



The Social, Economic, and Legal Conditions of Domestic Servants : I

by

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For many years the labour market for domestic workers has been characterised by a shortage of applicants for work, which still persists in many countries, in spite of the depression, and in marked contrast with the unemployment from which other groups of female workers are suffering. This situation naturally suggested the idea that unemployed women workers belonging to other occupations might be induced to enter domestic service. But the indifferent success of efforts in this direction is further evidence of the failure of domestic service to attract the younger generation to-day. What, then, are the reasons for this failure? The author of the following article tries to find an answer to this question by studying, on the basis of the scanty information at present available, the economic, social, and legal conditions of domestic service, as compared with those of other female occupations.

THE following pages are an attempt on a very modest scale to bring together some information on the economic, social, and working conditions of female domestic servants in private service in various countries. Their aim is to indicate the present tendencies of the domestic service problem by describing its social bases and examining the social, legislative, and economic measures affecting the occupation.

The article is based, first, on the results of enquiries instituted in a number of countries during the last ten years owing to the considerable difficulty of meeting the demand for qualified domestic servants¹, and, secondly, on the provisions of social and

¹ These enquiries were as follows :

Great Britain. In 1923 the Government appointed a Committee to enquire into the present conditions as to the supply of female domestic servants, from whose report to the Ministry of Labour some of the material used in this article is taken (cf. *Industrial and Labour Information*, Vol. IX, No. 4, 28 Jan. 1924, p. 70).

Germany. In 1926, with a view to the drafting of a Domestic Servants Bill, the Federal Minister of Labour in co-operation with employers' and workers'

labour law and of the law governing contracts of employment that apply explicitly or tacitly to this group of workers. Farm servants are not considered in the article.

It is desirable to point out the special difficulties to which the use of this material is subject, and which necessarily restrict the present study within very narrow limits. These arise out of : (1) the peculiarities of this group of workers, the fact that they are largely unorganised rendering any investigation of their conditions difficult ; (2) the nature of their employment, which differs widely from case to case and over which it is difficult to exercise any kind of control ; and (3) the difficulty of correctly appreciating the relevant laws and regulations. As regards these last, their purpose and effects can be fully understood only by reference to the background against which they have evolved ; but many of them relate to economic and social conditions with which the writer is unacquainted, and they frequently need to be supplemented by descriptions of the facts. It would be of great value if, following the example already set by certain countries, precise data concerning the conditions of employment of these workers could be collected by means of enquiries on a larger scale and covering wider areas. Such enquiries are really of importance, since the problems involved are not merely of

organisations instituted a wide enquiry into the conditions of employment of female domestic servants, the report on which was published in 1928 (cf. *Reichsarbeitsblatt*, 1928, Nos. 30 and 31, pp. 47 et seq., and 479 et seq.).

Switzerland. In 1930 the Federal Labour Office appointed a Committee of Enquiry on Domestic Service to investigate the causes of the prevailing shortage of domestic servants. The report of this Committee was published in 1932 by the Federal Office under the title *Der Hausdienst in der Schweiz*.

United States. The following studies have been published by the Women's Bureau of the United States Department of Labour (Bulletins No. 39, 93, and 106 of the Women's Bureau) : (1) in 1924, for Baltimore, *Domestic Servants and their Employment Relations : Study based on the Records of the Domestic Efficiency Association of Baltimore, Maryland* ; (2) in 1932, for Philadelphia, *Household Employment in Philadelphia* ; (3) in 1933, for Chicago, *Household Employment in Chicago*.

Sweden. An enquiry into the conditions of domestic servants was carried out by the Ministry of Social Welfare in 1933, but its results were not available when this article was written. The object of this enquiry, which was conducted by means of questionnaires sent to both domestic servants and their employers, was to obtain information not only on the terms of employment and on the working and living conditions of servants, but also on their technical training, their position in the occupation, and the degree of independence of their work.

The collection of precise information on the conditions of employment of household servants is hampered by serious difficulties, since only a fraction of the questionnaires are ever returned, so that as a rule the results afford a picture of a comparatively favoured selection of servants rather than an average picture of the whole occupation.

personal interest for the individual workers, but have a wide economic significance.

In support of this last statement a few figures may be given showing the extent of this branch of women's employment in different countries.¹

In France², according to the census returns of 1926, there was a total population of 40,228,081 including 20,918,933 females, and a total of 780,000 domestic servants including 672,995 females. Since 1921 the number of domestic servants had decreased by some 7,000. According to the same census, the total number of occupied females was 7,837,776, as compared with 8,606,059 in 1921. Of these, 3,384,849 were engaged in agriculture and stock-raising, a considerable number of these women being members of the employer's family. Apart from the agricultural group, domestic servants form the largest group of occupied females in France.

¹ In addition to the figures in the text, which refer to domestic service in the strict sense, some further figures taken from the *Statistical Year-Book of the League of Nations, 1930/31 to 1933/34*, may be given to show the extent of employment in domestic service in general. These figures are given under the heading "domestic service, etc.", but it is pointed out that the classifications adopted vary from country to country, so that the figures are not strictly comparable, and also that "the 'domestic service' group usually includes domestic servants proper, and also individuals performing personal services (e.g. hairdressers, nurses, etc.)" (*Year-Book, 1933/34*, note to table 4, p. 44); it also often includes waitresses, barmaids, charwomen, washerwomen, laundry workers, hotel chambermaids, cooks, etc. With these reservations, the numbers (in thousands) of persons in this group in different countries, according to the most recent population or occupational census, are as follows:

Country	Year	Total	Females
Belgium	1920	160.1	120.3
Bulgaria	1928	19.6	18.3
Czechoslovakia	1930	366.3	203.1
Denmark	1921	180.6	173.8
Finland	1930	38.8	37.2
Germany	1925	1,394.0	1,357.1
Great Britain	1931	2,628.5	2,122.0
Greece	1928	57.6	37.4
Hungary	1920	155.9	145.5
Irish Free State	1926	128.6	109.5
Italy	1931	540.0	473.1
Netherlands	1930	243.6	234.5
Norway	1930	120.3	119.6
Poland	1921	275.7	250.2
Portugal	1930	442.0	412.3
Spain	1920	301.3	269.7
Sweden	1920	182.9	182.6
Switzerland	1930	134.0	131.6
United States	1930	5,066.0	3,218.6

² *Résultats statistiques du recensement général de la population effectué le 7 mars 1926*, Vol. I, Part 3, 1931; and DAUBIAC: "Le travail des femmes en France devant la statistique", in *Revue d'Economie politique*, 1 Feb. 1933.

In Germany¹ the census returns of 1925 showed that in a total of 15,360,000 households there were 1,326,000 persons employed as domestic servants, including 1,310,439 women. The number of domestic servants living in had fallen slightly since 1907. The total occupied female population in 1925 was 11,478,000, of whom 2,501,335 were members of the employer's family. Domestic servants thus formed 11.4 per cent. of all occupied women, or 14.5 per cent. not counting members of the employer's family. The total number of married women in domestic service was 44,233.

In Great Britain the number of females engaged as indoor private domestic servants was about 1,471,000 in 1931.

In Switzerland² domestic servants numbered 91,603 in 1920 and formed 40 per cent. of the total occupied female population.

Further evidence of the economic importance of domestic service as an occupation is the fact that in a number of countries (Great Britain, France, Germany, Switzerland) attempts have been made in recent years to attract into domestic service women who have lost their employment in factories or offices, and girls leaving school who are unable to find work or situations as apprentices. The adoption of this policy by the employment exchanges was dictated by certain special features of the labour market, namely, a shortage of qualified domestic servants, which in fact still persists to-day (e.g. in France, Switzerland, the Netherlands, and Great Britain), and the fact, demonstrated by experience, that even where there is no actual shortage the demand for domestic servants is very elastic.

It is significant that in the past immigration laws frequently took these factors into account, the restrictions being relaxed in respect of domestic servants (Switzerland, United States, Luxembourg).³

The shortage of domestic servants is directly responsible for another phenomenon, namely, the widespread employment of aliens in the occupation. In Switzerland, for instance, these formed 28 per cent. of all persons in domestic service in 1928, as compared with 13 per cent. in other occupations. In 1930 the number of foreign maidservants, mostly German, was 17,000.⁴

¹ *Statistisches Jahrbuch für das Deutsche Reich*, 1933, pp. 19-21 and 23-25.

² *Der Hausdienst in der Schweiz*, p. 1.

³ Cf. INTERNATIONAL LABOUR OFFICE: *Migration Laws and Treaties*; Studies and Reports, Series O, No. 3, 1928-1929; and *Der Hausdienst in der Schweiz*, pp. 6-7.

⁴ *Der Hausdienst in der Schweiz*, p. 6.

As female unemployment increased in other occupations, the responsible authorities naturally sought to create openings on the home market by restricting the entry of servants from abroad.¹

The fact that this policy was followed even in countries where the fall in the demand for domestic servants resulting from the depression had led to considerable unemployment in this occupation as well can only be explained on the hypothesis of a very elastic labour market, the reasons for which will be more fully examined in a later section of this article.

These occupational transfers, however, not infrequently met with difficulties among both employers and domestic workers. Employers were not prepared to accept applicants with no previous experience of domestic service, and at first would employ them only on very unsatisfactory terms. This gradually led to the institution of training courses; but even when they had followed these courses with intelligent interest, women who had worked for some time in factories or offices could not always be persuaded to enter an unfamiliar occupation.

The enquiry conducted in France in December 1931 by the public employment exchanges under the instructions of the Ministry of Labour², on the effects of the depression in inducing unemployed women to enter domestic service, showed that the attempts made to transfer women workers from industry to domestic service had failed, and that the servant shortage had not yet come to an end.³ The enquiry also recorded a fall in the demand for domestic servants, due to the depression, an increased supply of young girls from the country, and a large number of unemployed hotel servants.

To-day the position of the labour market for domestic servants is not the same everywhere, for in some countries a movement of supply and demand similar to that in France has led to considerable unemployment among them. Among the unemployed there are not only older women who are difficult to place, but also a great many workers who do not really belong to the occupation, so that the relevant unemployment statistics do not accurately reflect the actual situation. But even granted that there

¹ Cf. for the Netherlands : NEDERLANDSCHE WERKLOOSHEIDSRaad : *De Arbeidsmarkt, Orgaan voor de Pratiijk*, No. 11, 1933; and for France : " Le chômage et la crise des domestiques ", in *Bulletin du Ministère du Travail et de la Prévoyance Sociale*, April-June 1932.

² Cf. " Le chômage et la crise des domestiques ".

³ *Ibid.*, and *Industrial and Labour Information*, Vol. XLV, No. 2, 9 Jan. 1933, p. 39.

is a certain amount of unemployment among domestic servants, this forms no ground for assuming that the problem of the shortage has solved itself. The change in the state of the labour market, e.g. in Germany¹ and the United States², has only eliminated one of the symptoms of the problem, namely, reluctance to enter the occupation.³ But the question why the law of an automatic balancing of supply and demand by recruiting from other sources, which holds in so many branches of employment, has failed to operate, especially in countries with an unsatisfied demand for domestic servants, and why the occupation is failing to attract the younger generation, remains unanswered, and thus the fundamental problem of how to influence the labour market is still unsolved. Practical experience tends to show that the difficulty found in persuading workers from other occupations to enter domestic service does not lie in an objection to domestic work itself, since both continuation classes and the classes in domestic subjects in technical schools are often extremely popular so long as they are not looked upon as tying the student to a particular occupation. If therefore the objections to domestic work could be ascertained and removed by suitable measures, a field of women's employment might be thrown open which is preferable in many respects to office and factory work, and would no doubt afford permanent relief to other parts of the labour market. These are the considerations—over and above the important economic aspects of the problem, already mentioned, which transcend its personal interest for the worker—that have inspired the enquiries cited at the beginning of this article and the measures of special legislation recently adopted or in preparation.

It will be seen in the course of the following pages that even in countries where there is considerable unemployment among domestic servants, the problem has not been solved by the disappearance of one of its symptoms, and that it has in fact been intensified by the changes that have taken place on the labour market.

What are the economic, social, and legal conditions of

¹ Cf. *Reichsarbeitsblatt*, 1933, No. 5, 25 May, and No. 33, 25 Sept. ; 1934, No. 23, 25 Jan., and No. 12, 25 April, where particulars are given of unemployment among domestic servants and the state of the labour market.

² Cf. *Industrial and Labour Information*, Vol. XLVII, No. 9, 28 Aug. 1933, p. 304.

³ Cf. Dr. Käthe GÄBEL : "Die Lage in den hauswirtschaftlichen Berufen", in *Reichsarbeitsblatt*, 25 April 1934, No. 12, II.

domestic service, and to what causes can the prevailing unwillingness to enter it be ascribed? To find an answer to these questions it is necessary to study: (1) the social status of domestic servants; (2) the law governing their contracts of employment; (3) their material conditions of employment, i.e. hours of work, free time, holidays, and wages, and the conditions of employment of children and girls as groups of workers requiring special protection; and (4) the position of domestic workers under social and unemployment insurance schemes.

SOCIAL POSITION

The conditions of employment of the majority of domestic servants differ from those of all other workers in that they both work and live in the same surroundings. This also differentiates them from workers in a branch of employment with very similar duties, namely, domestic workers in hotels and institutions.

The peculiarity of the social position of domestic servants is a direct consequence of living in the employer's household, quite apart from the details of any relevant laws and regulations. This special characteristic affects both the status of the worker and the nature of her work.

The rendering of personal services, even when not specially stipulated, forms part of the duties that every domestic servant undertakes on entering employment. But owing to the constant close personal contact between servant and employer, there is no clear and automatic distinction between the personal services arising out of the nature of domestic work and those arising out of the individual requirements of the employer and other members of the household. Hence the duties of a servant are indefinite and depend largely on the consideration of the employer and the rest of the family. This circumstance has a decisive influence on the domestic worker's position in the household.

Another important aspect of living-in is that on entering her employer's household the domestic servant finds herself in a social environment that is completely foreign to her, her employment usually depending in fact on the difference between her circumstances and her employer's. "The standards of living of the majority of the employers and of the workers are so different that it is undoubtedly difficult to appreciate each other's outlook and to understand each other's problems."¹

¹ *Report of the Committee to Enquire into the Present Conditions of Domestic Servants* (1923), p. 8.

The position in which the domestic servant necessarily finds herself in her new social environment¹ affects both her own outlook and that of her friends and relations, the maintenance of intercourse with whom is rendered appreciably more difficult than in other occupations by the fact of her living under her employer's roof. In this respect the material conditions of employment play a very important part. As a result, the position of the domestic servant is often one of both personal and social isolation.

Another factor tending in the same direction is that usually there is only one servant in each household. The one-maid household is becoming increasingly common as the employment of servants ceases to be looked upon as an index of the employer's social standing² and becomes merely a means to a more logical division of labour. Isolated workers lack the sense of solidarity with their fellows ; moreover, they are seldom organised and are thus usually without one of the most important safeguards of the worker's social rights. In some countries this isolation of domestic servants is actually encouraged by the law : in Italy, for instance, the conclusion of collective agreements for domestic service is forbidden.³

This fact of living in an alien environment, allowing of few personal contacts, and of usually performing their daily work in isolation thus places domestic servants in an exceptional position, which on occasion is not without its dangers.⁴ This is especially true in the case of young country girls who are drawn to the city by the attraction of town life, and are sometimes led by the desire for companionship to form harmful acquaintances.

The low opinion in which domestic service as an occupation is still held in many quarters is also a factor of considerable importance. The reports of nearly all the enquiries into the conditions of domestic servants in different countries, mentioned

¹ In the enquiry into household employment in Chicago, it was found that 95 per cent. of the employers had an annual income of at least \$5,000, and more than two-thirds had an annual income of over \$10,000. In Germany the population census of 1925 showed that of the persons employing domestic servants, 611,226 (60.2 per cent.) were landowners or tenant farmers, 113,980 (11.2 per cent.) persons in managerial and high official positions, 149,052 (14.7 per cent.) salaried employees and ordinary officials, 33,302 (3.3 per cent.) manual workers, 106,028 (10.4 per cent.) persons of independent means ; and 2,434 other persons.

² Cf. Lina Ross : "Weibliche Dienstboten und Dienstbotenhaltung in England", in *Archiv für Sozialwissenschaft, Ergänzungsheft* 8, 1912.

³ Royal Decree of 1 July 1926 issuing rules for the administration of the Act of 3 April 1926 respecting the legal regulation of collective relations in connection with employment, section 52 (*Legislative Series*, 1926, It. 5A).

⁴ Cf. the reports on domestic service in Great Britain, Switzerland, and Chicago.

at the beginning of this article, stress the fact that employment in domestic service is looked down upon alike by fellow workers in other occupations and by relatives.¹

The status of domestic servants is also very largely determined by the opinion in which domestic work is held. Domestic work—work in the service of consumption—is not regarded as productive work in the current sense of the term. This view is reflected in legislation, which frequently excludes domestic servants from the scope of provisions relating to workers in general.² These measures reflected an attitude of disparagement towards domestic work which still persists in certain quarters. An advance on previous legislation, however, is marked by the Spanish Act of 1931, which expressly includes domestic servants within its scope.³

This frequent attitude towards domestic work also partly accounts for the neglect of the question of domestic training, which has only recently been tackled on somewhat more energetic lines. This point will be discussed more fully in a later part of the present article.

Domestic work is, or rather is regarded as, unskilled work. The general opinion is that it is an occupation which needs not only no special training, but not even any special intelligence or aptitude—i.e. that it is a particularly trivial kind of unskilled work. The infinite variety of household work (a point illustrated in detail in the study on household employment in Chicago⁴) is often lost sight of behind the deep-rooted idea of the simplicity of individual household tasks; and it is forgotten that all these separate tasks when performed by one person working alone may require considerable intelligence and initiative, and that many of the duties commonly entrusted to quite young girls call for a high degree of responsibility and reliability. No one thinks of asking whether the infinite repetition of mechanical movements in a factory really requires more intelligence than the methodical performance of household duties.

¹ *Ibid.*

² Cf. the Belgian Act of 1900 respecting contracts of employment; for Great Britain, cf. TILLYARD: *Industrial Law* (1928), pp. 10 and 291: "The expression 'workman' does not include a domestic or menial servant... in three important Acts, the Employer's and Workman's Act, 1875, the Employers' Liability Act, 1880, and the Truck Acts, 1831-1896." The same is true of the Unemployment Insurance Act of 1920.

³ Act respecting contracts of employment, 1931, section 6.

⁴ *Op. cit.*, p. 32.

Another reason for the low opinion widely held of domestic service is that it affords very small scope for advancement. Owing to its limited prospects, girls entering domestic service seldom look upon it as anything more than a temporary occupation to be exchanged for some other means of livelihood should they remain unmarried. This is also partly because the lack of personal independence due to living in the employer's household becomes more irksome as the girls grow older. It is natural, however, that an occupation which is looked upon as merely a temporary expedient should not enjoy the same standing as a permanent form of employment. If the servant is a woman of intelligence and personality, she may overcome the difficulties arising out of her anomalous position in an alien environment and create her own opportunities ; but, as has often been pointed out, it is not always the most suitable persons who choose or are placed in this occupation.¹

The fact that in recent years laws to regulate domestic service have been adopted or drafted in several countries², the reasons put forward in their support³, and the results expected from them, are indications that the unsatisfactory legal status of domestic servants and the absence or unsuitability of statutory regulations have also contributed to lower the standing and diminish the attraction of the occupation. This point will become clearer during the discussion of the material conditions of the employment of domestic workers and the statutory measures applying to them.

An account of the social status of domestic servants would be incomplete if confined to conditions in which the workers, generally speaking, are legally free to choose their occupation and conclude their own contracts. Even at the present day this is still not the case for some groups of workers in certain countries, instances being the *mui-tsai* system in China and the various systems of hiring out or pledging child labour which

¹ Cf. *Der Hausdienst in der Schweiz*, p. 74.

² Bills to regulate domestic service have been introduced in recent years in Poland (1923), Belgium (1925, 1927), Germany (1929), and Sweden (1931). The possibility of introducing legislation on domestic service was also raised in the British House of Commons in 1931, but the Government, while fully recognising the disabilities of the occupation, decided against it (*Parliamentary Debates, House of Commons*, 7 May 1931, Vol. 252, Col. 536-537, and 9 June 1931, Vol. 253, Col. 818-823). In the United States the question of adopting a code or general agreement for domestic servants was discussed in 1933 (*News Service*, Feb. 1934).

³ Cf. the preamble to the German Domestic Service Bill (*Reichsarbeitsblatt*, 1929, pp. 145 et seq.) and to the Belgian Bill of 1925.

also play some part in providing domestic labour in various parts of the world.¹ All systems of this kind are due to similar causes. It is usually the extreme poverty of the parents that induces them to surrender all their rights over their children in return for a money payment, under the *mui-tsai* system or some system of adoption, thus relieving themselves of all responsibility for the child's support.

In the report submitted to the British Government on the results of the campaign against the *mui-tsai* system in the British Empire, it was stated that the sale of a daughter was looked upon by countless poor families as a means of livelihood and that to abolish the system suddenly without at the same time improving the standard of living would cause extreme hardship.²

It was stated in the House of Commons in February 1934³, in reply to a question as to how far the system was still in existence in the British Empire, that it had been abolished by legislation in Hong Kong, the Straits Settlements, the Malay States, North Borneo, and Sarawak.⁴ In China, however, the system is still common⁵, although attempts to reform it have been made in some provinces.

¹ Cf. GREAT BRITAIN, COLONIAL OFFICE (HONG KONG): *Papers relative to the Mui-Tsai Question*, pp. 74 et seq.

² *Ibid.*

³ *Parliamentary Debates, House of Commons*, 7 Feb. 1934, Vol. 285, Col. 1117-1118.

⁴ Cf. INTERNATIONAL LABOUR OFFICE: *Legislative Series*: Hong Kong: Ordinance of 1923 to regulate certain forms of female domestic service (L.S., 1923, H.K. 1) as amended by an Ordinance of 1929 (L.S., 1929, H.K. 1); Straits Settlements: Ordinance of 1925 to regulate and control the employment of female domestic servants (L.S., 1925, S.S. 1); Johore: Enactment of 1926 to regulate and control the employment of female domestic servants (L.S., 1926, Joh. 1); Federated Malay States: Enactment of 1925 to regulate and control the employment of female domestic servants (L.S., 1926, F.M.S. 2); North Borneo: Female Domestic Service Ordinance, 1930 (L.S., 1930, N.B. 1); Sarawak: Order of 1931 to regulate the acquisition and employment of female domestic servants known as *mui-tsai* (L.S., 1930, Sar. 1).

These enactments aim at improving the position of domestic workers by: (1) prohibiting the employment of children under 10 years of age; (2) prohibiting the employment of *mui-tsai* and their purchase from parents or through third parties, and providing severe penalties for contravention of this provision; (3) making the employer responsible for the provision of proper attendance in cases of sickness as if the girl were his own daughter, and prescribing the compulsory payment of wages. The enforcement of these provisions is entrusted to the "Protector of Chinese" of the Colony concerned or other similar authority. The employer is also required to give an undertaking that the girl shall not be trained or disposed of as a prostitute or for immoral purposes. Registration of all *mui-tsai* is made compulsory with a view to ensuring more effective supervision. So far, however, no figures as to the number of girls registered under the relevant enactments are available (cf. the discussion in the British House of Commons in February 1934 cited above).

⁵ Cf. *Industrial and Labour Information*, Vol. XXXIX, No. 3, 20 July 1931, p. 92.

These brief references may serve as a reminder that it is only for a very small part of the world that definite information is available on the social position and personal standing of domestic servants¹, and that the remarks in the preceding pages are applicable. The same limitation will apply to the subsequent sections of this article.

THE CONTRACT OF EMPLOYMENT²

The rules of private law relating to the contract of employment, which embody the principles governing the legal relations between employer and worker—i.e. the conclusion, execution, effects, and termination of the contract of employment—are based only partly on statute law and partly also on custom and local usage. The relevant provisions of the general law or of special laws governing the contract of employment do not always apply to domestic servants. A number of countries have special laws for domestic servants—some of them old, some of them quite recent—to supplement the provisions of the general law.³

¹ Cf. R. K. DAS : " Woman Labour in India ", in *International Labour Review*, Vol. XXIV, Nos. 4 and 5, Oct. and Nov. 1931, where it is explicitly stated (Oct., p. 378) that " nothing is definitely known about the conditions of work and life of the labourers in unorganised industries, such as agriculture and domestic service."

² Most of the information in this section is based on : MOLITOR, SCHOTT, and NIPPERDEY : *Europäisches Arbeitsvertragsrecht*, 3 vols, Marburg, 1928-1930 (subsequently referred to as *Molitor*).

³ (a) The provisions of general private law are applicable in Germany (*Molitor*, III, pp. 47 and 64), the Netherlands (*Molitor*, III, pp. 281 et seq.), Switzerland (*Molitor*, III, pp. 507 and 520), and Turkey (*Molitor*, III, pp. 555-556). The general provisions of the new Polish Code of Obligations of 26 November 1933 (sections 441-447 : Contracts of employment) are also applicable (cf. *Industrial and Labour Information*, Volume XLIX, No. 5, 29 Jan. 1934, p. 146).

(b) Special provisions for domestic servants are included in the general private law in Portugal (*Molitor*, I, p. 127), Spain (*Molitor*, I, p. 147), and Estonia (*Molitor*, II, pp. 80, 82, and 101).

(c) As regards laws concerning the contract of employment, domestic servants are excluded from the scope of the Belgian Act of 1900 and the Polish Act of 1928, but are covered by the Spanish Act of 1931.

(d) Among more recent Labour Codes, the Mexican and Chilean Codes contain sections relating to domestic servants, while their general provisions are also applicable ; the Labour Code of the R.S.F.S.R. is supplemented and modified by a special Act.

(e) Special laws for domestic servants are in force in Denmark (1921), Austria (1920), Russia (R.S.F.S.R.) (1926), Iceland (1928), and Brazil (1923). All these laws have been published by the International Labour Office in its *Legislative Series* (1921, I, Den. 4 ; 1920, Aus. 18 ; 1926, Russ. 10 ; 1928, Ice. 1 ; 1923, Braz. 1).

Old Decrees relating to women domestic servants are still in force in Yugoslavia (*Molitor*, II, pp. 442 et seq.), Rumania (*Molitor*, II, pp. 259 and 289), Hungary (*Molitor*, II, p. 469), Czechoslovakia (*Molitor*, II, pp. 26 and 46), Norway (*Molitor*, III, pp. 316 et seq.), and Estonia (*Molitor*, II, pp. 82 and 107).

For domestic servants the individual contract of employment is the rule, collective agreements, so far as is known, being customary only in a few German towns.¹ In some countries, indeed, domestic servants are explicitly excluded from the law governing collective agreements (e.g. in Italy, by the Royal Decree of 1 July 1926 already cited, section 52). A special form of contract is represented by the Swiss standard contracts of employment, which under section 324 of the Code of Obligations may be drawn up by the Federal Council or by certain cantonal authorities after consulting the trade associations concerned or public utility associations, and have then the force of law over the area for which they are issued.

The contract of employment is sometimes oral; in some cases, however, it must be concluded in writing, occasionally even before the police or local authorities (Bulgaria, Yugoslavia). Owing to the fact that the servant lives in her employer's household, certain special formalities for the conclusion of domestic servants' contracts have gradually become established as a means of exercising a special personal supervision. Employment books, which were formerly customary under the older special legislation for all workers in domestic service, are still compulsory for the conclusion of a valid contract in Hungary, Rumania, Yugoslavia, and Poland, where the old laws of master and servant are still in force, and also in Brazil under the 1923 Act and in Bulgaria. The filling in and control of employment books are the duty of the police or local authorities, who are sometimes required to keep a special register for domestic servants as an additional measure of control (Yugoslavia, Rumania). Penalties are provided for contravention of these provisions.

Where the rules of the general law on contracts apply, the contract has usually no special form prescribed for it; it may but need not necessarily be in writing. It is only the more recent laws dealing with contracts of employment (e.g. Chile) and special laws for domestic servants (Russia, Austria) that accept, instead of a written contract, a statement in writing (Austria, Chile) or a wages book (Russia), as a means of making clear the rights and duties arising out of the contract. In general the wages book and written statement of the terms of the contract are compulsory; in Austria, however, the written statement is

¹ Cf. *Die Hausangestelltenzeitung*, April 1931 (organ of the German Central Association of Domestic Servants and the German Hall Porters' Association).

given only at the request of the worker. So far as these formalities are not subject to police control they do not give the domestic worker any special status ; but as the nature and period of employment, the rate of wages and intervals of payment, and any other special terms agreed upon have to be entered in them, they nevertheless afford certain legal safeguards which are otherwise obtainable only through a written contract of employment.

In Russia the value of wages in kind (board and lodging) must also be entered in the wages book.

To confirm the conclusion of the contract and bind the worker to take up his duties punctually, the payment of an advance or "earnest money" was customary under the old law of master and servant (Hungary, Poland, Norway, Germany). This method of confirming the contract is still found in a number of countries, but as a rule without its original significance as an essential part of the contract.¹

The period of employment is governed by statutory regulations or by custom. As a rule the domestic servant's contract may be concluded either for an indefinite period, subject to termination after a specified period of notice, or for a fixed period.

A contract concluded for a fixed period is usually held to have been prolonged for the same or an indefinite period if it actually continues in force after the date fixed for its expiry.² The Danish Act specifies one year as the maximum duration of a contract. The influence of bygone economic conditions is evident in provisions under which even to-day a domestic servant's contract of employment is held to have been concluded for three, six, or twelve months, failing any special agreement to the contrary (Hungary, Portugal, Poland). A distinction is sometimes drawn between town and country in this respect, the normal period of engagement being then fixed at one month in towns (Hungary, Denmark).

On the termination of the engagement the domestic servant usually has a statutory right to a certificate, relating as a rule only to the duration and nature of the employment and not to efficiency or conduct (Russia, Austria, France, Switzerland). In some cases, however, the certificate may also mention the

¹ Cf. *Molitor*, II, p. 469, and III, p. 316.

² Cf. the Swiss Code of Obligations, and also E. STEIGER : *Das Dienstbotenverhältnis im schweizer Privatrecht* (1919).

quality of the work, especially where employment books are used. Under the German law the employer must give a testimonial as to the quality of the servant's work if so requested. The more recent special laws provide merely for a certificate of employment, which is in fact sufficient, and has proved more effective in the experience of both parties, since it is customary in this branch of employment to obtain further information by personal enquiry.

The practice of inspecting a servant's personal belongings before she leaves the place of employment, which is still usual in many countries, has legal sanction in Yugoslavia and Hungary if valid reason can be shown. Where not expressly allowed by law, however, this appears to be an arbitrary practice no longer justified by custom (France).¹

The contract may be terminated by the giving of notice, by the expiry of the agreed period of service, or earlier if valid reason exists. In some countries the period of notice is fixed by law, and in others by custom and usage. The statutory period of notice is eight days in Greece² and fourteen days in Poland and Denmark. Sometimes it depends on the length of service (Hungary, Switzerland); in this case it may be as much as three months. In Austria the minimum period of notice is a week and the normal period a fortnight. Even where there is no statutory period of notice applicable in the absence of other agreement, the right to terminate the contract on either side, which has long existed under many laws, is subject to a specified period of notice sanctioned by custom and usage. The normal period of notice required may be eight days (France)³, fourteen days (Norway, Sweden)⁴, one or two weeks (Italy)⁵, or a month (Great Britain).⁶

The conditions under which a servant's employment may be terminated for grave reasons are as a rule laid down by law. Where special laws exist, whether old or adapted to modern needs, exhaustive provision is made both for employer and for servant (e.g. Greece, Poland, Hungary, Austria, Russia). Like

¹ Cf. MOLL-WEISS : *Les gens de maison* (Paris, 1927), p. 85.

² Royal Decree of 16 July 1920 (*Legislative Series*, 1920, Gr. 4).

³ MOLL-WEISS : *Op. cit.*, p. 70.

⁴ *Molitor*, III, pp. 332 and 532.

⁵ *Idem*, I, p. 90.

⁶ *Idem*, I, p. 10.

the corresponding special provisions of the laws governing contracts of employment in general for servants living in their employer's household, the special laws take into account the special mutual liabilities of employer and servant arising out of this relationship and the differences to which it may give rise. As a rule both parties to the contract are placed on a equal footing. An exception is the provision in the Yugoslav law that if only one servant is employed she must remain in her employer's house until the statutory period of eight or fourteen days' notice has expired, even if she has valid grounds for leaving.

Incapacity for work or sickness and their effects on the contract of employment are factors of considerable practical importance. Can sickness be held to constitute a valid ground for dismissal without notice? Existing statutory regulations on this point depend primarily on three conditions: (1) whether the incapacity is due to the servant's own fault or not; (2) if it is not, whether the incapacity is of comparatively short duration; and (3) in certain countries, in the case of sickness, whether the disease is infectious. Infectious disease constitutes a valid ground for dismissal in many cases (Brazil, Yugoslavia, Rumania). Generally speaking, however, incapacity for work not due to the servant's own fault, and in particular sickness of short duration, does not constitute a reason for dismissal without notice (Netherlands, Germany, Great Britain, Switzerland, etc.). A special period of notice of two or four weeks is sometimes prescribed (e.g. Russia, Denmark, Great Britain.)¹ During short periods of incapacity the payment of wages must also be continued as a general rule.

The special liabilities of the employer as prescribed under all special laws and a number of general laws include the provision of attendance and medical care during sickness, the removal of the patient being sometimes explicitly forbidden if it is likely to injure her health or aggravate the disease. Where there are no explicit statutory provisions on this point the question of care during sickness, like that of protection from dismissal during short periods of sickness, is regulated by custom and usage (Great Britain, France, Sweden). The employer's liability for the care of sick servants is, however, gradually being met by insurance benefits as domestic servants are brought within the

¹ Cf. *Molitor*, III, p. 231.

scope of compulsory sickness insurance ; where the employer still provides the necessary care he may deduct the cash benefits received from the insurance fund from the wages due to the servant (Germany, Austria). In some cases the employer is made liable for the care of the servant with the proviso that the expenses incurred are to be deducted from the wages or that money wages are not to be paid during the sickness (Portugal, Hungary).

The regulations relating to the payment of wages and wage protection are dealt with later on in this article in the section on conditions of employment.

Of special importance as regards the status of the domestic servant are the statutory provisions that bring out the particular character of the employment relation in defining the scope and nature of the work and the rights and duties of both parties to the contract. Nearly all the older special laws and many general codes of contract law state that domestic servants must perform all the duties required of them within the reasonable limits of their physical strength and moral welfare (Portugal, Yugoslavia, Hungary, etc.). It is also a generally accepted principle that in case of urgent need a servant engaged for specified duties must also undertake other work, a principle which inevitably follows from the nature of domestic service (Switzerland, Denmark).

Where the terms of employment must be committed to writing on the conclusion of a contract of employment, this acts as a check on any exaggerated demands on the servant and also serves to define more closely both the nature and range of her duties.

Finally, both the older laws of master and servant and even certain modern laws sometimes attempt to regulate the personal status and mutual relations of the parties. In many cases the duties of loyalty and obedience are explicitly laid on workers entering an employer's household. Sometimes the laws contain provisions on the observance of their liabilities by one or other of the parties ; sometimes the servant is forbidden to receive relatives without the employer's consent (Yugoslavia), or the law states that it is the employer's duty to see that his servants lead a moral and decent life and to act as the guardian of the welfare of any children employed in his household (Hungary).¹

¹ *Molitor*.

As already pointed out, however, the personal relations between the members of a household and the status of the domestic servant are determined and influenced by other and perhaps more important factors than the statutory regulations.

It is evident from the brief survey given above that where domestic servants are covered by the general law concerning contracts of employment and where their employment is governed by special laws their position is much the same as that of other workers. It becomes exceptional only where the older special laws, based partly on outworn patriarchal customs, still apply, and where domestic servants are not recognised as workers by the laws which safeguard the legal status of labour in general.

(To be continued.)