coincide, serves as an amplifier for the care policies.

In the early 1990s, a long-term care insurance in which care is financed through an insurance system, not tax-financed, was introduced; it provides, however, for only a partial insurance coverage, requiring citizens to buy additional insurance privately. Family members who look after care recipients at home receive transfer payments for their work, while private nursing services are directly paid by the government. However, the money allotted by the government for a person who is in need of 24-hour care is insufficient to pay for arrangements as provided by nursing services (Holch, 2006). Another disadvantage of the commercial arrangements is that they involve a permanent change of care-givers. Thus, the mediocre financial support for commercial care-giving, along with 'uncontrolled' direct transfers to families seem to be the key elements of German care policy that boost employment of live-in migrant care-givers in private households (cf. Theobald, 2009).

In the absence of a political debate, the discussion in German newspapers reveals that care in Germany tacitly depends on the informal work of migrants. The viewpoint of those in urgent need of a carer is voiced by a journalist describing, under a pseudonym, his experiences in the book *Where to put my father?* (Anonymus, 2007); the book became popular through its serialisation in the tabloid-daily *Bild*. Here, care deficit and care migrants from Eastern Europe become key in the elderly care system.

It can happen any day in any German family. The old father or mother becomes dependent on care. And their children don't have a plan for this worst-case scenario . . . A luxury nursing home would be very expensive. In the intensive nursing department, it would cost 3,400 Euros a month . . . Father's pension wouldn't pay for that. (N.N. 2007a: 10)

After this passage, the atmosphere in the retirement home which the son visits in search of an acceptable solution is described as follows:

That's unbelievable, the son thought. My father in a double room! Two men at a ripe old age who have never met before, two perfect strangers, are supposed to spend the rest of their days together on a few square metres now that they are old and invalided. They are supposed to share the other's daily rhythm, smell his odours, suffer the other's pain and his insomnia. And, when it comes to it, to see him struggle with death and die – in the bed next to one's own. Unbelievable, the son thought. (N.N. 2007b: 8)

In the episode 'The last resort' (N.N. 2007c: 9), the author's sister offers to help:

I have to do it. You always were the great guy', she screamed, 'you were the **man** around here'. She, as a woman, had to serve, this is what was expected of her. After all, that's how it is in this

family. It's like that in every family, when it comes to nursing, it is the woman's turn. Then she began to cry. Nothing had been solved.

The 'solution' finally arrived in the last episode, as: 'An Angel from Poland':

Teresa, a petite nurse speaking broken German, gave father back his enjoyment of life on the very first day – for 1,100 Euro a month. (N.N. 2007d: 9)

This story reveals the paradoxes evolving when the culturally and politically desired kin care meets with a reality, in which the allocation of elderly care with female family members is no longer easily accepted, although – as the quote reveals – ideologically, the traditional gender order is still at work, causing strong feelings of guilt for the author's sister. Moreover, this story illustrates that and in which way nursing homes are perceived as insufficient ('the smell, the strangers, insomnia . . .'). When finally the migrant woman from Poland steps in as an 'angel', the story culminates in a salvation: sent from heaven to an arduous existence, the care worker saves brother and sister from serious battles over care responsibilities and, instead, enables both of them to continue their personal lives as busy professionals and famous writers. What is completely missing from this story and indeed from the book is any consideration of the in-house work situation of a 24 hours migrant live-in carer or any mention of the problems that very often arise in these care situations between care-giver and care-receiver. Also, the journalist hardly acknowledges the political consequences of the employment of an illegal worker. He does take care of himself by using a pseudonym, however. The message for the readers is the promise that in case he/she gets into the same situation, help from *the market* is available.

### Domestic work migration into Germany – the migration regime

In Germany, migrant domestic workers originate from various regions of the world including Latin America and Asia, but the majority come from Eastern Europe, particularly Poland (Lutz, 2007). Unlike other European countries, the German government acknowledged the permanence of immigration only in 2005 (*Zuwanderungsgesetz*). Since the end of the guest worker system in 1973, the influx of workers was officially regulated through a 'recruitment stop special dispensation rule' (*Anwerbestoppausnahmegenehmigung*), aimed at reducing immigration. Since then, and contrary to intention, Germany continued to be a destination country for immigrants. Due to a number of factors including family reunification and establishment rules, regulations for the immigration of 'ethnic Germans' from the former Soviet Union and Eastern Europe, and human rights regulations for refugees, the migration balance has remained positive. As in other EU states, the actual migration policy prefers so-called 'managed migration' (Kofman *et al.*, 2000), by which priority is given to the recruitment of skilled workers (synonymous with software specialists, engineers, managers, etc.), while care work is considered to be unskilled work and, as such, undesired.

Domestic work migration regulations are particularly severe. Unlike in Italy, Spain and Austria, there are no official quotas or recruitment programmes, and legalisation amnesties have been repudiated. In terms of entry rights, the situation of migrants from the A8 states is more privileged than that of third-country nationals. However, the German

labour market will remain closed to A8 nationals until 2011, and Polish domestic workers are not yet legally entitled to be employed in Germany<sup>8</sup> The aforementioned recruitment programme for 'domestic helpers' (not professional care workers) from the A8 countries, launched in 2002, is an exception. This programme can be seen as an attempt to legalise the large number of undeclared migrant domestic workers from Eastern Europe. The programme, however, has not been successful: only 1,000–3,000 domestic workers have been recruited each year. The reasons for this are manifold: for employers, the bureaucratic barriers are extremely high; for employees, the income is often less than in an irregular job (Lutz, 2009a: 63). Karakayali (2009) reveals that the programme is extremely restrictive as employees are assigned to specific employers, which renders them dependent and vulnerable. Also, employers very often do not comply with the formal work contracts; for example, in reality, the officially required 38.5 hours per week often turn out to mean seven days a week, 24 hour availability. Karakayali concludes that formal employment in the household does not differ very much from informal employment as there is virtually no control of the working conditions and, in case of conflict, no mediation available. In addition, informal *and* formal employment in the private household is characterised by an extremely asymmetric power relationship between employer and employee (see also Lutz, 2007: 61; Lutz, 2008: 43). Finally, the unstable and poor work and payment conditions associated with domestic care work make legalisation less profitable (Geissler, 2006).

As a result of the restrictive migration policy *and* the clandestine character of work in private environments, domestic work has become a niche for undocumented workers. In contrast to domestic worker migrants from South America, those from the A8 countries can easily enter Germany as tourists. They may enter and leave Germany every three months on the basis of EU free-movement regulations. Even before EU enlargement, domestic work from Poland to Germany was arranged in a self-organised rotation rhythm, where female colleagues, friends and relatives replace each other, rendering possible the organisation of life and work transnationally. After 2004, privately organised informal networks were complemented by commercial intermediate agencies placing East European care workers in Germany, Austria and Great Britain. These commercial agencies play a key role in the new *semi-legal* employment forms for domestic workers from the A8 countries: Polish women, for example, access the labour market indirectly by using the freedom of services rule provided by the EU (2006/123/EG) and the assignment guideline (96/71/EG). By means of those, Polish workers can settle in Germany as *self-employed* entrepreneurs or as *posted workers*, providing services from Poland where they pay taxes and social insurance contributions. The number of bi-national employment agencies brokering the placement of domestic workers has mushroomed in recent years. However, the practice is legally controversial (Dollinger, 2008).

While, according to our own estimations the largest number of migrant domestic workers is located in care work for the elderly, there are also thousands of young women – predominantly from Eastern Europe – working as nannies with young children on the au-pair-scheme (Hess, 2005), many of whom do not return to their country of origin but stay in their 'host families' when they succeed in legalising their status by registering as students.<sup>9</sup> In addition, many migrant women work as cleaners for a more or less stable cycle of clients in various private households (up to ten hours a day, seven days a week) and can be characterised as 'self-employed' representatives of de-regularised labour relations (Lutz, 2007, 2010).

German migration policy thus prefers highly skilled workers and turns a blind eye to the need for care work migration. The latter is usually legitimised by the high unemployment among unskilled native Germans (mainly women) whose return to the formal labour market is unlikely as their former jobs became superfluous. During the first years of the twenty-first century, when the German social insurance and unemployment benefit rules were reorganised, this group was targeted in the establishment of de-regularised service industries (Zimmermann, 2003: 18). Through the implementation of restrictions on the entitlement to benefits for unemployed beneficiaries on the one side and tax relief for potential employers on the other, the government hoped to create some 500,000 new vacancies as mini-jobs in private households (ibid.: 22). This policy, however, has failed (Schupp *et al.*, 2006). The main cause of failure, according to Weinkopf (2003), is the assumption that domestic and care work requires few skills that are easily acquired. The contrary turns out to be true: competencies such as patience, empathy, emotional intelligence, management talent, high frustration tolerance, trust and the like – all of them key qualities of care-givers – are both underestimated and economically underrated. In sum, this situation boils down to the continuing absence of native low-skilled workers in the sector; instead, migrant women, most of them well educated and some even in the possession of (academic) diplomas, are present in every segment of household and care work in the private sphere.

### **The clandestine character of care work migration as an *open secret***

Any attempt to answer the question how the discrepancies between official and unofficial numbers as well as the illusion and reality of the ‘familialistic’ character of the German care regime can be explained needs to consider more than one perspective. So far, we have located this issue at the intersection of three different national policies or regimes – the gender, care and migration regime. We also looked at it from the perspective of individual care-givers – migrants who organise their work transnationally – and care-receivers – German employers, preferring home-based care. In most European societies, the dominant ideology of care-provision, either home or institutional care, has an impact on working women’s choice to have part- or full-time professional careers. In general, the shift away from the male-breadwinner to the ‘adult worker’ model, which requires men *and* women to engage in paid work (Lewis, 2001), has a major impact on family organisation and the redistribution of care responsibilities. Moreover, the ‘reconciliation question’ (how to combine employment and family care) becomes a central issue in the debate about employment and employability; consequently, it is necessary to reconsider dominant care ideologies of private household-based care arrangements and outsourcing of care tasks. Finally, this shift does not only apply to negotiations on the private level, but requires a more active role of the state as a provider of public care. In Germany, the debate whether or not the government should allocate public child care facilities *and* alternatively guarantee cash payments for childminding in the family is in full swing. Whereas in the child care sector, a shift away from the ‘familialistic’ towards the acceptance of professional arrangements seems to be growing, this change is not yet in sight with respect to elderly care.

The model of direct transfer payments, as practised by the care-givers’ allowance, evidently furthers undocumented domestic work migration-often, care-giving in private households is the only opportunity of employment for female migrants, while for the

employing families it is *the* alternative to a nursing institution or unaffordable professional care at home, especially when the recipient requires more intensive care than is covered by the insurance company. Here, the shift from a 'family model' to a 'migrant-in-the-family' model of care, described by Bettio *et al.* (2006) as the *Mediterranean model*, seems to be a suitable characterisation for Germany too. However, unlike in Southern Europe, the German state treats this situation as an 'open secret' and not as a matter of concern asking for recruitment regulations and/or legalisation policies. Whereas in the Christian Mediterranean, the Catholic Church and Catholic unions have been main actors in urging their governments to launch legalisation programmes for domestic workers, this kind of commitment is absent in Germany.

In order to understand the attitude of the German government, one could use the tools provided by Ruhs and Anderson (2006) in their analysis of the British labour market. They argue that the dichotomy between legal and illegal employment of migrants conflates the breaches of rights of residence and rights of employment. Instead, they advocate a differentiation between compliant, non-compliant and semi-compliant migrants. Compliant migrants are legally resident, sticking with the conditions attached to their status, while non-compliant migrants lack the right of residence in the host country. Semi-compliant migrants, are legally resident 'but working in violation of some or all the conditions attached to their status' (*ibid.*: 1). According to Ruhs and Anderson, 'semi-compliance is the logical result of the tension between the needs of a flexible labour market on the one hand, and the desire to closely monitor the employment of migrants for immigration control purposes on the other hand' (*ibid.*).

Translated into the German care situation, semi-compliance seems to characterise the situation of Eastern European migrant care workers: they have residency but no working rights, so that the violation of rights is restricted to labour law and not to residency. The German government seems to appreciate this by a *de facto* relatively liberal intervention policy. Officially, however, migration policy is restrictive. For example, under a task force for combating undocumented migrant work established in 2004, 7,000 officers have been charged with prosecuting illegal employment in the public sphere (construction work, etc.), but not in private households. In accordance with the latter, private employers are rarely criminalised as the violation of labour laws in the private sphere is treated as a minor offence; judges, the police, public servants and politicians show understanding for the hardships faced by families and, as a result, do not perceive the employment of undocumented care workers as 'punishable' (cf. Blanche, 2004: 1). Hence, we presume that this 'semi-compliant' attitude is quite convenient for the government as it helps to solve, at least in the short term, the care-deficit problem; at the same time, it avoids social conflicts related to what a liberal care-migration policy would entail. Every reform in this field – more privatisation, more welfare? – engenders resistance among the populace and is thus not an attractive topic for politicians to address. Cheap migrant domestic work, which allocates the risks, duties and costs to individual migrants, seems a convenient solution. Moreover, the government is held responsible for protecting workers in the *national* labour force and is under pressure from trade unions, professional associations and private nursing service providers and the populace fearing unemployment.

In this sense, the role of the German state is one of '*complicity*': knowing and pretending ignorance at the same time; acting officially in a restrictive way, while tacitly accepting the violation of self-made rules. This complicity allows balancing all



conflicts of interest as second-best solution. The daily *Süddeutsche Zeitung* puts it in a nutshell:

The system is illegal, but it works. If it were not for the Hungarian, Polish, Czech or Romanian women, most of who are working illegally, domestic care would collapse completely. Therefore it is tolerated, more or less tacitly. (Kastner, 2008: 41)

This *complicity* constitutes the key component of a logic that engenders the coexistence of contradictory attitudes, officially combating and tacitly tolerating care work migration (Lutz, 2009b).

## Conclusions

In this article, we have argued that the view on migrant domestic work has to be broadened. Like elsewhere in Europe, a shift from formerly unpaid to paid formal/informal domestic work is visible in Germany, and very often it is migrant women who take on paid domestic work. In order to overcome the exclusively profit balancing calculation, primarily used by economists, the explanation of this phenomenon needs to arrive at a more comprehensive analysis of its repercussions for migrants, their families and the sending countries (see Lutz and Palenga-Möllnbeck, forthcoming). There are several further dilemmas of migrant domestic care work Germany is still going to face if it liberalises its care migration policy. For instance, the legalisation of migrant domestic work and a shift from employment to self-employment in this sector can result in the reproduction of precarious work conditions for care workers, not much different from that of undocumented migrants – this problem is revealed by the experiences with the regularisation policies in France (Bode, 2009) and Austria (Schmid, 2009), and the aforementioned recruitment programme in Germany. And, finally, given the fact that demographers expect the number of people dependent on care to almost double between now and 2050 (Blinkert, 2005: 142), care work migration can be only seen as a partial solution.

## Notes

1 We draw on results from an ongoing research project 'Landscapes of care drain: care provision and care chains from the Ukraine to Poland and from Poland to Germany'.

2 Written requests 8.6.2009.

3 Partly we use the term 'state' in the sense of 'government'; however, in the course of the article other important actors, such as the legislative, the lobby of institutionalised care, trade unions, etc. that influence the formation of different regimes, come into sight.

4 It found that 19 per cent of informal work is provided as household services, 16 per cent as construction work and 9 per cent as personal services. However, Birgit Pfau-Effinger (2009) suggests that, because of methodological limitations in the survey, these figures should be considered as indicative.

5 It is important to mention that the Hessen survey used a broad definition of household services, including the category of personal services which is separately specified in the Eurobarometer 2006.

6 The term 'regime' (Esping-Andersen, 1990) refers to the organisation and the corresponding cultural codes of social policy and social practice in which the relationship between social actors, state, (labour) market and family, is articulated and negotiated (Williams and Gavanas, 2008).

7 The actual proportion of those aged 65 years plus living in households with three or more generations is 2 per cent. Only 0.8 per cent of all households consist of three or more generations (BMFSFJ, 2003).

8 It is not yet clear whether this ban will be lifted by 2011.

9 Officially, work is restricted to five hours a day, their 'salary' is c.300 euros.

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