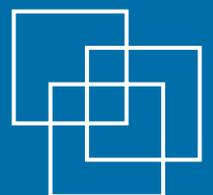




International  
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# Worker, helper, auntie, maid?

Working conditions and attitudes  
experienced by migrant domestic workers  
in Thailand and Malaysia





# Worker, helper, auntie, maid?

Working conditions and attitudes  
experienced by migrant domestic workers  
in Thailand and Malaysia

Bridget Anderson



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Worker, helper, auntie, maid? : Working conditions and attitudes experienced by migrant domestic workers in Thailand and Malaysia / International Labour Organization, Regional Office for Asia and the Pacific. - Bangkok: ILO, 2016.

ISBN: 9789221313489; 9789221313496 (web pdf)

International Labour Organization; ILO Regional Office for Asia and the Pacific.

domestic work / migrant worker / attitude / working conditions / personnel management / Malaysia / Thailand

08.17.1

*ILO Cataloguing in Publication Data*

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Printed in Thailand



'I won't complain. If I complain they won't let me go out. When I go out at least I can find another employer.'

Lea, a Filipina domestic worker

'I live in this house as if it were my house...They let my whole family stay.'

Kamlee, a Shan domestic worker

'I love the baby so much...I fear if I answer my employer back...I will not be able to see the baby again.'

Sharon, an Indonesian domestic worker

# Foreword

Domestic workers comprise a significant proportion of the global workforce in informal employment and are among the most vulnerable groups of workers. Approximately 21.5 million domestic workers – or 41 per cent of the estimated global total – are employed in Asia. They work for private households, often without clear terms of employment, and are often excluded from the full protection of labour legislation and social security.

The majority of these workers are women and girls and many are migrant workers. As demand for workers in the care economy grows, more and more women are expected to move into these jobs.

Existing research on domestic workers in Thailand and Malaysia has focused on creating profiles of domestic worker populations, the extent of legal protection, and work and employment conditions.<sup>1</sup> Research on the attitudes and behaviour of employers and service providers towards domestic workers is in its infancy. To date, there has been no attempt to combine the broader issues of public attitudes towards domestic workers with the scope of legislative protection and working conditions at individual and household levels.

To explore and address this knowledge gap, a joint study was designed and commissioned by the International Labour Organization (ILO) and the UN Women Regional Office for Asia and the Pacific. Its objective is to pave the way for more evidence-based policies and practices that are in line with the ILO Domestic Workers Convention, 2011 (No. 189).

By exploring the social dynamics and public attitudes influencing the employment experiences of migrant domestic workers, this study creates a more comprehensive picture of the domestic work sector. It includes qualitative research looking at the nuances of issues and individual experiences, and quantitative research assessing the frequency and representation of these issues, across four research sites in Thailand and Malaysia. The study concludes with concrete, evidence-based, gender responsive policy recommendations for governments, civil society, employers and the media. These recommendations are grounded in international labour standards and aim to reflect the voices, needs and experiences of migrant domestic workers.

This study was undertaken as part of the Australian Government Department of Foreign Affairs and Trade (DFAT)-funded UN Women project on 'Preventing the Exploitation of Women Migrant Workers in ASEAN', which builds on UN Women's existing work within ASEAN on safe migration, social protection, ending all forms of violence against women, and increasing women's voice and participation in decision-making. The study also builds on an ILO labour migration programme in Southeast Asia supported by the Australian Government and other partners.

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<sup>1</sup> See: ILO (2013) *Domestic Workers Around the World: Global and Regional Statistics and the Extent of Legal Protections*; Boontinand (2010) *Domestic Workers in Thailand: Their Situation, Challenges and the Way Forward*; and Human Rights Watch (2004) *Help Wanted: Abuses Against Female Migrant Domestic Workers in Indonesia and Malaysia*.

Strengthening the position of women migrant workers is a priority for both UN Women and the ILO. By partnering on this project the aim is to improve the availability of gender-sensitive evidence and knowledge on labour migration, enhance the capacity of ASEAN institutions to advocate effectively for greater cross-border collaboration, and increase social mobilization to improve public awareness of and action against the abuse and exploitation of women migrant workers in ASEAN.



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# Acknowledgements

This report – an ILO and University of Oxford Centre on Migration, Policy and Society (COMPAS) collaboration – was very much a team effort.

The in-country researcher team, Ms Chayanich “Mint” Thamparipattra in Thailand and Dr Balambigai Balakrishnan in Malaysia, conducted a considerable amount of fieldwork and analysis in a very short period of time. Their work included accessing workers and employers, conducting surveys and interviews, facilitating access to government officials, translation, research on the legal background, and collecting and analysing newspaper articles.

In Thailand invaluable support was provided by the Foundation for Labour and Employment Promotion (HomeNet) and Jantana Ekeurmanee, who co-ordinated the ILO/HomeNet domestic worker event in Bangkok. Thank you also to the MAP Foundation and Rujira Sanewee (Pim), Kanchana Di-ut (Kann), and Nang Khin Mar Nyunt, who organised an event with domestic workers in Chiang Mai. Human Rights and Development Foundation (HRDF), which is supporting migrant workers to organize the Migrant Workers Federation (MWF), and organizer Sukanta Sukpaita, her assistant, and Saitip Awan (James) were extremely helpful. Special thanks to the leaders of domestic workers Kyan Par, Nan Zarni Myint, and Samorn Pasomboon, as well as Somsri Janta, a network member, who connected us with hard-to-reach domestic workers. Thanks are also due to individuals working for the Shan Women’s Action Network (SWAN), the Mekong Migration Network (MMN), Migrant Workers Rights Network (MWRN), and the Migrant Working Group (MWG).

Educational institutions that helped with access to domestic workers include the Dear Burma School run by the Thai Action Committee for Democracy in Burma (TACDB); the Migrant Learning and Development Center (MLDC) in Sarapee District, Chiang Mai Province; the Migrant Learning Center; the Burma Study Center; and the Chiang Mai Pa Pao Temple, which provides non-formal education for migrants who are mostly from Shan State. Officers at the Immigration Office in Chiang Mai were also kind and enabled us to carry out our surveys with queuing workers. When it was proving difficult to access workers in Chiang Mai, Sr Jane of Mary introduced us to David Townsend, who in turn introduced us to Fr Vinai Boonlue and Fr Dominic Nyareh who conducted a mass for migrant workers in Chiang Mai. Ek Jaka from Meeting Point Church and members of Chiang Mai Grace Church were also welcoming and allowed us to conduct the survey after the Mass. Individuals from Pa-Oh Culture Club in Bangkok and the Tai Literature and Culture Society and the Taiyai Education and Culture Association (Chiang Mai) also made time to give recommendations on contacting domestic workers. We would like to thank the Thai Chamber of Commerce, which sent a letter to its members encouraging them to participate in our research, and the Business and Professional Woman’s Association of Thailand-Chiang Mai, who facilitated access to employers. Kuanruthai Siripatthanakosol from the ILO facilitated contact with government officials and provided technical inputs to the final report.

In Malaysia we would like to thank the Indonesian Embassy in Kuala Lumpur and the Indonesian Consulate in Penang, who assisted with access to workers and employers including through the Indonesian School in Kuala Lumpur. Thank you to St John’s Cathedral in Kuala Lumpur, which conducts a Tagalog mass on Sundays and is also a gathering place for members of various Filipina associations. Thanks are due also to the Malaysian Trades Union Congress (MTUC) in Kuala Lumpur and Sahul

Hamid of the MTUC in Penang, who introduced us to various contacts who connected us to domestic workers. Florida A. Sandanasamy from MTUC Kuala Lumpur introduced us to Ruly Cagadas, who leads the Filipina Community Association (TFC) and gave us permission to meet with his group. Florida also kindly introduced us to Sally Alexander (Tenanganita Penang) and Herminia Camba in Penang. Herminia in turn introduced us to Pastor Jules and his colleagues, who allowed us to carry out the survey during his Christmas party. North South Initiative (NSI) director Adrian Pereira helped organize an event for domestic workers, and through his network we had access to domestic workers from three different countries. Sally Alexander extended her assistance by introducing a few contacts and arranging surveys with women who were in their shelter. Anni Santhiago of the ILO introduced us to Kuala Lumpur and facilitated our engagement with government officials. Susanna George and Claire Hobden also invited us to attend employer discussions.

Dr Ruchi Hajela provided tremendous support with the quantitative analysis of employer and domestic worker survey data. We are grateful to Will Allen for his undertaking the quantitative media analysis.

Lara Casalotti did a wonderfully professional job assisting at the focus group discussion in Bangkok. Luke de Noronha conducted an initial literature review, and Julia Pointer assisted with the formatting of the final report. Emma Newcombe supported all aspects of the fieldwork in Kuala Lumpur and assisted with editing.

From the programmatic side at the International Labour Organization, Eliza Marks, Meri Åhlberg and Anna Olsen led the research with support from Oliver Fisher and Sabrina Kouba, and technical assistance from Benjamin Harkins and Nilim Baruah. Thanks is also extended to the numerous peer reviewers who contributed their expertise, John Maloy for editing the text, and Nattawarath Hengviriyapanich for layout and graphic design.

This study was carried out with contribution from the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) and with the support of the Australian Government Department of Foreign Affairs and Trade (DFAT). The Migration Programme of the UN Women Regional Office for Asia and the Pacific was involved in the design, conception, and validation of the preliminary findings. Ruchika Bahl, Regional Migration Manager, offered her support and inputs to the study and the process. UN Women colleagues from Regional Office Asia Pacific, Bangladesh, the Lao People's Democratic Republic, and Sri Lanka also offered their inputs.

Finally, many thanks to the friends and relatives who introduced us to their friends and relatives, both domestic workers and employers. And of course our most important thanks and respect to the domestic workers and employers themselves who allowed us to survey and interview them.



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# Table of contents

<b>Foreword</b>	<b>vi</b>
<b>Acknowledgements</b>	<b>viii</b>
<b>Abbreviations and acronyms</b>	<b>xiv</b>
<b>Executive summary</b>	<b>xvi</b>
<b>1. Introduction</b>	<b>1</b>
1.1 Introducing the study	1
1.2 Defining terms: What is domestic work?	3
1.2.1 Social reproduction	3
1.2.2 Gendered social relations	4
1.2.3 Social status	4
1.2.4 Skills	5
1.2.5 Social identities and market segmentation	6
1.3 The international legislative framework	6
1.4 Domestic work and migration	7
1.5 A note on recruitment agencies	8
<b>2. Methodology</b>	<b>9</b>
2.1 Research questions	9
2.2 Data collection techniques	9
2.3 Research sample	11
2.3.1 Research sites	11
2.3.2 Domestic workers	11
2.3.3 Employers	13
2.3.4 Media	13
2.4 Research ethics	15
2.5 Data analysis	15
2.5.1 Survey and interview data	15
2.5.2 Quantitative and qualitative press analysis	15
2.6 Research terminology	16
2.7 Research limitations and challenges	16
<b>3. Regional context</b>	<b>18</b>
3.1 Thailand	19
3.1.1 Labour migration in Thailand	19
3.1.2 Labour law and social security protections in Thailand	21
3.2 Malaysia	23
3.2.1 Labour migration in Malaysia	23
3.2.2 Labour law and social security protections in Malaysia	25
3.3 Conclusion	26

<b>4.</b>	<b>Attitudes to migration and demand for domestic workers in Thailand and Malaysia</b>	<b>27</b>
4.1	Press coverage and public attitudes to migration in Thailand and Malaysia	27
4.1.1	Saliency of migrant workers, 1999–2014	28
4.1.2	Portrayals of migrant workers: Modifiers, 1999–2014	29
4.1.3	Changes in key portrayals over time, 1999–2014	32
4.1.4	Qualitative findings – Malaysia	33
4.1.5	Qualitative findings – Thailand	34
4.1.6	Conclusions	35
4.2	Employers’ responses to press coverage	36
4.2.1	Understanding demand for migrant domestic workers in Thailand	37
4.2.2	Understanding demand for migrant domestic workers in Malaysia	39
4.2.3	Conclusion	41
<b>5.</b>	<b>Employment relations: Contract and fictive kin</b>	<b>42</b>
5.1	Fictive kin: Just like one of the family?	43
5.2	Between fictive kin and contract	45
5.3	The written contract	48
5.4	Beyond contract	53
5.5	Conclusion	56
<b>6.</b>	<b>Keeping time: Working hours, time off, and autonomy</b>	<b>57</b>
6.1	Working hours	57
6.1.1	Stand-by hours	61
6.2	Days off, annual holiday, and individual autonomy	61
6.3	Conclusion	67
<b>7.</b>	<b>Money matters: Wages and social security</b>	<b>68</b>
7.1	Minimum Wage	68
7.2	Social security	72
7.3	Conclusion	75
<b>8.</b>	<b>Domestic workers’ perspectives</b>	<b>76</b>
8.1	Self-perception of domestic workers	76
8.2	Working together	80
<b>9.</b>	<b>Conclusion and recommendations</b>	<b>83</b>
9.1	Recommendations	84
9.1.1	Employment relations	84
9.1.2	Migration/immigration status and domestic work	85
9.1.3	Change of culture around domestic work	86
	<b>Bibliography</b>	<b>87</b>
	<b>Annexes</b>	<b>91</b>

## List of boxes

Box 1: Domestic work figures	1
Box 2: Regional Model Competency Standards for Domestic Work	5
Box 3: ILO Convention on Domestic Work, 2011 (No. 189)	6
Box 4: Description of publications for quantitative study	28
Box 5: Refugee experiences of domestic workers	55
Box 6: Domestic workers' social security exclusion in Thailand	72
Box 7: Kyek's determined quest for a better life	77
Box 8: Domestic workers organizing	81

## List of figures

Figure 1: Migrant domestic worker sample by live-in status	12
Figure 2: Publications monitored and search terms used in qualitative press analysis in Thailand	14
Figure 3: Publications monitored and search terms used in qualitative press analysis in Malaysia	14
Figure 4: Number of items mentioning migrant workers, by publication, 1999–2014	29
Figure 5: Three most common words describing migrants in the <i>New Straits Times</i>	30
Figure 6: Three most common words describing migrants in <i>The Nation</i>	30
Figure 7: Top modifiers of "immigrant(s)", both publications, 1999–2014	31
Figure 8: Top modifiers of "foreign worker(s)", both publications, 1999–2014	31
Figure 9: "Illegal Immigrant(s)", <i>New Straits Times</i> , 1999–2014 by normalized frequency and share of all modifiers	32
Figure 10: "Illegal Immigrant(s)", <i>The Nation</i> , 1999–2014 by normalized frequency and share of all modifiers	33
Figure 11: Government-issued domestic work contracts in Thailand and Malaysia as compared to requirements in ILO Convention No. 189	49
Figure 12: Forced labour indicators	54
Figure 13: Average number of hours worked by migrant domestic workers in excess to the standard eight hour working day, by country of origin	58
Figure 14: Average working hours of migrant domestic workers by status as a carer of children and/or adults, by country	59
Figure 15: Domestic workers' answers to "Do you have rest periods during the working day?"	59
Figure 16: Domestic workers' answers to "Do you get a weekly rest day?", by country	62
Figure 17: Monthly wages of migrant domestic workers in Thailand, by nationality	69
Figure 18: Monthly wages of migrant domestic workers in Malaysia, by nationality	70

## List of tables

Table 1:	Domestic worker and employer research samples, by research site	10
Table 2:	Migrant domestic worker sample by country of origin	11
Table 3:	Migrant domestic worker sample by legal status, by country	12
Table 4:	Gender breakdown of employer survey respondents, by country	13
Table 5:	Number of migrant workers with valid work permits who have entered Thailand through the MOU process (July 2016)	20
Table 6:	Employers' answers to question "Do migrants bring crime to Thailand/Malaysia?" , by country	36
Table 7:	Employers' answers to "Are migrant workers diligent?", by country	39
Table 8:	Domestic workers' view of their current employers, by country	43
Table 9:	Employers' answers to "Should domestic workers be treated as family?", by country	46
Table 10:	Employers' views about whether domestic workers should be treated as fictive kin or employees, by country	46
Table 11:	Domestic workers answers to "Are you able to use your employers' dishes and cutlery?", by country	47
Table 12:	Employers' answers to "Should a written contract be a benefit for domestic workers?", by country	50
Table 13:	Migrant domestic workers' answers to "Do you have a written contract?", by country	50
Table 14:	Employers' answers to "Should domestic workers have the right to change employer if they are abused?", by country	52
Table 15:	Domestic workers' answers to "Does your employer hold your passport?", by country	56
Table 16:	Employers' answers to "Should employers hold migrant domestic workers' passports?", by country	56
Table 17:	Employers' answers to "Should domestic workers have the benefit of being able to leave the house in their free time?", by country	63
Table 18:	Migrant domestic workers' answers to "Can you go out in your free time?", by country	64
Table 19:	Employers' answers to "Should domestic workers be allowed to have visitors?", by country	65
Table 20:	Domestic workers' answers to "Are you are allowed to have visitors?", by country	65
Table 21:	Employers' answers to "Should domestic workers have the benefit of annual leave?", by country	67
Table 22:	Employers' answer to "Should domestic workers have the benefit of minimum wage?", by country	68
Table 23:	Domestic workers' answers to "Are you getting enough to eat?", by country	71
Table 24:	Employers' answers to "Is social security coverage relevant for domestic workers?", by country	73
Table 25:	Employers' answers to "Is old age pension relevant for domestic workers?", by country	74
Table 26:	Employers' answers to "Do you discuss the benefits you give to your workers with other employers?", by country	82

# Abbreviations and acronyms

ASEAN	Association of Southeast Asian Nations
COMPAS	Centre on Migration, Policy and Society [United Kingdom]
DLPW	Department of Labour Protection and Welfare [Thailand]
DOE	Department of Employment [Thailand]
EPF	Employee Provident Fund [Malaysia]
FDH	foreign domestic helpers
IDM	Immigration Department of Malaysia
ILO	International Labour Organization
IOM	International Organization for Migration
IRO	Immigration Restriction Ordinance [Malaysia]
LPA	Labour Protection Act B.E. 2541 (1998) [Thailand]
MOHR	Ministry of Human Resources [Malaysia]
MOU	memorandum of understanding
MSDHS	Ministry of Social Development and Human Security [Thailand]
MYR	Malaysian Ringgit
NGO	Non-governmental organization
NV	Nationality Verification
POEA	Philippines Overseas Employment Administration
RMCS	Regional Model Competency Standards
SPSS	IBM Statistical Package for the Social Sciences
SSA	Social Security Act B.E. 2533 (1990) [Thailand]
SSO	Social Security Office [Thailand]
THB	Thai Baht
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women





—

‘They say if they give high salary, it won’t be a family any more’

Kyek, a Karen domestic worker

# Executive summary

Cleaning, cooking, and caring are crucial contributions that domestic workers make to societies and economies across the world. Domestic work is foundational to human life, yet it is typically not regarded as proper work. Consequently, domestic workers may be specifically excluded from labour rights and protections, or subject to discriminatory provisions. Furthermore, domestic work is increasingly carried out by migrant workers, who are often governed by highly constraining immigration laws or not included in immigration regimes at all, meaning that they must reside illegally. In order to create a clearer picture of the underlying factors influencing the lived employment experiences of migrant domestic workers in Thailand and Malaysia, this study focuses on the links between the working conditions as described by migrant domestic workers, and attitudes to migrant and domestic workers as expressed in the media and by employers.

This is a mixed methods study that employs both quantitative and qualitative data collection tools. Migrant domestic workers and their employers were surveyed and interviewed, focus group discussions were hosted, and government officials were interviewed. Press coverage was also analysed through quantitative and qualitative methods.

## ■ The legislative context

The report situates its findings within the immigration and employment law of Thailand and Malaysia. It finds that while both countries are important destinations for migrant domestic workers, they approach this group of workers in quite different ways. In Thailand, the employment conditions of the estimated 250,000 domestic workers are mainly governed through labour laws. In contrast, in Malaysia immigration law is the principle instrument of governance, with labour law as a secondary focus.

Despite these different approaches, migrant domestic workers in both countries experience a significant lack of labour protection and rights. In Thailand, most provisions under the Labour Protection Act B.E.

2541 (1998) (LPA) do not apply to domestic workers. Despite some limited entitlements extended to domestic workers in 2012, the sector continues to be excluded from working hours limitations, overtime compensation, maternity leave, and minimum wage protections. An increasing proportion of domestic workers in Thailand are migrants from Cambodia, the Lao People's Democratic Republic, and Myanmar. More recently, a population of domestic workers migrating from Viet Nam has been identified. In some cases, domestic workers may enter Thailand under arrangements stipulated by a memorandum of understanding (MOU) agreed between their state of origin and Thailand, but more usually their status is governed by the Nationality Verification (NV) system, a lengthy, employer-driven process that grants irregular migrants a right to temporary stay.

In Malaysia, while domestic workers are technically included under the Employment Act (1955), in practice they are excluded from the protections afforded by it. The employment conditions of domestic workers are instead largely regulated through additional conditions on employers and workers imposed via immigration requirements and through MOUs. There are some 300,000 documented domestic workers in the country, the majority of them migrants from Cambodia, Indonesia, and the Philippines.

Much needs to be done to bring the legal frameworks and MOUs shaping the employment and working conditions of migrant domestic workers into line with the minimum standards of the ILO Convention on Domestic Workers, 2011 (No. 189). In their current shape some of these national frameworks and agreements create a context that enables, rather than prevents, the exploitation and abuse of migrant domestic workers.

## **I Fictive kin and employment contract**

There are two models that are often used to make sense of employment relations in private households: employment contract and fictive kin. Fictive kin – or “false kin” – is a term used by sociologists and anthropologists to describe social relationships that are not based on “blood” or on marriage, but are explicitly likened to these ties. It suggests a close relationship that is governed by emotion and reciprocity rather than contract. One of the key findings of the research is that many migrant domestic workers themselves deploy the fictive kin model, in part because it captures the emotional aspects of their role that are not acknowledged in an employment contract. These emotional aspects often pass unrecognized, but have a considerable impact on the experiences of the workers, who can be reluctant to negotiate working conditions or leave even abusive employment situations because of their emotional ties to the individuals they care for. Furthermore, workers expressed that the fictive kin relationship is not problematic simply (or even primarily) due to a denial of their rights as workers, but because it does not necessarily result in the same long-term commitment to emotional and social well-being that is assumed in kin relations. In other words, being “part of the family” is not detrimental in itself, the problem is rather that the fictive kin relationship can be applied selectively by the employer, or be withdrawn completely when workers may need it the most, such as in sickness or old age. A sole emphasis on contract as the answer to the problems faced by domestic workers can overlook these issues. Indeed, workers surveyed for this study expressed a lack of enthusiasm for contracts, which seems to be because contracts are associated with a lack of freedom to leave. Restrictions on exiting the employment relation were very much at the fore in the terms and conditions of the government-issued contracts in both Malaysia and Thailand, and are compounded by immigration regulations that restrict workers’ ability to change employers.

Employers too deployed the concept of fictive kin, though in practice there were important differentiations between the family and the domestic worker. In Thailand, a substantial minority of employers thought that a written contract was not an appropriate right for any domestic worker. This was reflected in the fact that having a written contract was extremely uncommon: only seven per cent of migrant domestic workers surveyed in Thailand had a written contract. By contrast, in Malaysia, even respondents who felt that domestic workers should be treated as part of the family were supportive of written contracts – perhaps because in Malaysia contracts are associated with immigration requirements and explicitly tie workers to employers. Almost all employers in both Malaysia and Thailand thought that domestic workers should be permitted to change employers in case of abuse.

In practice employers, workers, and officials slipped between the two typologies of contract and fictive kin. This nuance is reflected in the fact that domestic work often falls between government departments. Domestic work is not included in the purview of labour ministries because it is related to families, and not regulated or reflected by family or gender ministries because it is related to labour.

## Working hours, time off and autonomy

Reasonable time away from work is a requirement of any form of employment. It is particularly important in the case of live-in domestic workers because of the limited autonomy they have within the household. Our research found that migrant domestic workers are working excessive hours in relation to the “normal hours of work” established for workers, set in both countries at eight hours a day. Daily working hours for carers reported in this research are particularly extreme – 15 hours in Malaysia and 13.5 hours in Thailand. Employers in both Thailand and Malaysia believed that eight-hour working days were not appropriate because domestic work is not “productive” in the traditional sense of creating a direct profit, and they felt that much of the time domestic workers were able to take it easy and were not really working. Only one-tenth of Malaysian employers and less than half of Thai employers felt that eight-hour working days were an appropriate right for domestic workers. Moreover, in Malaysia only one-fifth of employers thought that domestic workers should have 24 hours of consecutive rest, compared to two-thirds of employers in Thailand.

Workers and employers had different perspectives on stand-by hours, contributing to different ideas about what constitutes working time. In some countries, being a **migrant** domestic worker has particular consequences for individual autonomy when the worker is living in their employer’s home. Autonomy is limited by immigration requirements and this is compounded by isolation and the lack of social networks. Most of the domestic workers surveyed were not able to leave the house without their employers’ permission, even on their weekly rest day. They were also restricted in terms of permission to host visitors in the home. Combined, these findings indicate that while living in an employers’ house may be “free” in terms of cost, it is living out that gives “freedom”.

## Wages and social security

While monthly wage data for domestic workers in both Thailand and Malaysia suggests that domestic workers are paid above the minimum wage, this changes when taking into account hours of work and days off. Taking the minimum wage per hour into account, it was estimated that over 90 per cent of migrant domestic workers in both countries are paid below the minimum wage. This calculation is approximate only, and does not take into account the fact that live-in domestic workers often do not have to pay for accommodation or food costs (though it is not clear that such provisions are always sufficient, with a significant minority of live-in workers reporting that they did not have enough to eat, particularly in Thailand). It also does not account for the fact that in Thailand and Malaysia domestic workers are effectively excluded from the social security provisions governing formal sector workers, including pensions and maternity leave.

Thai employers were generally more sympathetic to including migrant domestic workers in social security coverage than Malaysian employers, who viewed such benefits as external to them and beyond their control. This is attributed to the combination of contract and immigration requirements in Malaysia that results in workers being seen as temporary and fungible if they become sick, pregnant, or too old. Interestingly, neither legal status nor length of stay impacted migrant domestic workers’ wage levels in either country. However, country of origin had significant effects on wages, especially in Malaysia, where different income requirements are placed on employers depending on the nationality of the person they are hiring.

## Press coverage and public attitudes

One of the key findings to come out of the press analysis was the strikingly strong association made between immigration and “illegality” in the press coverage. This was the case for both the quantitative analysis of English-language press (*New Straits Times* and *The Nation*), and the qualitative analysis of non-English-language coverage. For instance, in the *New Straits Times* during the period analysed, approximately 80–95 per cent of the time when an explicit description of an immigrant or immigrants was provided, it included the word “illegal”. Illegality referred to both the immigration status of migrant workers and to criminal activity. Though the overall use of the word “illegal” to describe migrants remained largely constant in the *New Straits Times* over the period analysed, it has decreased sharply in recent years in *The Nation* (however, it is still notably high). Although it is tempting to use these results to claim that one country’s media is more “immigrant friendly” than the others’, it is important to remember that the publications analysed are not representative of either country’s whole media environment.

What can be said is that the negative images and discourses disseminated in the media contribute to creating a hostile environment for migrant workers. In both Thailand and Malaysia, employers surveyed associated migrants with crime, and were concerned about the potential for their domestic worker to be associated with criminal activity. It is difficult to know whether press coverage is the cause or consequence of such attitudes, but if increased rights are to be secured for migrant domestic workers, then some of these embedded stereotypes and damaging images need to be challenged and unsettled. One potential avenue for such change could be through including the voices of migrant workers themselves: in the over 200 stories included in the qualitative analysis, migrant voices were almost completely absent, whereas police and other officials were overrepresented.

## Conclusions and recommendations

One of the key conclusions of the study is that the institutional and policy context is critical in shaping the attitudes and practices of employers. As Kamlee, a domestic worker from Myanmar working in Thailand, stated, “People treat you badly when they think that you have no choice,” suggesting that it is a person’s lack of freedom and choice that enables abuse. Various factors mean that low-skilled women migrant workers often have no choice but to accept domestic work positions. This would suggest that increasing the viable options for these workers is key to alleviating experiences of exploitation, forced labour, and trafficking. Furthermore, laws and policies regulating migrant domestic workers’ employment experiences need to be brought in line with relevant international standards, including ILO Convention No. 189.

However, legislative protections are often inadequate or slow to be realized, and so informal, employer-driven protections become pertinent as well to enhance domestic workers’ employment experiences. To this end there is a need to educate employers and the public more broadly about the rights and contributions of migrant domestic workers, emphasising that treating someone as “part of the family” should include respecting their human and labour rights. In particular, the importance of live-in domestic workers’ right to freedom of movement and basic labour rights should be highlighted. Furthermore, the perceptions around paid domestic work and migration need to change, and the media and civil society have an important role in this, as do trade unions, which by organising and representing migrant domestic workers can significantly increase their voices and visibility.

While care economy needs are growing, it is important to also recognize that employment of domestic workers is a cultural and social practice as much as it is an economic one. Women’s increased labour market participation is not the only reason why the employers participating in this study hired domestic workers. Instead, the practice of employing domestic workers is strongly linked to the notion of cultural reproduction. Tools that are developed to promote best employment practices in private households must recognize the cultural and economic factors that create a market for domestic workers, and too often excuse their abuse.



‘People treat you badly when they think that you have no choice’

Kamlee, a Myanmar domestic worker

# 1. Introduction

## 1.1 Introducing the study

In 1973 the sociologist Lewis Coser predicted that paid domestic work would soon be obsolete. Modernization and industrialization would mean a global decline in domestic service, which he designated a “pre-modern occupation”, work that is done by “an underclass of social inferiors who have no place in the social scheme of things”. An occupation built on status and the blurred lines between home and work would become unsustainable as people found new alternatives. The prediction was misguided (see box 1).

### Box 1: Domestic work figures

In the last 20 years, paid domestic work has not only become more visible, but the sector has grown. In its 2015 report *Global estimates on migrant workers*, the ILO estimated that in 2013 at least 67 million people were employed as domestic workers globally. Thought this represents an increase of over 15 million compared to data from 2010, the estimation still errs on the conservative side.

Approximately 73.4 per cent of all migrant domestic workers are women. Asia and the Pacific has the largest percentage of domestic workers, at over 40 per cent of the global total. The region also hosts the largest share of women migrant domestic workers, at 24 per cent of the global total.

Source: ILO, 2013a; 2015c

However, while Coser's prediction of obsolescence may have been wrong, his characterization of domestic work as a sector where the work is often performed by the socially excluded continues to hold. The sector is heavily female dominated, with women outnumbering men in most regions, accounting for approximately 80 per cent of all domestic workers (ILO, 2015c).<sup>1</sup> In Asia and the Pacific region, an estimated 7.8 per cent of all women in paid employment are working in the domestic work sector (ILO, 2013a). Many of these workers are either rural–urban or cross-border migrants. The particular vulnerabilities and challenges associated with this sector were recognized by the international community in the ILO Domestic Workers Convention, 2011 (No. 189).

The demand for household services, childcare, and eldercare has increased in Thailand and Malaysia over the past four decades. The Thai *Labour force survey* of 2013 estimated the number of domestic workers in Thailand to be over 250,000 (ILO, 2013b), and this excludes undocumented migrants and those working informally. In Malaysia, the number of domestic workers is estimated to be between 300,000–400,000 (ILO, 2016a). Both countries rely heavily on migrant workers. In Thailand, domestic workers now mainly come from Cambodia, the Lao People's Democratic Republic, and Myanmar (although some older Thai women do work in the sector). In Malaysia, paid domestic work is undertaken almost exclusively by migrant workers, largely from Cambodia, Indonesia, and the Philippines.

The purpose of this report is to explore the links between migrant domestic workers' employment experiences; attitudes to migrant domestic workers as expressed by employers and in the media; and the legislative and policy frameworks that govern migration and labour rights in the domestic work sector. Though there has been extensive research on migrant domestic workers, little has been written on public attitudes towards migrant domestic workers and how these affect working conditions experienced by individuals at the household level or protections afforded at the legislative level. The Centre on Migration, Policy and Society (COMPAS) at the University of Oxford was therefore invited to lead a study in Thailand and Malaysia on the employment and working conditions of migrant domestic workers, as compared to standards in ILO Convention No. 189, and attitudes towards domestic workers, with a particular focus on employers' attitudes and press coverage of migrant workers.

The study uses existing literature and research to provide a profile of migrant domestic workers in Thailand and Malaysia, their rights and their economic and social contribution, as well as generating new empirical data.

The report first outlines the methodological approach and sample characteristics of the study before going on to describe the regional and national contexts shaping the experiences of migrant domestic workers in Thailand and Malaysia with reference to immigration and employment law. It then analyses the attitudes to migration and migrant domestic workers exemplified in the press coverage in both countries, in interviews and surveys with employers, as well as the nature of the demand in Thailand and Malaysia for migrant domestic labour. It explores two ways of managing the presence of domestic workers in the private household: either "just like one of the family", introducing the concept of fictive kin; or "just another job" governed by contractual relations. The report then moves to the specifics of the working conditions of domestic workers, with a particular focus on working time and the importance of autonomy, wages, and social security. It concludes with an exploration of the ways in which domestic workers themselves manage relations in the private household and the importance of collective voices working together to ensure that rights are recognized.

Before outlining the report's analytical basis and findings it is necessary to determine key terms, including the definition of domestic work, and give some background on the ILO Convention No. 189.

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<sup>1</sup> It is important not to forget that this means that 17 per cent of domestic workers are men. It can be particularly difficult for male domestic workers to access available services because these are largely targeted at women.

## ILO Convention Concerning Decent Work for Domestic Workers, 2011 (No. 189)



Domestic work is work performed in or for a household or households.

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A domestic worker is any person engaged in domestic work within an employment relationship.

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A person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

## 1.2 Defining terms: What is domestic work?

### 1.2.1 Social reproduction

In 2011 a new set of international labour standards – the ILO Domestic Workers Convention (No. 189) – was adopted by the International Labour Conference. In Article 1, the Convention defines “domestic work” and “domestic worker” as follows:

- the term “domestic work” means work performed in or for a household or households;
- the term “domestic worker” means any person engaged in domestic work within an employment relationship;
- a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

However, this legal definition does not capture the social and cultural aspects of domestic work. Domestic work in private households is part of the broader category of reproductive labour, including the labour required for raising children; caring for the elderly, disabled, and others in time of need; the distribution and preparation of food; basic cleanliness; and hygiene. Reproductive labour refers to the diverse and complex mesh of activities necessary for the production of human beings, communities, and cultures. It is about subsistence and life itself, but also about socialization and living together. Reproductive labour is necessary to survival both individually and as a species, but it is not only performed for survival and neither is it confined to the family – education and the media, for example, are also socially reproductive institutions. Reproductive labour is not only about the maintenance of physical bodies nor the production of economic units: people are also social and cultural beings. The physical and emotional labour of reproductive work

creates people and human relations. How a house is ordered, older people cared for, children brought up, and what food is cooked are expressions of who “we” are as people within particular sets of social, cultural, and economic relations. The organization of homes, families, and social lives demonstrates one’s position within wider social relations – through the doing of domestic work we literally reproduce communities and our place within them.

For instance, household practicalities and relationships are often culturally distinctive and reflect ideas of what it is to be Thai or Malaysian, whether that be through cooking, child rearing, or hanging out washing. In Malaysia, the role of domestic work in social reproduction is reflected for instance by the fact that immigration rules require employers who are Muslim to only hire Muslim domestic workers. It is also implied in the way that the government-issued contract requires domestic workers not only to abide by Malaysian law, but to “respect the customs and traditions of Malaysia”. The Thai government-issued contract also requires workers to “respect Thai customs and traditions”. That is, there is clearly unease at the use of ‘outsiders’ in this form of labour.

### 1.2.2 Gendered social relations

As reproductive work is concerned with the social and cultural reproduction of human beings, the actual doing of the work – who does it, when, and where – is a crucial part of its meaning. More than a reflection, it is an expression and reproduction of social relations. Housework is, as the title of West and Zimmerman’s well-known article states, “doing gender” (1987). In taking responsibility for the house, a woman is often seen as acting appropriately as a woman, and domestic work is often associated with natural female dispositions. In most societies the roles of women and men in the home are sharply delineated, and in some cases male involvement in domestic work is simply considered inappropriate. Many employers interviewed in this study certainly took this position when asked about hiring men. Men were able to oversee domestic workers and in some instances even train them, but it was culturally unacceptable for them to do the work themselves.

Male? Nahhh, I don’t think so. I have seen how my husband works. I don’t think he can handle the kitchen very well. *Malaysian female employer aged 41–50*

In our society men do not want to do work like this. *Thai female employer aged 51–60*

The highly gendered nature of domestic work is one of the most obvious and visible aspects of its social construction. Who does the work matters, as the doing of domestic work is not just the accomplishment of certain tasks, but the reproducing of social roles and relations – between women and men, between rich and poor, between migrant workers and nationals, and between adults and children.

However, while demand for paid domestic work is recognisably influenced by demographic and social factors – the demise of extended family structures, feminization of labour markets, lack of provision for care outside the home, ageing populations, and so on – the employment of a domestic worker nevertheless does not create a simple substitute for a housewife. The domestic worker is not a replacement because she is not the “mother” or the “wife”, but the “domestic worker”. In her performance of her duties she is not reproducing the relation between husband and wife, but between householder and domestic worker. Even when her tasks are ostensibly the same as those that would be performed by a “mother” or a “wife”, her role is different.

### 1.2.3 Social status

The demand for household workers is not only about demand for care workers (those who look after children, elderly, and disabled people), but also demand for workers who will clean houses, wash up, iron, cook, and perform other household tasks. There is a notable lack of literature on demand specifically for cleaning services inside the home, but it is clear that domestic work facilitates consumption and lifestyle maintenance: some householders sustain certain lifestyles because they do not have to perform the

labour associated with their maintenance. For example, they may own decorative objects that require maintaining, or choose flooring that requires daily polishing. What is entailed by this kind of labour is heavily dependent on physical infrastructure: washing clothes and collecting water, for instance, can take hours of hard labour, or the touch of a switch. Consequently, a family can indicate its wealth and class status as much in employing a domestic worker as in the work that is actually performed (Anderson, 2000), and in this way domestic workers themselves can be a status symbol, a means of conspicuous consumption.

#### 1.2.4 Skills

Domestic work is generally classed as low-skilled. Non-caring domestic tasks that are sometimes recognized as being specialized, like gardening and chauffeuring, are more likely to be undertaken by men. Indeed, the language of skills is highly gendered, and some claim that this language has its basis in the gendered division of labour. One male employer interviewed illustrated some of the contradictions implicit in the application of skills to domestic work, and its relation to gender. He placed considerable emphasis on the importance of proper training: “Slowly you teach them, and they are very good maids... usually after one year’s time.” However, he said would not employ a male domestic worker because “I won’t know how to instruct them... To imagine they can cook, wash, follow a strict routine like a lady, I don’t know... [A woman] may be more built to do household work. If it is a male nurse, alright maybe you can. It is a profession, it is a specialized skill, but this is domestic work” (Malaysian male employer aged 51–60). This employer feels able to instruct women in the requisite skills for domestic work on the one hand, yet on the other he suggests that it is also a matter of feminine disposition – that is, that women have a natural facility for domestic labour that men do not have.

These sorts of claims reveal that the meaning of “skills” is highly contested. Some skills can require years of specialized training; others a one-day course. Some jobs that are deemed low-skilled may demand aptitude for personal relations, organization, and emotional intelligence among others.

#### **Box 2: Regional Model Competency Standards for Domestic Work**

The ILO’s Regional Office for Asia and the Pacific has developed Regional Model Competency Standards (RMCS) for domestic work. The RMCS are a set of benchmarks that define the skills, knowledge, and attributes that are needed to perform a work role. They provide a basis for developing national training programmes, skills assessment and certification, and, as a regional reference point, they can help support labour mobility. The RMCS for domestic workers include generic, vocational, and technical competencies ranging from effective communication, management and organization, and assisting clients with medication.

Source: ILO 2014a

Some of these skills are often not reflected in a formal qualification, but in generalized “experience”. They are particularly important in sectors where social relations with customers, clients, and service users are important to the delivery and quality of the work, and where employers require that the job is done in a way that contributes to a good service experience, rather than simply to complete the task. This is the case for domestic work, where employers often express a preference for personal qualities or experience over formal qualifications (Cangiano et al., 2009; Anderson and Ruhs, 2010). Even so, the ILO has developed regional model competency standards for domestic work (see box 2).

So-called “low-skilled” workers are supposed to be fungible and easily replaceable – “anyone” can do low skilled work, supposedly, if only they had the time to do it. However, domestic work suggests that this is not always the case. Employers are often keen to hold on to a particular worker because they know how to do things in their household, because the worker has built a strong relationship with a person they care

for, or because the employer and the worker have built a relationship based on trust over time. Domestic work is not only about doing certain tasks, but doing them in a certain way. A worker can make a family breakfast, for example, but does that worker think about what food the family enjoys eating, or just find something in the cupboard?

### 1.2.5 Social identities and market segmentation

Markets for domestic work are often heavily gendered and racialized, and across the world domestic workers are put into hierarchies of desirability according to distinctions such as skin colour, ethnicity, religion, nationality, caste, and so on, that are viewed as being appropriate for different types of domestic work and as meriting different levels of wages. The form this “otherizing” takes depends very much on social, economic, historical, and geographical contexts (among others). In general, these identities are constructed at a community or social level, though individual households may express “eccentric” predilections. If an employer has lived abroad, for example, they may prefer a domestic worker from that place. Markets for domestic work are highly segmented, with certain groups deemed more suitable for certain types of jobs than others. This segmentation is not just driven by individual employers but by government immigration policies, by placement agencies, and by domestic workers themselves who are eager to boost their position in the labour market, enhancing their own social status by drawing on hierarchies of race and ethnicity (Hondagneu-Sotelo, 2001; Anderson and O’Connell-Davidson, 2003).

## 1.3 The international legislative framework

ILO Convention No. 189 entered into force in 2013, two years after ratification by the first two states – Uruguay and the Philippines. It was the culmination of years of work by domestic workers, trades unions, migrant organizations, employers, governments, and other actors, and it builds on other instruments and interventions at the international level that aim to protect domestic workers. These interventions include the UN Committee on the Elimination of All Forms of Discrimination Against Women General Recommendation No. 26 on Women Migrant Workers (2008), and the 2002 General Recommendation on Discrimination Against Non-Citizens issued by the UN Committee on the Elimination of Racial Discrimination, which briefly mentions domestic work. The 2000 UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons does not specifically mention domestic work, but it has resulted in a renewed interest in the difficulties faced by migrant domestic workers.

### Box 3: ILO Convention on Domestic Work, 2011 (No. 189)

ILO Convention No. 189 – along with the accompanying Domestic Workers Recommendation, 2011 (No. 201) – establishes minimum standards for domestic work, including equal treatment with respect to normal hours of work, remuneration, and social security. The Convention also sets out who is a domestic worker. It has provided some necessary momentum for state recognition of domestic workers’ rights, and some countries have subsequently started to revise their legislation on paid domestic work. As of April 2016, 22 states had ratified the Convention, including the Philippines as the only state from Asia and the Pacific.

Source: ILO 2016b

While developing past efforts, Convention No. 189 was historic on several counts: it recognized the social and economic value of domestic work; it applied for the first time international instruments to an essentially informal segment of the global workforce; and it acknowledged and integrated migrant and non-migrant workers into the same framework of protection (see box 3). The Convention’s key principles are that domestic workers should be treated like other workers and not disadvantaged by occupation, gender, race,

or status; that social, economic, and civil rights should be respected; and that domestic workers should not be subject to forced labour (see Mundlak and Shamir, 2014, for a detailed discussion of the global governance of domestic work). However, neither Thailand nor Malaysia are signatories to Convention No. 189.

Not only does Convention No. 189 need to be ratified and its principles reflected in national law, it must become possible for domestic workers, including migrant domestic workers, to exercise their rights. Of course this is a challenge for all international instruments, but when it comes to domestic work it is particularly demanding because the work is conducted in the private household. This raises particular issues for regulatory authorities on account of the complex relation between patriarchy, state authority, and the private household, as has been exemplified in the longstanding challenges faced by attempts to protect women and children from domestic violence.

The Convention's accompanying Recommendation No. 201 is a non-binding instrument that offers practical guidance for the strengthening of national law and policies on domestic work. Recommendation No. 201 builds on the provisions of Convention No. 189 and serves as a source of guidance for member states with regard to measures they may take to apply Convention No. 189. It contains guidance on several matters not addressed by the Convention, including policies and programmes for the professional development of domestic workers, work-life balance, provisions regarding statistical data, and international cooperation in a number of areas, including with regard of the protection of the rights of domestic workers employed by diplomatic personnel.

## 1.4 Domestic work and migration

The provisions of Convention No. 189 apply to all domestic workers, including migrant domestic workers. In addition, Convention No. 189 explicitly addresses the situation of migrant women in its provisions. This is critical because migrant women are particularly vulnerable in private households and regularly find themselves excluded from labour protections not only because of the sector they work in, but also on the basis of their citizenship or their immigration status. For migrant workers, private homes may be considered a good place to work precisely because of the lack of state oversight, but this lack of oversight also has the potentially unintended effect of making it extremely difficult for domestic workers to report abuse and exploitation. Migrant women who are the victims of domestic violence can be made even more vulnerable because of anxieties about immigration status and residence rights for themselves and family members, which can compound reluctance to approach the authorities for assistance (particularly when the migrant is of irregular status).

In different countries across the world, migrant domestic workers live in the shadows of two bodies of law: labour law and immigration law. Both almost always exclude – or differentially include – migrant domestic workers. Caught between these two laws, migrant domestic workers may find themselves working but not as “workers”. They may be excluded from labour protections as “not workers” at the same time as being found in breach of immigration controls because they are “working”. Moreover, in migration policy low-skilled workers are often regarded as undesirable and competing with low-skilled citizens for jobs. If not forbidden from entry, they tend to be subject to restrictive provisions, with time limitations on their visa or work permits that make it difficult to access citizenship or permanent residence. The designation of domestic work as low-skilled therefore shapes the legal protections and possibilities for migrant domestic workers in very particular ways.

To summarize, Convention No. 189 and Recommendation No. 201 are critical tools for giving domestic workers, including migrant domestic workers, respect and recognition. Domestic workers are not only doing certain tasks, but they are also performing particular roles in the private household. Because domestic work is not conceptualized as productive labour and takes place in the private space, it is often treated as exceptional and not as “proper work”. When domestic workers are recognized as workers they are usually

considered “low-skilled”. The exclusions – or differential inclusions – that this generates are given a further dimension when domestic workers are also migrants. The next section will consider the particularities of these exclusions in the cases of Malaysia and Thailand.

## 1.5 A note on recruitment agencies



Employers who believe that domestic workers **should not** have to pay private recruitment agencies



Off-shore recruitment is a common measure in labour migration regimes of countries within the Association of Southeast Asian Nations (ASEAN). Such recruitment is intended to prevent undocumented migration: first, the migrant must get papers and employment, and only then migrate, rather than migrating in order to search for work. In practice it has resulted in a booming private recruitment industry that has raised the cost of migration for both workers and employers. Many migrant workers use recruitment agencies and have to pay high service fees, putting them in debt at the outset (Rangsitpol, 2014). These lending practices and the resultant debt set the stage for grave abuses (see HRW, 2011). Many migrant workers do not know how to access support from the receiving state or their embassy, and only correspond through the labour agency. This can mean that in cases of abusive employers, migrant workers will be returned to the employer or back to their country of origin (Huling, 2012). Making matters worse, there is a lack of enforcement against unscrupulous agencies (UN Women, 2013a).

Recruitment agencies are an important aspect of the domestic work sector in both Thailand and Malaysia. However, this study is not focused on recruitment agencies and their role in labour abuses, as there is already a range of research conducted on this topic (see, for example, UNIAP, 2011; Leone, 2012; HRW, 2011; Killias 2014). It is still worth noting, first, that in Malaysia researchers came across the practice of agencies being cited in legal documents as the employer of the domestic worker and then subcontracting their work out; and second, that in Malaysia and Thailand, of the 105 employers surveyed, 52 felt that domestic workers should not have to pay agencies, and 21 thought they should only pay in certain circumstances. Eight of the 200 domestic workers surveyed in Malaysia had their documents held by agencies.



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‘Not every employer is bad. It depends how you treat them.’

Kyek, a Karen domestic worker

## 2. Methodology

### 2.1 Research questions

The study responds to the following research questions:

- What are the employment and working conditions of migrant domestic workers as compared to those laid out under national legislation, ILO Convention No. 189, and relevant MOUs and ASEAN agreements?
- What kinds of attitudes do different stakeholders, particularly employers, have towards migrant domestic workers?
- How are migrant domestic workers represented in the press in Malaysia and Thailand?
- How do domestic workers understand their employment relationships and their futures?

### 2.2 Data collection techniques

This study employed a mixed methodology using both quantitative and qualitative data collection tools. In order to examine the living and working conditions of domestic workers as compared to standards in Convention No. 189, a small-scale face-to-face survey of 400 domestic workers was carried out. Of these 400 surveys, 200 were carried out at two sites in Thailand (Bangkok and Chiang Mai) and 200 were carried out at two sites in Malaysia (Kuala Lumpur and Penang). In addition, 105 employers were surveyed on what rights they thought were suitable for domestic workers in general and for migrant domestic workers in particular. Fieldwork was originally planned from September 2015 to December 2015, but was extended to the end of February 2016.

As surveys are limited when it comes to providing nuanced attitudinal data, in-depth interviews with domestic workers and employers were also conducted to follow up on findings from the survey questionnaires. Participants for the interviews were selected from survey respondents. A total of 16 in-

depth, semi-structured interviews – four at each research site – were carried out with migrant domestic workers to inform the qualitative analysis. A further 16 interviews were held with employers to explore their attitudes and why they considered certain rights suitable or not for domestic workers.

The research was interested in identifying good practices through in-depth interviews with domestic workers. For this reason, at least two (half) of the domestic workers selected for in-depth interviews at each research site had, in the survey, described their current employer as a 'good' employer. Similarly, for the employer interviews, the research sought to engage with those who self-identified as 'good' employers, in order to provide ideas for better practice.

In addition, four focus group discussions with employers were held, one at each research site. The focus group discussions were moderated by the principal investigator and held in English. The aim of the focus groups was to explore attitudes toward migrant domestic workers, media impacts, and how to expand good practice. Each focus group discussion was held in two parts. The first explored the demand for domestic workers and the challenges of being an employer, and the second discussed a newspaper article on domestic workers (see table 1.)

Structured interviews with officials were also conducted in order to get a better understanding of the national political and policy context. In Thailand, officials were interviewed from the Department of Labour Protection and Welfare (DLPW), the Department of Employment (DOE), the Social Security Office (SSO) and the Ministry of Social Development and Human Security (MSDHS). In Malaysia, a group interview with government officials was conducted. The interview was hosted by the Ministry of Human Resources (MOHR) and included participants from the Labour Office (Foreign Workers Division), the Immigration Department, the Home Affairs Department, and the Women's Department. Interviews were also conducted with the Indonesian Embassy in Kuala Lumpur, and the Indonesian Consulate in Penang.

To determine if a correlation or relationship is evident, a qualitative and quantitative press analysis was carried out in addition to the survey, interviews and focus groups, to gauge public attitudes to migrant domestic workers.

Table 1: Domestic worker and employer research samples, by research site

	Bangkok	Chiang Mai	Kuala Lumpur	Penang	Total
Surveys with domestic workers	100	100	100	100	400
In-depth interviews with domestic workers	4	4	4	4	16
Surveys with employers	29	26	25	25	105
In-depth interviews with employers	4	4	4	4	16
Focus group discussion with employers	1	1	1	1	4

## 2.3 Research sample

### 2.3.1 Research sites

The surveys, interviews, and focus groups were carried out across four research sites: Bangkok and Chiang Mai in Thailand, and Kuala Lumpur and Penang in Malaysia. The capital cities were chosen because they have a high concentration of domestic workers. Chiang Mai and Penang were selected because of their high numbers of migrant domestic workers, and because there were organizations and personal contacts that could facilitate access to domestic workers.

### 2.3.2 Domestic workers

Though estimates exist, the total numbers of migrant domestic workers in Thailand and Malaysia are unknown. This is largely because many migrant domestic workers migrate through irregular channels and are therefore not counted in official statistics. The lack of data means that there is no reliable “sampling frame” against which to construct a representative research sample. However, in order to ensure variance, the research aimed to survey and interview migrant domestic workers of different nationalities (see table 2). In total, 400 migrant domestic workers were surveyed, 100 at each research site and 200 in each country. All were women. The research explicitly excluded domestic workers employed by expatriates, as expatriates often offer a different employment culture and environment, and their inclusion would have further complicated findings across the two countries.

Table 2: Migrant domestic worker sample by country of origin

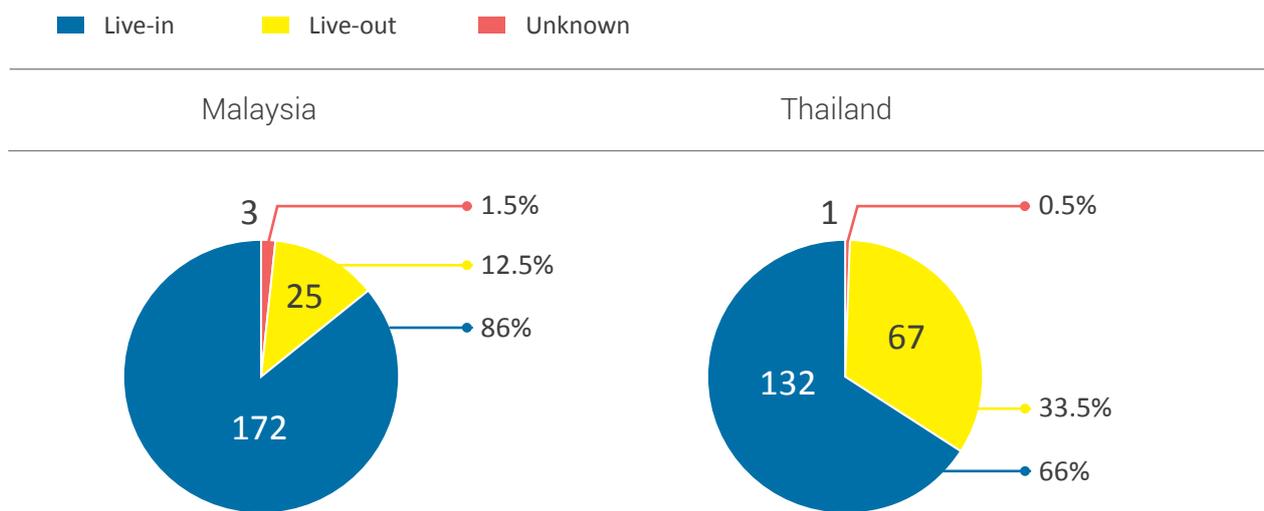
Malaysia			Thailand		
Country of origin	N	%	Country of origin	N	%
Indonesia	121	60.5	Myanmar <sup>1</sup>	177	88.5
Philippines	62	31	Viet Nam	15	7.5
Cambodia	16	8	Thailand	6	3
Sri Lanka	1	0.5	Lao PDR	2	1
Total	200	100	Total	200	100

In Malaysia most of those surveyed were live-in domestic workers (see figure 1). Of the 25 domestic workers who lived outside of their employer’s home, only six said they were working without a permit. This is surprising given that there is an immigration requirement to live in employer-provided accommodation. It suggests either that people were not being honest when asked about their legal status, or that they were in breach of requirements without knowing it, or that they were living in employer-provided accommodation but not in the house where they were working.

<sup>1</sup> Including Shan state

In Thailand, where there are no restrictions on whether migrant domestic workers should live in or out of the employer's home, only about two-thirds of domestic workers surveyed were live-in (see figure 1). It was comparatively more difficult to find live-in workers in Chiang Mai than in Bangkok. This might be due to a number of factors, including the lower cost of living in Chiang Mai, shorter commuting distances, and the existence of a larger and stronger network of migrant workers, all of which makes living out easier. Furthermore, many migrant workers in Chiang Mai have migrated as family units and prefer to live together.

Figure 1: Migrant domestic worker sample by live-in status



Approximately ten per cent of the Malaysian sample and 25 per cent of the Thai sample may be undocumented (see table 3). It should be emphasized that this is not representative of the populations as a whole. In Malaysia it is estimated that up to half of all migrant workers are undocumented (ILO, 2016a), whereas in Thailand the number of undocumented workers is estimated to be even higher (Huguet, 2014).

Table 3: Migrant domestic worker sample by legal status, by country

	Malaysia		Thailand	
	N	%	N	%
Regular	167	83.5	150	75
Irregular	21	10.5	50	25
Unknown	12	6	0	0
Total	200	100	200	100

### 2.3.3 Employers

This study set out to survey 25 employers at each research site, or a total of 50 in each country. The aim was to survey both male and female employers of live-in migrant domestic workers, with no restriction on how long they had been an employer. In Thailand 29 employers in Bangkok were surveyed and 26 in Chiang Mai, making a total of 55. Six of these respondents were male, 48 female, and one survey was completed by a couple. Of the 50 respondents from Malaysia, 14 were male, 32 female, and four surveys were completed by couples (see table 4). Employers did not have to belong to the majority ethnicity but they were required to be Thai or Malaysian citizens, and as mentioned above, expatriates were excluded from the research.

Table 4: Gender breakdown of employer survey respondents, by country

	Thailand	Malaysia	Total
Men	6	14	20
Women	48	32	80
Couples <sup>2</sup>	1	4	5
Total	55	50	105

### 2.3.4 Media

For the quantitative media analysis, two English-language newspapers were selected: the *New Straits Times* in Malaysia and *The Nation* in Thailand. These two newspapers were chosen due to their comparatively high circulation and their availability on Factiva, the international news and company database.<sup>3</sup> The time period for analysis chosen was from 1 January 1999 to 31 December 2014, which is the maximum shared time between the two publications as archived in Factiva. In total, the dataset contained 14,196 items comprising nearly eight million words (7,954,927).<sup>4</sup>

For the qualitative media analysis, a number of non-English-language publications in Thailand and in Malaysia were selected. Given the wide numbers of newspapers available, it was decided to focus on a few specific publications, but if a headline from another publication caught the research assistants' eye it was also included. The newspapers selected aimed to cover a range of political viewpoints.

<sup>2</sup> One man and one woman.

<sup>3</sup> Factiva aggregates content and provides access to a wide range of sources, including newspapers, journals and magazines in 28 languages.

<sup>4</sup> The following search query was used for this study (immigrant\* OR migrant\* OR foreign worker\* OR overseas worker\* OR domestic worker\* OR servant\* OR helper\* OR maid\* OR carer\* OR nanny OR nannies OR housekeeper\*) NOT (civil servant\* OR public servant\* OR government servant\* OR maidin OR maiden). Any item containing at least one of the query terms was retrieved. There are a number of exceptions: (1) civil, public, or government servants are not relevant kinds of servants in this context; (2) 'Maidin' appears to be a sports club; and (3) 'maiden' is an adjective referring to an initial or first occurrence rather than the noun ('maid').

Figure 2: Publications monitored and search terms used in qualitative press analysis in Thailand

 Languages	 Publications	 Search terms
Thai (72 stories)	<ul style="list-style-type: none"> <li>• Thai Rath</li> <li>• Matichon</li> <li>• Thai Post</li> <li>• Bangkok Business</li> <li>• Daily News</li> <li>• Chiang Mai News</li> <li>• The Nation</li> </ul>	<ul style="list-style-type: none"> <li>• Labour (<i>raeng ngaan</i>)</li> <li>• Worker (<i>khon ngaan</i>)</li> <li>• Employee (<i>look jaang</i>)</li> <li>• Foreigners (<i>dtaang chaat</i>)</li> <li>• Migrant (<i>kaam chaat</i>)</li> <li>• Alien (<i>dtaang daao</i>)</li> <li>• Servant (<i>khon chai</i>)</li> <li>• Housekeeper (<i>mae baan</i>)</li> <li>• Domestic work (<i>ngaan baan</i>)</li> <li>• Nanny (<i>pee liang</i>)</li> <li>• Old age (<i>khon gae/poo soong aa-yu</i>)</li> <li>• Take care (<i>doo lae</i>)</li> </ul>

Figure 3: Publications monitored and search terms used in qualitative press analysis in Malaysia

 Languages	 Publications	 Search terms
English (26 stories)	<ul style="list-style-type: none"> <li>• The Star</li> <li>• Malay Mail</li> </ul>	<ul style="list-style-type: none"> <li>• Migrant worker</li> </ul>
Malay (105 stories)	<ul style="list-style-type: none"> <li>• Berita Harian</li> <li>• Kosmo</li> <li>• Metro</li> <li>• Utusan Malaysia</li> </ul>	<ul style="list-style-type: none"> <li>• Foreign citizen (<i>warga asing</i>)</li> <li>• Foreign worker (<i>pekerja asing</i>)</li> </ul>
Tamil (10 stories)	<ul style="list-style-type: none"> <li>• Malaysia Nanban</li> </ul>	<ul style="list-style-type: none"> <li>• Foreigners (<i>vellinatar</i>)</li> <li>• Foreign worker (<i>anniya tholilalarkal</i>)</li> </ul>
Chinese (17 stories)	<ul style="list-style-type: none"> <li>• Nanyang Siangpau</li> <li>• Oriental Daily</li> <li>• Sinchew Jitpoh</li> </ul>	<ul style="list-style-type: none"> <li>• Foreign worker (<i>wai lao</i>)</li> <li>• Illegal foreign worker (<i>fei fa wai lao</i>)</li> </ul>

In Thailand, the following seven publications were monitored: *Thai Rath*, *Matichon*, *Thai Post*, *Bangkok Business*, *Daily News*, *Chiang Mai News*, and *The Nation*. All these newspapers are available in hard copy and on the internet. Broad search terms, such as worker or migrant, as well as terms more specifically related to the domestic work sector were used (see figure 2), so as to ascertain that all news related to migrant workers in Thailand was captured. The non-English-language sample covered 60 stories from 22 March 2015 to 26 February 2016. In some cases there were multiple articles on one news story (72 articles, 60 stories).

In Malaysia two English, four Malay, one Tamil, and four Mandarin-language newspapers were monitored (see figure 3). There were numerous articles on migrants in Malaysia, and it proved impossible to include all of those available. So instead of focusing on particular newspapers, a select coverage from a wide range of publications was chosen. The sample chosen was from 5 October 2015 to 28 February 2016 and included 158 articles in 11 outlets, all in the printed press (though some were accessed online). It should be noted that the multi-lingual press might mean that the same story was covered twice (e.g. once in the Tamil press and once in the Chinese press). However, the headlines of all 158 articles suggest that all cover different real world stories.

## 2.4 Research ethics

The study was subject to University of Oxford ethical review processes. Informed consent was sought from all participants. Participants were given an information sheet explaining the project and their role in it and that they could withdraw at any stage from the project before publication. The sheet guaranteed anonymity and confidentiality. Any person who disclosed experiences of abuse was referred to a group that could offer support.

## 2.5 Data analysis

### 2.5.1 Survey and interview data

Survey data was analysed using the IBM Statistical Package for the Social Sciences (SPSS). Interview data was hand coded with attention to the research questions and to issues emerging from the SPSS analysis. Qualitative findings were also used to select variables for analysis in the SPSS data.

### 2.5.2 Quantitative and qualitative press analysis

For the quantitative press analysis, the dataset was analysed using corpus linguistic methods, which are a set of techniques that look for patterns in relatively large amounts of text. The aim was to determine if any patterns of media representation were discernible so that representations could be linked to employment practices or attitudes held toward migrant domestic workers.

For the qualitative press analysis, a coding sheet was completed for each selected story. This detailed the type of coverage, the specific word used in the article for “migrant” and for “domestic worker”, gender, nationality, and “frame”. For the frame, the principle and secondary representations of migrants were assessed based on 14 possible descriptors. These included positive (e.g., “hard worker”), negative (e.g., “cultural threat”), and neutral (e.g., “poorly educated”) terms. “Other” was also an option. If employers were represented, their frames were similarly coded. Finally, the stories were also coded based on the speakers that were directly quoted (for example, migrants, employers, police, or officials).

The aim was to determine if any differences in representation could be seen between the English- and national-language press, though results were not expected to be conclusive. Differences in representation could indicate several factors at play.

## 2.6 Research terminology

This research adopts the Convention No. 189 definition of “domestic worker” and uses the term to mean any person, woman or man, engaged in domestic work who receives payment (which may include “in-kind payment”) for doing so, and who considers domestic work their occupation. One of the advantages this definition has is that it does not describe domestic work purely in terms of the tasks performed.<sup>5</sup> The scope of this definition is very broad and includes, for example, gardeners, family chauffeurs, and guards in private homes. However, while workers performing these roles were not excluded from the research, the principle focus was on workers doing tasks such as cleaning, cooking, and care work.

The study was specifically interested in “migrant domestic workers”. Who counts as a “migrant” is far from straightforward and is historically and nationally dependent. For the purposes of this project “migrant” was defined as a non-citizen, of whatever legal status. The principle focus was on people who are living outside of their country of citizenship, though it was decided not to exclude stateless national minorities (specifically hill people in Thailand). In Thailand it was also decided to include a few citizens who were working in the sector and who researchers came across serendipitously.

Though the study did not attempt to sample domestic workers by legal status, questions that made it possible to gauge probable legal status were asked, as it is an important factor shaping migrant domestic workers’ experiences. Legal status is not an easy concept to define, as it does not function as a simple binary. For the purposes of the research, having legal status in Malaysia was defined as having a valid work permit, and in Thailand as either entering under an MOU or applying for the nationality verification process. The concept is discussed in further detail in the following chapter.

Domestic workers are often distinguished by whether they live in their place of work (live-in) or in separate independent accommodation (live-out). The aim of this research was to survey and interview mainly live-in workers, as their working experiences can differ significantly from those who live out. Living in exposes domestic workers to further vulnerabilities, including excessive working hours, excessive salary deductions in exchange for accommodation and food, inadequate living conditions, and limitations to the right to privacy and freedom of movement (ILO, 2013d). Domestic workers may also feel more dependent on their employer, as they can end up homeless as well as unemployed if they leave their job or are dismissed (ILO, 2016a). Still, living in can also be the preferred option for many migrant domestic workers, as it may be cheaper or more convenient (ILO, 2013d).

## 2.7 Research limitations and challenges

Although the research applied a mixed methodology, it emphasized a qualitative approach. As a result, the survey data was not analysed in great depth and should be interpreted as playing a supporting role within the study. Overall, the quantitative sample, particularly the number of employers surveyed, was relatively small and the resultant data should therefore be seen as indicative rather than representative. Consequently the results of the employers’ survey are not given as percentages, as this could be misleading.

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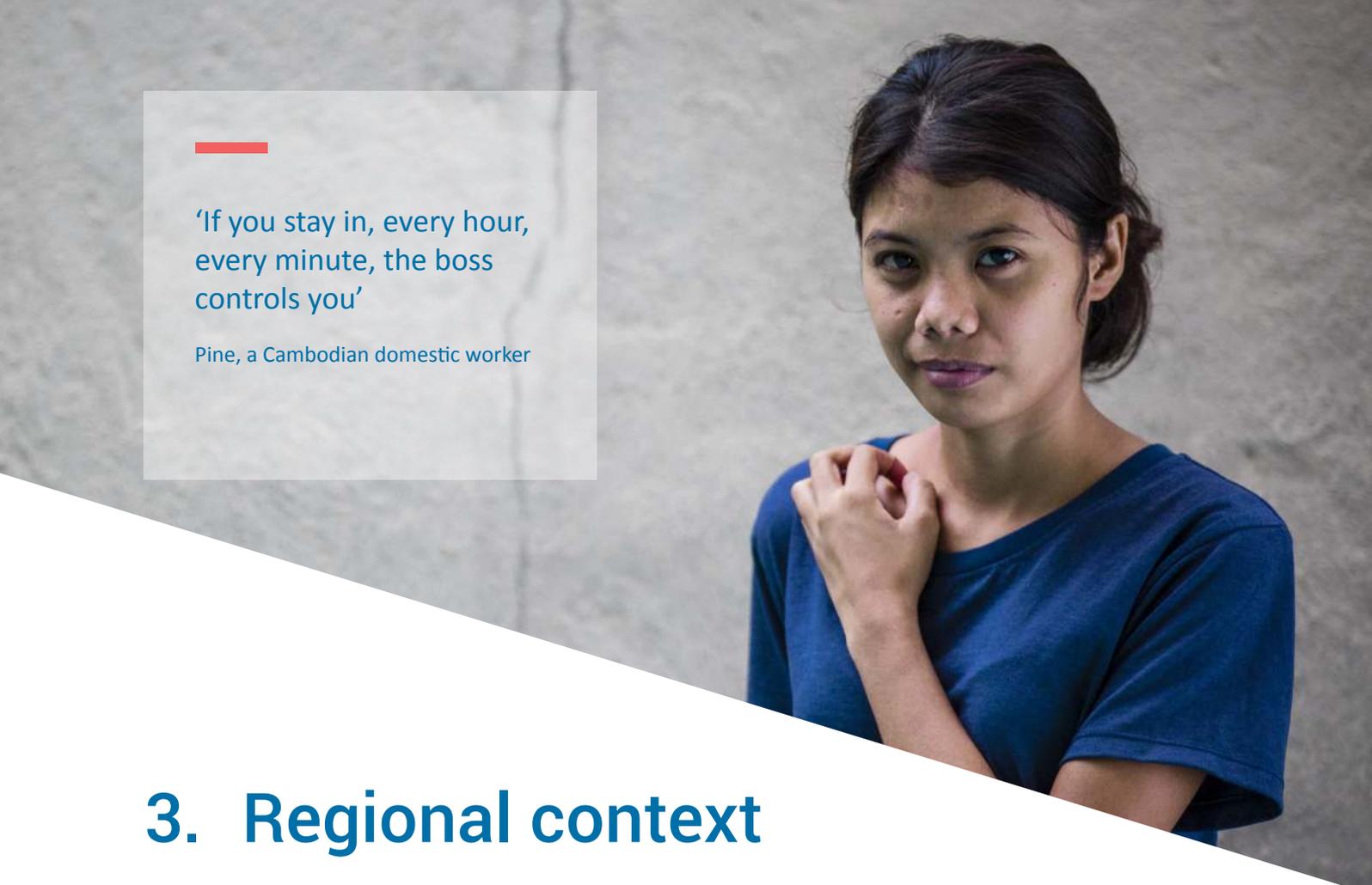
<sup>5</sup> The definition sharply distinguishes between domestic work as an occupation and when it is not an occupation, that is, when it is carried out in one’s own house or in the house of a relative. In practice the borders between paid and unpaid domestic work are extremely nebulous: domestic work is often performed unpaid in a wide variety of circumstances in return for board and lodging, most obviously by wives and children. There are many states where children are “adopted” from relatives, often rural, to do unpaid domestic work. Similar arrangements of work in return for food, accommodation, or protection are not confined to quasi-kinship arrangements, and have been observed in Europe, the United States, and Canada (Anderson, 2000; Romero, 1992). The lack of distinction between paid and unpaid domestic work can become apparent even within a single employment situation: employers may ask for or workers may offer “favours” that are unpaid, and such arrangements may continue even after the employment arrangement has ceased (Anderson, 2000).

It proved very difficult to contact employers, and researchers therefore largely drew on their personal contacts. As the research was particularly interested in people who self-identified as 'good' employers, they wanted to ensure that NGO workers and activists were included in survey respondents, though this proved easier in Thailand (N=16) than Malaysia (N=3). Contacting domestic workers was also a key challenge. In this study, domestic workers were contacted through a number of entry points in order to capture different experiences and groups, and to avoid accessing people solely through their membership in organizations. Despite efforts to diversify the sample, a significant number of workers were contacted through NGOs in Malaysia (118) and Thailand (65). It should be noted that this will bias the sample, but it is not possible to know precisely how. For example, workers accessed in this way may be more networked and have greater access to support simply because they are members of organizations, or they may have faced particularly difficult employers and been motivated to contact a group. For this reason, the researchers also sought to contact domestic workers through other means (see Annex I for a full description of how domestic workers were contacted).

Another challenge was ensuring variance in the sample. The aim was to sample a minimum of ten migrant domestic workers from at least three different countries of origin. This proved difficult in Thailand, where 88.5 per cent of the domestic workers surveyed were from Myanmar. Access to domestic workers from Myanmar was easier because they are informally organized – both as domestic workers and as ethnic groups – and there are more services targeted at them, including education and religious services. Furthermore, many of the research participants from Myanmar were from Shan State. This may have further biased the sample, as Shan and Thai people are culturally and linguistically similar and may therefore have favourable employment conditions compared to other migrant domestic workers. While the researchers would have had access to a group of Filipina domestic workers, they largely worked for expatriate employers who, as mentioned, were explicitly excluded from the sample.

The two surveys were designed to be administered face-to-face by a third party, but they were also translated into the relevant languages and could be completed independently. In practice, they were often done through guided self-completion, where the researcher advised a group of domestic workers on what the questions meant. This proved the most efficient form of gathering data in the time period available. However, it resulted in some minor limitations in data quality for some surveys.

Regarding the quantitative press analysis, it should be noted that as English-language publications, the readership of the *New Straits Times* and *The Nation* is not likely to reflect Thai and Malaysian society more broadly. Unfortunately, it was outside the scope of this study to carry out a more comprehensive and representative quantitative press analysis. However, this was at least partially mitigated by an extensive qualitative review of the non-English-language press in both countries.



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‘If you stay in, every hour,  
every minute, the boss  
controls you’

Pine, a Cambodian domestic worker

### 3. Regional context

Domestic work and migration are intrinsically linked. The ILO’s most current figures suggest that nearly one in five domestic workers are international migrants. The proportion of rural–urban migrants is likely much higher (ILO, 2015c). However, trade, mobility, and multiple interactions between groups of people who differ linguistically, culturally, or religiously is not confined to the current era of globalization. The study of migration tends to locate it as a new phenomenon, but in fact it is often the borders and their intensive policing that are new, rather than the movement between communities (Wimmer and Glick-Schiller, 2002). Migration has become more remarked on and regulated with the solidifying of the nation state form, and this certainly seems to be the case for Thailand and Malaysia. Before “Thailand” and “Malaysia” existed as states, the region hosted annual migrations and stays abroad for generations from particular areas of China, while people from India routinely travelled to South-East Asia and could live there for decades if not for the rest of their lives (Mazumdar, 2007). Focus on cross-border movements has also led to overlooking the relation between mobilities that are now classed as “internal” and those that are classed as “international”.

Similarly, domestic work performed in the homes of non-relatives is not a new phenomenon. The situation of migrant domestic workers and of their employers in contemporary Thailand and Malaysia therefore needs to be understood in terms of the deep historical roots of both migration and domestic work in the region, and people’s ideas of the region’s history more generally. For example, one employer explained her reasons for not employing a Cambodian domestic worker in the following way: “I don’t really like Cambodian workers. It might be because of the history I learned about Praya Lawak... If you ask my generation we heard about history and war” (Thai female employer aged 61+). Praya Lawak was a Khmer ruler who was considered a rebel against Ayutthaya’s monarch in the late sixteenth century. The way states’ histories are imagined has implications for employers’ attitudes and practices.

## 3.1 Thailand

### 3.1.1 Labour migration in Thailand

Thailand is now a major destination for migrant workers within the ASEAN region. It is estimated that there are between 3.5 and four million migrants living in Thailand, of whom around 3.25 million are working and approximately 1.59 million (or about half) are undocumented (Huguet et al., 2014). This mobility has a long history. In the north-west of the country there has always been considerable movement and trade across what is now an international border by minority groups. The majority of people living in Myanmar's Shan State are Tai-speaking and have close socio-cultural and historical affinity with people in the north of Thailand. Historians have uncovered at least 25 flows of "migrants" from what are now 15 different countries of origin between the thirteenth and eighteenth centuries, including modern China, Japan, Bangladesh, Pakistan, France, Iran, and India. The late eighteenth century onwards was marked by organized flows of indentured male migrant workers, and significant numbers from China. A combination of patriarchal families, gender-specific labour demand and the restrictions imposed by the Chinese local state meant this migration was male-dominated (Wongboonsin, 2013).

The early twentieth century saw a shift towards a more nationalistic policy, though the number of Chinese immigrants seems to have grown during this time, and female migration also increased. Thailand's first immigration act B.E. 2470 (1927–28) required an 'alien' to have a certain sum of money, but in practice these measures were not strictly enforced and the costs of certification seems to have resulted in illegality, prompting the Government to counter with the Registration of Aliens Act B.E. 2480 (1937–38) requiring aliens to obtain Alien Registration Certificates. These and other restrictions did not reduce numbers, but they did raise revenue (Coughlin, 1955). Coughlin observes:

The specific legislation enacted by the Thai Government was obviously influenced by similar legislation previously enacted in the United States. Thus we find such ideas and techniques as excludable categories of aliens, literacy tests, and quota restrictions being written into Thai laws. The very concept of immigration laws and regulation is itself an innovation from the West. We can note further that the control of Chinese immigration in Thailand has coincided roughly with the period of the most drastic United States control of its immigration (1955, p. 236).

Strong labour demand and highly porous borders combined with this long tradition of regional labour mobility and networks, and for several decades large numbers of people from Cambodia, the Lao People's Democratic Republic, and Myanmar have moved across borders to work in Thailand. The 1978 B.E. 2521 Working of Aliens Act allowed for one-year work permits but preserved the limitations of the 1972 Royal Decree on reserve occupations for Thai people, including manual work, work in agriculture, fishery, and forestry, and construction. However migrants now principally work in agriculture, manufacturing, construction, fisheries, and domestic work – precisely the sectors that were supposed to be reserved for Thai people (Huguet, 2014). The Act was revised in 2008 to reflect this, and no longer includes domestic work as a sector reserved only for Thai workers.

By the 1990s Thailand had become a net receiving country for international labour migrants but without an established migration management system. In response to labour shortages and undocumented migration, short-term amnesties were offered, and in 1992 Thailand began to issue migrant worker cards to persons from Myanmar working on the Thai/Myanmar border. These measures did not give full legal status or labour protections to migrant workers, and it became clear that a more sustainable approach was required. Following a regional consultation in 1999, the Bangkok Declaration on irregular migration was adopted with the support of 19 states in Asia and the Pacific. This emphasized the importance of interstate cooperation and established the basis for the signing of three bilateral MOUs between Thailand and Myanmar, Thailand and Cambodia, and Thailand and the Lao People's Democratic Republic in 2002 and 2003. In December

2015 a new MOU with Cambodia was signed (ILO, 2015a).<sup>1</sup>

The MOUs set out cooperation under the following objectives: employment; repatriation; protection of workers’ rights; and prevention of and action against illegal border crossing, trafficking, and illegal employment. However, the focus has been very much on admissions, prevention of irregularity, and repatriation, with much less attention paid to the protection of migrant workers (ILO, 2015a). Under the MOUs, workers are recruited in their countries of origin and, having fulfilled the necessary criteria and documentation, migrate legally to work in Thailand. The MOUs are for temporary stay only, with permits for an initial two-year period that can be renewed up to a limit of four years. Workers are tied to their employer for their first two years, with no possibility of changing employer without losing their legal status except in the most necessary situations. Such situations include cases where the employer dies, becomes insolvent, breaches the rights of the workers, commits a violent act, or does not act in accordance with labour protection laws (ILO, 2015a). Having completed the maximum contract of four years, workers must return to their country of origin and wait for 30 days before being eligible to reapply under the MOU.<sup>2</sup>

The numbers of migrant workers with valid work permits who have entered Thailand through the MOU process is relatively low (see table 5). Unfortunately, the official work permit and MOU data is not disaggregated by sector of work, so it is impossible to determine the numbers of domestic workers coming to Thailand through the MOU process. Furthermore, though migrant workers need to be sponsored by an employer to obtain a valid work permit, many domestic worker employers do not register their workers as they do not consider themselves “employers”. These factors mean that domestic workers do not show up in the official statistics. Further, domestic workers were likely not considered in the design of the systems to regularize migrant workers, specifically the MOU processes, so while there is an attempt to track migrant data, domestic workers are overlooked.

**Table 5: Number of migrant workers with valid work permits who have entered Thailand through the MOU process (July 2016)**

Nationality	Male	Female	Total
Myanmar	105 243	62 886	168 129
Cambodia	77 948	54 494	132 442
Lao PDR	17 454	17 511	34 965
Total	200 645	134 891	335 536

Source: Office of Foreign Workers Administration, Department of Employment, Ministry of Labour.

The legality of migration of domestic workers from the Lao People’s Democratic Republic and Myanmar is unclear, but it is clearly taking place (ILO, 2015a). For instance, the Myanmar Government has arguably suspended MOU migration for domestic work through media statements and by not including explicit provisions for domestic workers in the MOU with Thailand, but there has been no formal suspension enacted by legislative instrument or policy. In our sample of domestic workers, three women born in Myanmar claim to have entered Thailand under the MOU. Similarly, in the Lao People’s Democratic Republic, the

<sup>1</sup> The new MOU between Cambodia and Thailand was signed in December 2015 and was not operational at the time of field research. Additional MOUs between Thailand and the Lao People’s Democratic Republic, Myanmar, and Viet Nam have also been agreed since field research concluded.

<sup>2</sup> This is stated for instance in Article 6 of the Agreement on the Employment of Workers between the Royal Thai Government and the Republic of the Union of Myanmar, 24 June 2016.

decree governing labour migration prohibits workers from migrating into professions that do not “broadly develop skills and/or technical knowledge, are contrary to tradition, culture and law or are dangerous to the health and safety of workers” (ILO, 2015a). Lao Government officials have indicated that domestic work is generally seen as such a profession, but no formal ban has been instigated. According to interviews conducted with the Thai Department of Employment for this study, domestic work is an important sector for Lao people entering under MOUs, a statement that is not entirely evident in official data.

Alongside the MOUs that facilitate legal entry, Thailand has put into place a Nationality Verification (NV) system. This attempts to deal with the presence of large numbers of undocumented workers. The process is employer-driven and migrant workers cannot apply without employers’ support. Migrant workers from Cambodia, the Lao People’s Democratic Republic, and Myanmar who are residing and working irregularly in Thailand as a consequence of illegal entry can register with the Thai authorities to participate in the process. Those registered can obtain a “pink card” and a work permit for one year (extended in 2016 to two years), but they are only semi-regularised and have extremely limited rights. They are tied to their employer and their mobility within Thailand is restricted.<sup>3</sup> If a domestic worker leaves their employer, the employer has an obligation to report this to the Department of Employment, though in practice this rarely happens. Once the workers are registered, they are required to have their nationality verified by their state of origin, after which they can receive permission to stay and work for four years (extended to eight years in 2016). The number of migrants who completed NV processes by 2013 was 860,000, of whom 730,000 came from Myanmar (ILO, 2015a, p. 15).<sup>4</sup> Registration for NV does not in itself give permission to stay and there are large numbers still in process. There are also significant numbers of people who have not registered, including people put off by the time, complexities, and costs, and those not supported by their employer. There are also groups who are not eligible because their citizenship is not recognized by their country of origin, such as people from Myanmar who self-identify as Rohingya. In 2014 the International Organization for Migration (IOM) estimated that approximately one million workers remained unregistered (Huguet, 2014). Thus it is important to understand migration status in Thailand as a continuum rather than a legal/undocumented dichotomy, moving from undocumented, through to NV registered, and on to legally registered temporary residents. In February 2016 a new MOU was signed between Myanmar and Thailand that promised to expedite the NV process, including by establishing six nationality verification centres for workers from Myanmar working in Thailand.

According to the Alien Working Act B.E. 2551 (2008), if a Thai person is found to be employing an undocumented migrant they are subject to a fine of between 10,000 and 100,000 Thai baht (THB) (approximately US\$279.41–2,794.07<sup>5</sup>) per undocumented worker (Section 54). The undocumented worker can be fined up to THB100,000 and be given a prison sentence of up to five years (Section 51). According to the study’s interviews with government officials, in practice employers are usually fined THB10,000 per worker, while the worker is fined THB2,000 (US\$55.88) and imprisoned only if they cannot pay. There is no specific data available on such sanctions in the context of domestic workers.

### 3.1.2 Labour law and social security protections in Thailand

The key piece of general labour legislation in Thailand is the 1998 Labour Protection Act (LPA) (amended in 2008). Under this legislation it was possible to interpret domestic workers as a category of employee, but Section 22 stated that along with agricultural work, sea fishing, transportation, and other work as prescribed in royal decrees, domestic work could be subject to labour protection that differs from that

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<sup>3</sup> In some sectors recruitment agencies act as proxy employers, registering migrant workers and subcontracting them out to employers (ILO, 2013c, p. 37). How this might apply in the case of migrant domestic workers is not known.

<sup>4</sup> The large proportion of people from Myanmar is particularly striking given that, in contrast to the authorities of Cambodia and the Lao People’s Democratic Republic who sent out mobile teams to issue temporary passports, until 2015 the Government of Myanmar required migrants to return to Myanmar to collect their documents.

<sup>5</sup> The United Nations exchange rates from February 1<sup>st</sup> 2016 are used for all conversions from THB and Malaysian Ringgit (MYR) to US\$.

provided in the Act. A Ministerial Regulation issued that same year specifically excluded LPA application to domestic workers (or at least those not working in commercial businesses) with respect to crucial working conditions, including minimum wage, weekly days off, working time, and the provision of basic welfare services such as drinking water, toilets, and basic medical care. The LPA continued to apply to domestic workers with respect to the minimum requirement of six days off per year. In 2012, the Thai Government introduced the Ministerial Regulation on the Protection of Domestic Workers that amended the regulation of 1998 and extended more entitlements to domestic workers – though not the full LPA entitlements (ILO, 2013b; Rangsitpol, 2014). Under this regulation, all domestic workers were granted the right to a weekly rest day, traditional public holidays, up to 30 working days of sick leave a year, and payment of unused leave. These were to be recognized even without a written contract. The general minimum age for admission to employment (15 years old) was made applicable to domestic workers (Rangsitpol, 2014). A domestic worker who has worked for a single employer for one year without interruption is entitled to at least six working days of annual holiday with pay. Domestic workers must be paid at least once a month, unless otherwise agreed with the worker. Therefore, in some respects Thai legislation became more closely aligned with the requirements of Convention No. 189. However, domestic workers continue to be excluded from working-hour limitations; overtime compensation; the majority of provisions regarding the employment of young workers; maternity leave and protections (including protection against termination of contract upon pregnancy); and minimum wage protection (ILO, 2013b). Furthermore, enforcement of labour protections is a serious issue, one that is especially marked for migrant domestic workers. It has been argued that only about 20 per cent of employers actually comply with the regulation (*Bangkok Post*, 2015).

The Social Security Act B.E.2533 (1990) (SSA), as amended in 1999 (third amendment), defined an employee entitled to coverage as “a person agreeing to work for an employer in return for wages irrespective of designation, but excluding an employee who is employed for domestic work which does not involve a business” (Section 5). In 2015, the fourth amendment of the Act removed the explicit exclusion of domestic workers from the definition, but the Royal Decree issued by virtue of the Act still excludes “employees of a natural person whose work does not involve business”. The process of amending subordinated laws to be in line with the Act is ongoing.

Under Section 33 of the SSA, employees are entitled to seven benefits: injury or sickness, death, invalidity, maternity, child allowance, old age pension, and unemployment. The Government and employers both contribute to this fund. Section 33 employees who move into the informal sector can become insured persons voluntarily under Section 39, as long as they have paid contributions under Section 33 for no less than 12 months. Section 39 entitles such workers to all benefits except unemployment. Though it is not stated explicitly, migrant workers are effectively excluded from coverage under Section 39 as their stay in Thailand is tied to a specific employer. A person may also voluntarily insure themselves under Section 40, which entitles them to certain benefits depending on their monthly contribution. Persons contributing THB100 (\$2.79) per month are entitled to compensation for non-work related illness and injury, invalidity, and death. For persons contributing THB150 (\$4.19) per month, benefits include the three aforementioned plus old age pension. The Government’s contribution is not obligatory under Section 40. Whether domestic workers should be eligible for Section 33 or Section 40 coverage has been the subject of prolonged debate. At the time of research this was a topic still under discussion with the Social Security Office, which is conducting a study to determine the scope and need for social security protection for domestic workers, and the demand from employers to include domestic workers under this scheme (SSO, 2016).

Whatever the results of this future study, Social Security Office officials interviewed for this research stated that in order for workers to access Section 40 insurance benefits they will have to have Thai nationality or an identity card issued to ethnic minorities from the highlands and their children (sometimes known as a ‘hill tribe card’).<sup>6</sup> Migrant domestic workers are therefore excluded.<sup>7</sup> Instead, migrant workers who have

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<sup>6</sup> Interview at Social Security Office, Bangkok 16 December 2015

<sup>7</sup> The ILO recommends that domestic workers should be included under Section 33 of the SSA. This would be particularly beneficial for migrant domestic workers, as Section 33 also covers migrant workers (though only those who have migrated through regular channels)..

completed the registration phase of the NV scheme are required to register under the Migrant Health Insurance Scheme (MHIS), which includes an annual health check-up and medical insurance. The annual fee for this is THB2,100 (US\$58.90). Employers are generally required to register workers and contribute to the Workmen's Compensation Fund in the case of accidents at work, but in the case of migrants this is dependent on their legal status. Regardless of their legal status, migrant domestic workers are completely excluded from this protection.

Together, the Network of Domestic Workers in Thailand, the ILO, and HomeNet have recently developed a model contract for domestic workers that reflects the rights of workers under Convention No. 189 in the context of Thailand and the minimum standards required by Thai law.<sup>8</sup> It is an important potential training tool for both domestic workers and employers.

## 3.2 Malaysia

### 3.2.1 Labour migration in Malaysia

Malaysia, like Thailand, has a long history of migration. *Pergi merantau*, to leave one's home with no compulsion to return, was "deeply rooted in the cultures of the region and pre-dated the formation of states" (Wang, 1985, p. 45). Populations were fluid and highly mobile for the purposes of kin, trade, and adventure. Over centuries people from what is now known as China and India also travelled to and settled in the Peninsula. Warfare, trade, and scholarly exchange oiled the movement between Aceh and the Malay Peninsula, even after the Anglo-Dutch border between Borneo and the Straits of Malacca was demarcated in the treaty of 1824. The Javanese too had centuries of connections with what is now Malaysia (McGahan, 2008).

Malaysia's current border regime and ethnic identity politics have to be understood within the context of the British colonial legacy. Britain deployed indirect rule in the protectorate of Malaya and instituted far reaching economic policies that required large numbers of migrant workers. Large plantations and tin mines were established and a migrant labour force from China, India, and Indonesia was developed. Under the British, many small holders from Indonesia entered and settled in Malaysia identifying as "Malays" (Kahn, 2006). The early twentieth century saw massive migration to the Peninsula:

There were three main explanations for this demographic transformation: the policy of unrestricted immigration; the need to ensure a planned and regulated migrant labour supply; and the need to avoid over-dependence on any one group. Unrestricted migration and the policy of favouring Indonesians meant that the Indonesian migrants (who also came as agriculturalists), invariably settled in Malaya (Kaur, 2009, pp. 283–284).

The 1864 Banishment Ordinance was used to control the movement of Chinese political activists, but the first piece of immigration law was the Immigration Restriction Ordinance (IRO) (1928). The ordinance was largely aimed at the Chinese and allowed the Governor of the Straits Settlements to restrict mobility "for the purposes of performing domestic or manual labour whenever the influx of immigrants threatened unemployment, economic distress, or was not in the public interest" (Parmer, 1960, as cited in Kaur, 2009, p. 286).

The Aliens Ordinance replaced the IRO in 1933. It was designed to regulate the admission of aliens, and again was targeted at the Chinese, as Indians were not aliens but British subjects (Kaur, 2009). Indonesian labour migration continued to be encouraged. The 1953 Immigration Ordinance (enacted during the Malayan Emergency) laid down for the first time specifications by nationality and occupation, emphasising the importance of migrants' skills. Malaysia's first substantial immigration legislation as an independent

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<sup>8</sup> The contract can be accessed at the International Domestic Workers Federation (IDWF) website <http://www.idwfed.org/myfairhome/download/employment-contract/thailand> [accessed 27 October 2016]

state was the 1959 Immigration Act covering admissions, visas, and deportation. However, immigration from Indonesia in particular was relatively unrestricted until the 1980s. This decade saw the introduction of more formalized measures, including MOUs with Indonesia (1984) and the Philippines (1985) governing migration for domestic work.

The situation of migrant domestic workers in contemporary Malaysia carries legacies of British colonialism shaped by immigration regimes and cultures that characterized paid domestic work as gendered and ethnicized. Immigration rules from the 1930s onwards also contributed to this by encouraging the migration of Chinese women to work as either *amahs* or *mui tsais*<sup>9</sup> (Chin, 2005, p. 264). Domestic work had also been performed by rural–urban migrants, but by the 1970s it was proving difficult to find Malaysian citizens prepared to be live-in domestic workers. Urbanization, industrialization, and the decline of extended families, combined with new economic opportunities for women, both created a demand for domestic workers and tightened national supply. As with Thailand, a significant leap in numbers of migrants working in the sector became marked in the 1990s. In 1991 the Malaysian Government introduced the Comprehensive Policy on the Recruitment of Foreign Workers. The Policy was intended as a temporary measure in response to labour shortages (Nah, 2012), but today Malaysia is a significant employer of low-waged migrant labour, attracting labour from across the region. Like Thailand, it began to draw up MOUs with other states in the region in the early 2000s, and by 2013 it was hosting some 2.5 million migrants, about 1 million of them women. These migrants come from a range of countries, with Indonesia, Bangladesh, Myanmar, and Nepal as the top four countries of origin (ILO, 2015b).

The Immigration Department distinguishes between “expatriates” (*pegawai dagang*), “foreign workers” (*pekerja asing*), and “foreign domestic workers” (*pembantu rumah asing*). Expatriates are given visas for key, executive, or highly skilled posts for a maximum of ten years. They must earn a minimum of 5,000 Malaysian ringgit (MYR) (about US\$1,188.92) per month and have a two year employment contract.<sup>10</sup> Individuals classified as “foreign workers” are permitted to work in manufacturing, plantations, agriculture, construction, and services. Foreign workers can only come from approved source countries and may be limited to certain sectors by gender.<sup>11</sup> Employers of foreign workers must apply for a migrant quota and post a security bond that is forfeit should the worker abscond. The amount of the bond varies by nationality, from MYR250 (\$59.45) for Indonesian nationals to MYR1,500 (\$356.68) for Vietnamese nationals. Unlike expatriates, foreign workers are not permitted to be accompanied by spouses, and they are also prohibited from marrying Malaysian citizens. They must be aged between 18 and 45 and pass a medical examination. Their visa is valid for 12 months but can be extended on an annual basis (for a fee depending on nationality) for up to ten years.

Foreign domestic workers – or “helpers” (FDH) as they are described on the English-language page of the Immigration Department website – must be women aged between 21 and 45 and come from a list of approved countries (Cambodia, India, Indonesia, the Lao People’s Democratic Republic, the Philippines, Sri Lanka, Thailand, Viet Nam). They must have passed a medical test at a clinic registered with the foreign workers medical screening board (FOMEMA), which includes screening for human immunodeficiency virus infection, sexually transmitted diseases, and pregnancy, as stipulated by the Ministry of Health. The worker must pay for the health check, and it costs men approximately MYR190 (\$45.18) and women MYR200 (\$47.56). Women must pay extra for the pregnancy test. The medical examination must be undertaken within 30 days of registration and arrival. Foreign domestic workers must live in employer-provided accommodation. The visa is valid for one year and extensions are possible on an annual basis as long as the FOMEMA medical is passed. The employer must either have a child under 15 years old or sick

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<sup>9</sup> The *amahs* were migrants from Canton who worked for European and wealthy Eurasian and Chinese families; the *mui tsais* were bonded labour, often teenagers or even pre-teens who as well as domestic workers could become the mistress of the master or the sons of the household.

<sup>10</sup> For further details see <http://www.imi.gov.my/index.php/en/main-services/expatriat/additional-information.html> [accessed 02 Feb 2016].

<sup>11</sup> For further details see <http://www.imi.gov.my/index.php/en/main-services/foreign-worker> [accessed 02 Feb 2016].

parents, and have a minimum net income of between MYR3,000-5,000 (\$713.40-1,188.90) a month. The range in minimum incomes is tied to the nationality of the domestic worker; for example, if employing an Indonesian domestic worker, the employer must earn a minimum of MYR3,000 (\$713.40), if a Filipina, MYR5,000 (\$1,188.90). Muslim employers are permitted to hire only Muslim workers. Since 2002 irregular migrants and their employers are subject to mandatory whipping of up to six strokes of the cane.

### 3.2.2 Labour law and social security protections in Malaysia

The Employment Act of 1955 is the foundational piece of employment law in Malaysia. It established the basic relationship between an employer and an employee and sets out basic rights regarding holidays, wages, sick leave, overtime, etc. The Act defines the working week as 48 hours with a maximum of eight working hours per day and six working days per week. There are special provisions for women in the industrial and agricultural sectors, including prohibitions on working between 10 p.m. and 5 a.m., or commencing work without having had a period of 11 consecutive hours of rest. Critically, the 1955 Employment Act (also enacted while Malaya was under British rule and during the Malayan Emergency) defined a domestic servant, but excluded them from the majority of the rights and benefits associated with employment (except with respect to the rights and obligations to the appropriate notice period upon termination of employment). The Act specifically excludes domestic workers from maternity benefits, rest days, and working hour limitations. In 2009 Malaysia's Minister of Human Resources announced that the Employment Act would be amended to allow for a mandatory weekly rest day for domestic workers, but this has not materialized. Domestic workers are also excluded from the minimum wage, introduced in May 2012 at MYR900 (\$214.00) per month. This minimum wage applies to regular migrants as well as Malaysian citizens, but not to domestic workers regardless of their citizenship.

While the 1951 Employee Provident Fund (EPF), the major social programme for the workforce, does not directly exclude domestic workers or migrant workers, their employers are not obligated to contribute to the fund. All migrant workers were excluded from the Employee Social Security Ordinance 1969 that provides protection in the event of injury or death, but they are covered by the 1952 Workmen's Compensation Act. This Act requires employers to take out a certified insurance policy to cover compensation, medical, and rehabilitation costs. However, the First Schedule of the Act stipulates that an employee does not include a "person employed exclusively in the work or in connection with the work, of a private dwelling house", and while the Act has been amended, this stipulation still holds.

The employment conditions of migrant domestic workers are largely regulated through additional conditions on employers and workers imposed via immigration requirements and through MOUs. According to conditions stipulated on the Immigration Department of Malaysia's (IDM) website, FDH must be assigned to domestic chores (not including washing cars) and "room amenities/accommodation provided for the FDH must be equipped with basic facilities. The FDH should be given nutritious food and proper rest, including sleeping time" (IDM, 2016). Employers are not allowed to strike the worker. The employer must ensure that their domestic worker does not change employment or employers.

In 2004, an MOU was signed with Indonesia setting out terms for the hiring of Indonesian domestic workers. In 2009, highly publicized, serious cases of abuse led to the Indonesia Government applying a two-year ban on migration of domestic workers to Malaysia. This ban was lifted after protocol amendments to the MOU in 2011. Some improved protections were included, but exceptions were also written in. For example, the amended MOU states that workers must be permitted to keep their own passport, but also inserted a paragraph stating that: "The Domestic Worker may allow and agree for the Employer to keep his/her passport for safekeeping purposes. Such agreement shall be made in writing. The passport shall be returned upon request"(Article 6.1).<sup>12</sup> The amended MOU requires employers give a weekly rest day,

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<sup>12</sup> The 2011 amended MOU is available at <http://apmigration.ilo.org/resources/mou-between-government-of-the-republic-of-indonesia-and-the-government-of-malaysia-on-the-recruitment-and-placement-of-indonesian-domestic-workers> [accessed 16 Feb 2016].

but states, “The Domestic Worker may agree to work on his/her rest day” – though in this case the worker must be paid an agreed amount (Article 5.7(c)). The MOU was widely criticized for not setting a minimum wage and for permitting a recruitment structure that effectively facilitates indebtedness by inserting a new paragraph saying:

“The Employer may pay for the recruitment and placement fee of the Domestic Worker concerned in advance, provided that the Employer shall be entitled to deduct the monthly wage of the Domestic Worker not exceeding the amount of 50% of the Domestic Worker’s basic wage per month until such advance payment is fully settled by the Domestic Worker” (Article 6.6).

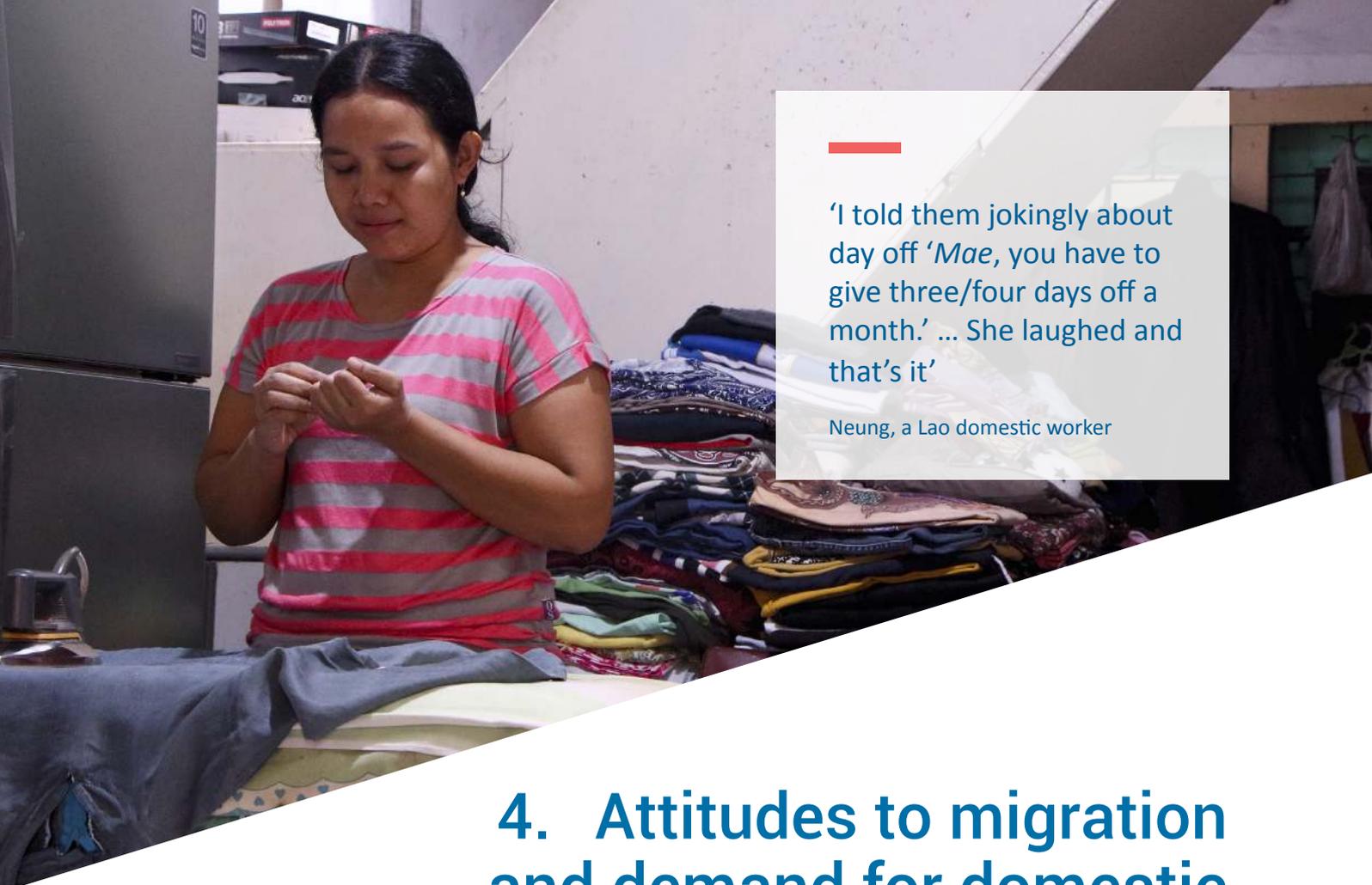
Indonesia’s 2009 suspension of domestic worker migration resulted in a shortage of domestic workers, with over 35,000 Malaysians on waiting lists for a migrant domestic worker (Gooch, 2011). Recruiters consequently turned to Cambodia as an alternative, substantially increasing the number of Cambodian domestic workers in Malaysia. However, as the Indonesian suspension was lifted, a ban from Cambodia was imposed. The Cambodian suspension was lifted in December 2015 with the signing of a new MOU.

Exploitation of domestic workers is a key issue that the MOUs have sought to address, with Cambodia, Indonesia, and the Philippines all halting deployment at various points. While increasing protection for some groups of domestic workers in Malaysia, a fundamental problem with using these agreements as an instrument for change is that they apply on the basis of nationality rather than for the sector as a whole. Therefore, they can have the unintended effect of institutionalizing discriminatory practices towards domestic workers of certain nationalities, rather than enabling the more egalitarian improvements that could be achieved through national legislation (ILO, 2016a).

To better regulate the employment of domestic workers in Malaysia, the MOHR has proposed new legislation entitled the Regulation (Terms & Conditions of Employment) on Domestic Servants 2014. However, the new law has been criticized due to a lack of transparency in its development process. In particular, the consortium of civil society organizations working under the framework of the Domestic Workers Campaign Coalition have stated that they were not adequately consulted during the drafting process. They have voiced strong concerns that the new regulation being formulated will not provide domestic workers with labour protections equal those afforded to workers in other sectors – as is implied by the continuing reference to domestic workers as “servants” within the provisions of the draft regulation (ILO, 2016a).

### 3.3 Conclusion

While Malaysia and Thailand are both important destinations for migrant domestic workers, the two countries approach this group of workers in very different ways. In Thailand, while there are increasing numbers of international migrants, there have in the past been significant numbers of Thai domestic workers. Consequently, labour law is more relevant than immigration law with regard to the ways in which migrant domestic workers are controlled, governed, and made visible to the state. By contrast, in Malaysia, immigration law is the principle instrument of governance for domestic work, with labour as a secondary focus. While respecting the very different cultures and histories that inform the contrasting legislative frameworks in the two countries, it should be possible to draw some interesting lessons by comparing the outcomes of these different approaches. However, what is clear is that much needs to be done to bring the legal frameworks and MOUs shaping the employment and working conditions of migrant domestic workers into line with the minimum standards of Convention No. 189. The abuse and exploitation sometimes experienced by migrant domestic workers is not solely due to individual bad employers; legislative frameworks and labour and migration policies also contribute by creating a context enabling such behaviour.



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'I told them jokingly about day off 'Mae, you have to give three/four days off a month.' ... She laughed and that's it'

Neung, a Lao domestic worker

## 4. Attitudes to migration and demand for domestic workers in Thailand and Malaysia

There are multiple factors that structure the experiences of migrant domestic workers. As discussed above, the employment relation must be understood within a particular historical and legal context, but public attitudes and the nature of demand for domestic work also affect employment relations. These elements are all interrelated and there is no simple causal relation between them. This chapter will first consider press coverage and public attitudes to migration in Thailand and Malaysia, and then unpack the nature of the “need” for domestic workers in this context. It will then move, in the following chapter, to an examination of the understandings of the employment relation.

### 4.1 Press coverage and public attitudes to migration in Thailand and Malaysia

Over the last 20 years, the depiction of migrant domestic workers in the media has caused concern for advocates in both Thailand and Malaysia. In Malaysia in the 1990s, Filipina and Indonesian domestic workers were consistently portrayed as thieves and prostitutes on the one hand, and as victims of physical and sexual assault on the other (Chin, 1997). In a later paper, Chin (2003) argued that a hostile media discourse framing migration in terms of security threats permeates Malaysian society and presents migrant domestic women as a potential threat to the Malaysian general public. In Thailand, Ali (2015) claims media and news reports remain a primary source of information, and the negative public perceptions toward migrants are influenced by negative messages in the media. Sunpuwan and Niyomsilpa (2012) found the newsprint media often use pejorative language and describe migrants in terms of threats to social order, carriers of diseases, and burdens and drains on the labour market and health services.

A four-country ILO study conducted in 2011 found that there was more knowledge and positive attitudes towards migrants in the Republic of Korea and Singapore than in Malaysia and Thailand (Tunon and Baruah, 2012). The authors noted that the distinction between regular and irregular migrants mapped onto ideas of who was deserving and undeserving of certain rights. The study found that in Thailand nearly 80 per cent of local respondents believed that migrants commit “a high number of crimes”, and in Malaysia this figure was over 80 per cent. Moreover, in Malaysia, about three-quarters of respondents thought migrants were threatening the country’s culture and heritage. The Thai Government has at times mirrored this kind of language. Notably, Thailand’s Ministry of Labour launched a controversial public awareness campaign that equated migrant workers with poisonous snakes (O’Kane, 2001 cited in Thanasombat, 2004).

Attitudes to issues like migration can vary significantly by different segments of the population, so one must be cautious of claiming insights into homogenous “public attitudes”. Moreover, it is important not to simplify the relation between press coverage and public attitudes more generally. While it may be tempting to accuse the press coverage of having a negative impact on attitudes towards migrants, press coverage can reflect as much as shape attitudes. Newspapers, and media more generally, are competing in markets and using stories to sell newspapers, rather than necessarily seeking to influence their readership (though government influence on the media should also be taken into account). Finally, the newspaper industry is only one of many media outlets, and arguably it is one that is decreasing in scope compared to television, radio, and of course, social media.

In order to uncover public attitudes to migrant workers, a qualitative and quantitative analysis of press coverage of migration issues in Thailand and Malaysia was conducted. The quantitative analysis was of two English-language newspapers, the *New Straits Times* (Malaysia) and *The Nation* (Thailand) (see box 4). The publications were analysed for frequencies of terms and for modifiers. Frequency analysis provides an overview of how often a selected term has appeared in each newspaper or during certain time periods, which can suggest a measure of saliency. Modifiers are words that describe another word and add detail to objects or people. Usually, these can be thought of as adjectives. For example, the word “illegal” can be a modifier of “immigrant”, as can the words “Indonesian”, “undocumented”, “economic”, or “skilled”. By systematically totalling up all instances where a target word has a modifier attached to it, it is possible to see which words typically describe that target word in a large amount of text. Examples of this technique can be found in Blinder and Allen (2016).

#### **Box 4: Description of publications for quantitative study**

The *New Straits Times* is the largest mass circulation English-language newspaper published in Malaysia with a daily circulation of approximately 68,000. It is part of Media Prima Berhad, the leading media company in Malaysia, and maintains a politically right-wing and conservative editorial line.

*The Nation* is an English-language newspaper with a circulation of 60–80,000. It is owned by *The Nation* Multimedia Group. In 2008 *The Nation* recast itself as a business newspaper. Its target audience is English-speaking upper and upper-middle class Thais, and it maintains a conservative editorial line.

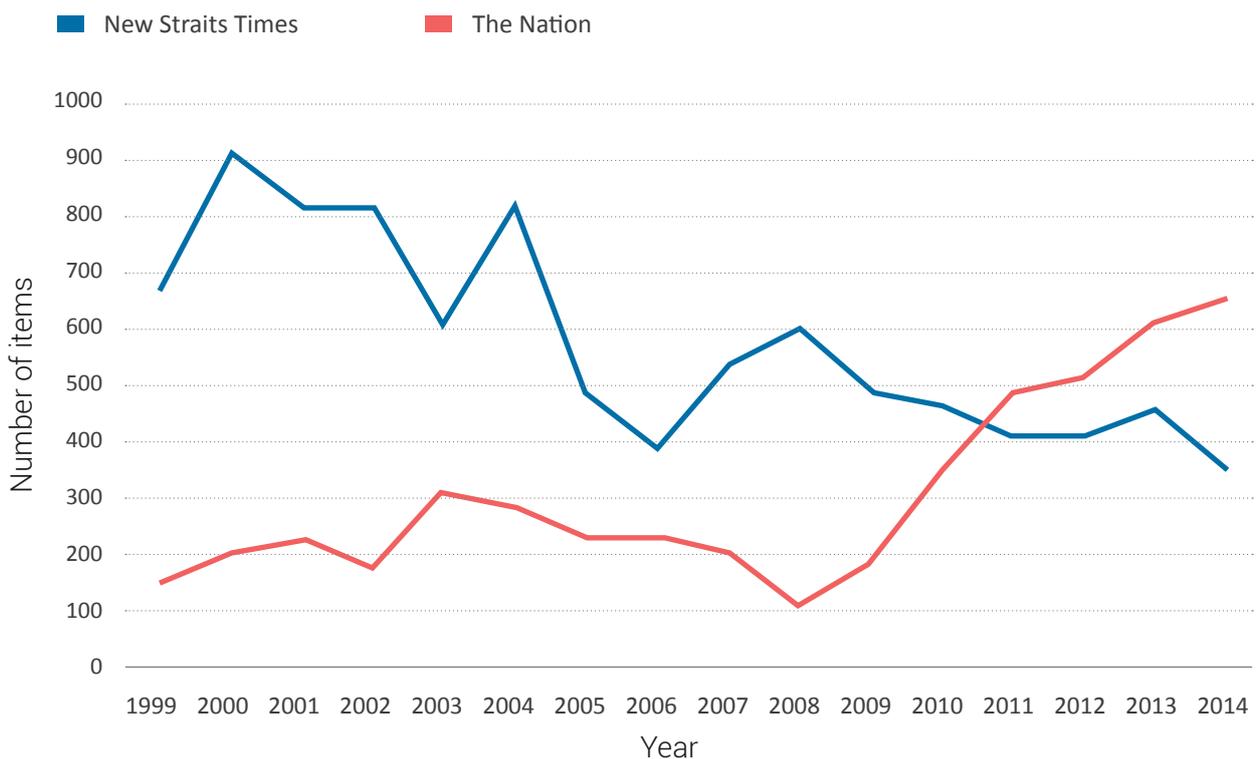
#### **4.1.1 Saliency of migrant workers, 1999–2014**

In the charts and tables that follow, the results are reported in normalized terms. Normalization refers to any process that takes into account the fact that different newspapers may publish different amounts of coverage. In these cases, simply reporting the raw frequencies of modifiers might give the incorrect impression that one newspaper uses a term more often than another newspaper, when in fact there simply may be more coverage generally. The analysis reports two kinds of normalized figures. The first is “occurrences per 1,000 items”. This takes the number of items that each newspaper published about migrant workers into account, as well as the possibility that one newspaper may publish longer articles

than the other. The second is “occurrences per 1 million words”. This is a similar measure to the first, but instead accounts for the overall amount of text rather than articles. Both techniques are commonly used in linguistic research (see Gabrielatos and Baker, 2008).

How salient have migrant workers been in the two publications over time? Figure 4 displays the total number of items in each publication mentioning at least one of the query terms, broken down by each of the 16 years in the dataset. It shows two key points. First, since 1999, the *New Straits Times* (Malaysia) has published 47 per cent fewer articles mentioning migrants or domestic workers – from 673 items in 1999 to 357 in 2014. Meanwhile, *The Nation* (Thailand) published 342 per cent more articles mentioning these groups over the same period – increasing from 148 items in 1999 to 654 in 2014. Second, although there have been some short-term reversals of these trends, they remain in place over the whole 16 years. In fact, *The Nation* overtook the *New Straits Times* in 2011. While interesting to observe this comparison, it is impossible to conclusively say that these overall levels solely reflect how salient migrant workers are in each press outlet. For example, it could be that the *New Straits Times* simply has become smaller and is just publishing fewer articles in general. What this finding does show, however, is that—for whatever reasons—the frequency with which migrant workers are mentioned in each publication has changed dramatically since 1999. It is not possible to say the extent to which this reflects or shapes public attitudes, but it is indicative of the context that migrant workers in general must negotiate.

Figure 4: Number of items mentioning migrant workers, by publication, 1999–2014



#### 4.1.2 Portrayals of migrant workers: Modifiers, 1999–2014

The quantitative analysis of the *New Straits Times* finds that by far the most common term used to refer to migrants is “immigrant” (3,793), followed by “foreign worker” (490) and “migrant” (182) (see figure 5). The quantitative analysis of *The Nation* found that the term most commonly used for migrant was “immigrant” (650), followed by “migrant” (502) and “foreign worker” (166) (see figure 6). It should be noted that in the *New Straits Times* “immigrant” is the most common word, but it is far less strongly the predominant term, as the more neutral term “migrant” is also very common.

Figure 5: Three most common words describing migrants in the *New Straits Times*

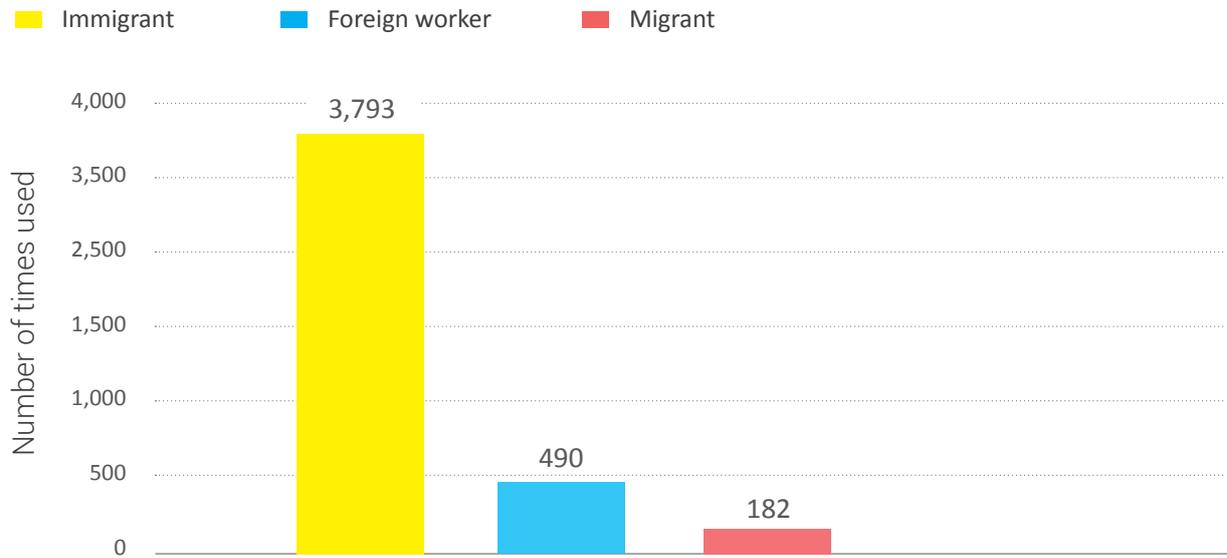
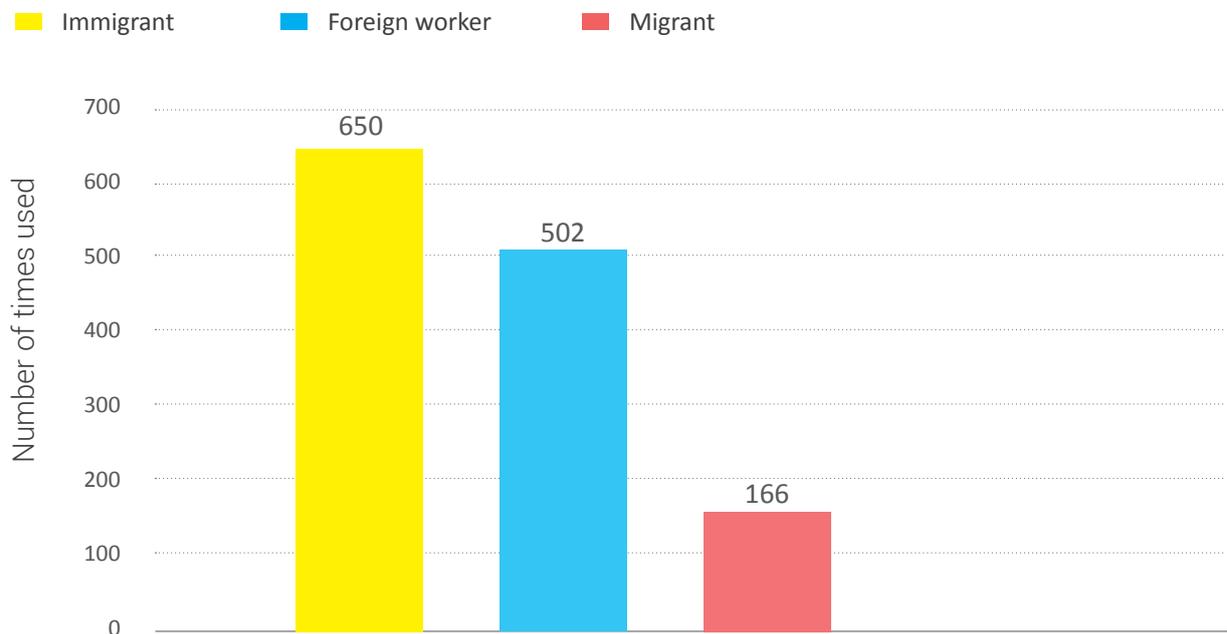
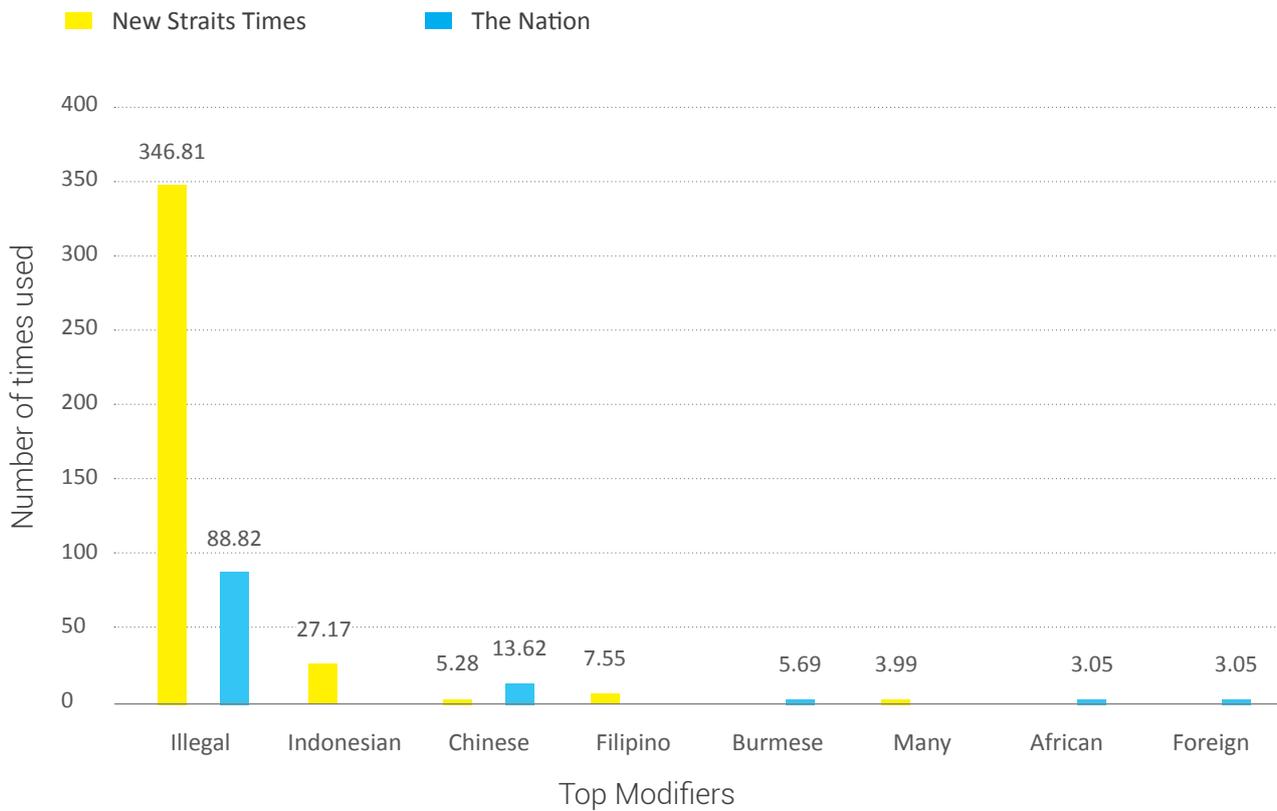


Figure 6: Three most common words describing migrants in *The Nation*



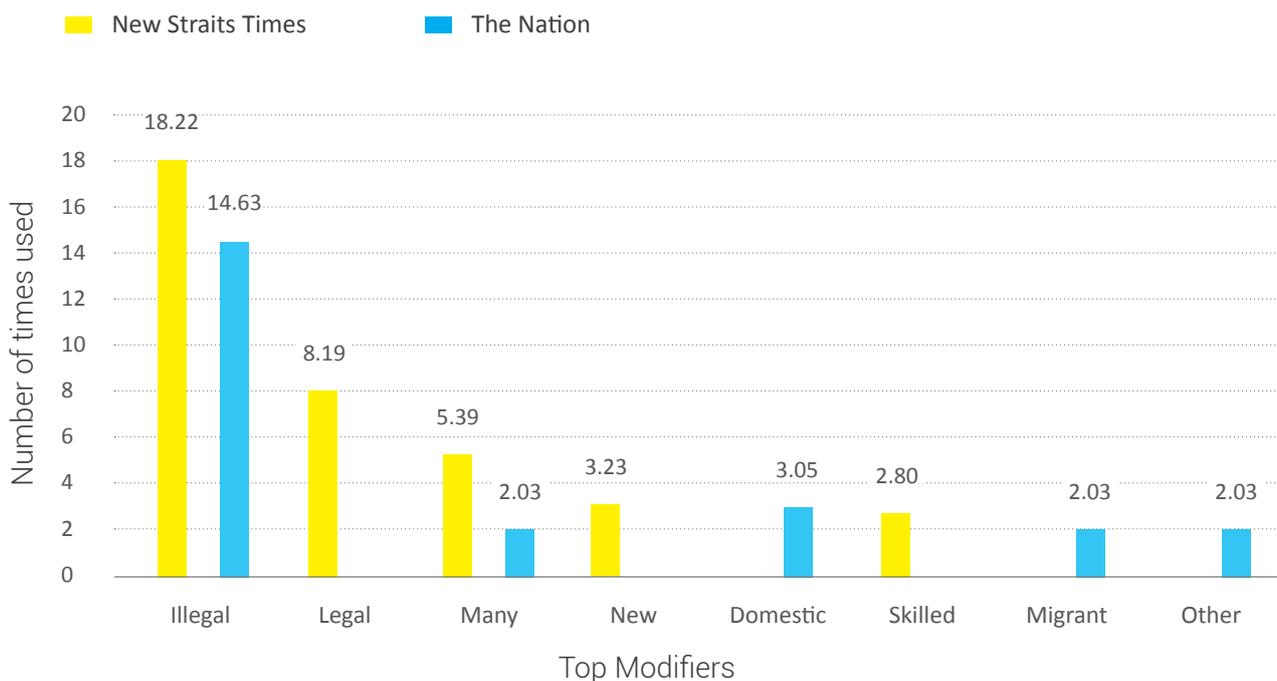
Figures 7 and 8 show the top five modifiers attached with the terms “immigrant(s)” and “foreign worker(s)” – allowing for the fact that “foreign” is already a modifier of “worker”. In both newspapers, the most frequent modifier is “illegal”. In the *New Straits Times* the normalized frequency of “illegal” is nearly 13 times as high as the next most frequent modifier. Other terms, including those describing migrant workers’ backgrounds (geographic origins, sector in which they work, personal qualities), were used much less frequently.

Figure 7: Top modifiers of “immigrant(s)”, both publications, 1999–2014



NOTE – Figures represent frequencies per 1,000 items.

Figure 8: Top modifiers of “foreign worker(s)”, both publications, 1999–2014



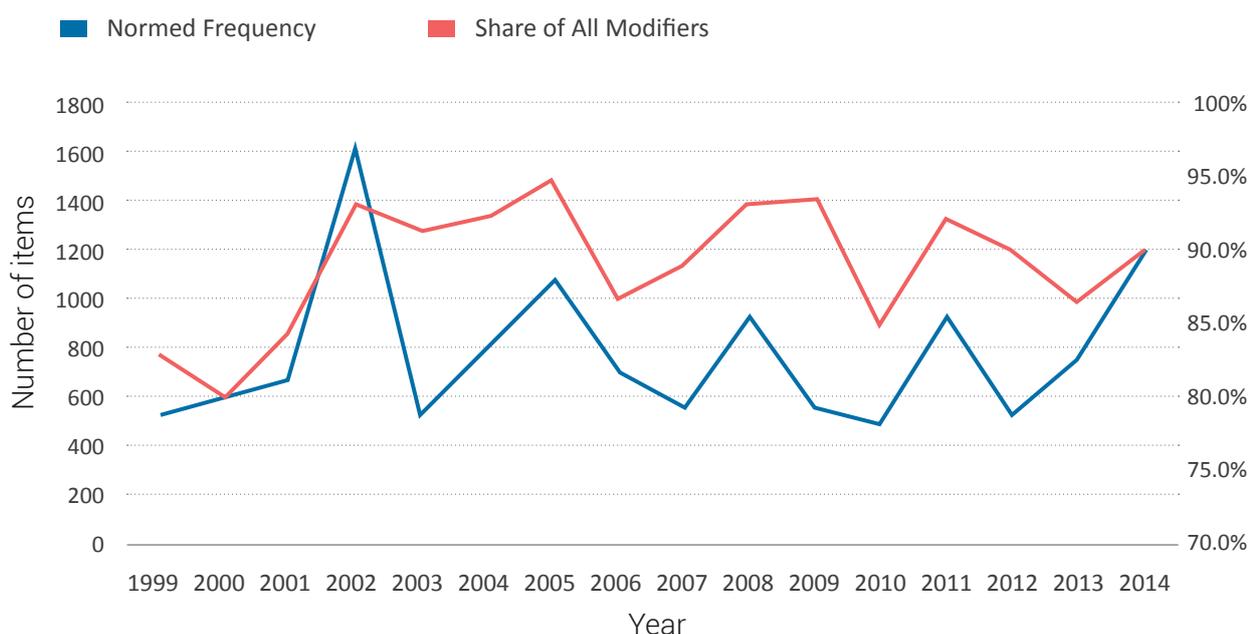
NOTE – Figures represent frequencies per 1,000 items.

### 4.1.3 Changes in key portrayals over time, 1999–2014

The previous section provided a static snapshot of the most salient kinds of portrayals in the whole period of 1999–2014. However, it is possible that these frequencies may be dynamic. Some of the findings are large enough to allow analysis at the annual level.

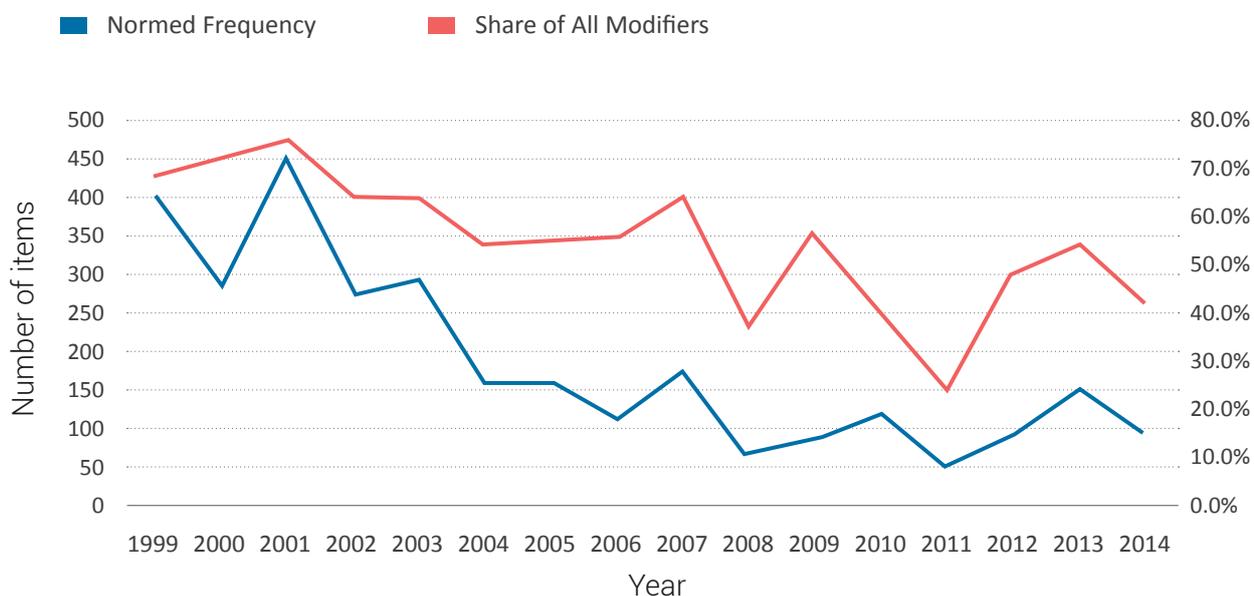
For instance, the way in which *The Nation* and the *New Straits Times* have described “immigrants” as a general category over time reveals an interesting difference between the two publications. Overall, “illegal” was the most common way that both publications described immigrants, and by quite a large margin compared to the second-most frequent modifiers observed in the corpus. Figure 9 displays how this frequency was distributed over 1999–2014 in the *New Straits Times*. The figure illustrates the relatively consistent frequency with which this newspaper used “illegal” to describe “immigrants”: the normed frequency, with the exception of a spike in 2002, remains between about 600 and 1,100 instances per 1 million tokens. “Illegal” represents a quite remarkably high share of all modifiers. At no point during the whole period does the share drop below about eight in ten instances (the lowest being 79.7 per cent in 2000). In other words, when a reader of the *New Straits Times* during this period encountered an explicit description of either an immigrant or immigrants, between about 80–95 per cent of the time that description would have included the word “illegal”.

Figure 9: “Illegal Immigrant(s)”, *New Straits Times*, 1999–2014 by normalized frequency and share of all modifiers



Compare this to the same data for *The Nation*, as seen in figure 10. Over the 1999–2014 period, “illegal” as a way of describing immigrants – both in terms of normalized frequencies and the share of all modifiers – has declined. Another notable difference is the lower share of all modifiers of “immigrants” that “illegal” makes up: over the period, it declines from over three-quarters (76.1 per cent) of all modifiers in 2001 to about four in 10 (42.2 per cent) in 2014. This is markedly lower than the shares seen in the *New Straits Times*, suggesting that when a reader encountered an explicit description of an immigrant or immigrants in *The Nation* during this period, they would see the term “illegal” less often. However, 42 per cent is still strikingly high. As a comparison, one can consider the usage of the word “illegal” in the United Kingdom’s press. The UK press is infamously hostile to migration and presents a strong association between migration and criminality (Anderson, 2013). However, when the UK press explicitly described immigrants or migrants using a specific modifier from January 2006 to May 2015, the word “illegal” appeared far less frequently, about 29.5 per cent of the time (Allen and Blinder, 2013).

Figure 10: “Illegal Immigrant(s)”, *The Nation*, 1999–2014 by normalized frequency and share of all modifiers



#### 4.1.4 Qualitative findings – Malaysia

The resources to construct a non-English-language corpus of press coverage were not available, but an initial qualitative analysis was conducted, and it supports and enriches the quantitative findings. As noted in Section 2.3.4, a total of 158 articles from the Malaysian press were analysed and the period covered for qualitative analysis was articles published from 5 October 2015 to 28 February 2016.

In the Malay-language press the terminology used for “migrant” is *warga asing* (foreign citizen) or *pekerja asing* (foreign worker). Both of these terms are technical and associated with state policies. *Pekerja asing* is the term used by the Malaysian Government, and it typically refers to migrants who are working in Malaysia legally. By contrast, the term PATI (*pendatang asing tanpa izin* or “foreign visitors without permission”) is a common abbreviation used to refer to undocumented workers. Again this terminology is used by immigration authorities in Malaysia; as is *pembantu rumah* (house assistant), which is the most commonly used term to describe domestic workers. This indicates that Government policy is well embedded in media terminology. It also supports the quantitative findings that legal status is the principle lens through which Malaysian society views the position of migrant workers.

Of the 158 Malaysian newspaper articles analysed, 28 were on legal status and 23 were about non-immigration-related general criminal activity (five murders and two thefts). Interestingly however, there were no stories about immigrants as terrorists, nor as traffickers – though smuggling of both human beings and contraband did figure. Employers too were associated with crime, though their role was much less frequently mentioned. Of the 158 articles, 110 had no frame for employers. In cases where employers were mentioned, 14 were concerned with levies or labour shortages and 12 described employers engaging in some kind of criminal activity – usually the employing of undocumented workers.

Nationality of migrants was often mentioned in the headlines. Of the articles analysed, 36 (i.e. approximately 23 per cent) mentioned specific nationalities, particularly if they were associated with crime – for example: “Operation pledge: 17 foreign visitors without permission detained” (Utusan Malaysia, 7 Oct 2015); “Burnt in a well, two Indonesian citizens who killed a woman are to be jailed for 20 years (Metro, 22 Oct 2015); “Medicine to faint mixed with lunch: A Bangladeshi man arrested” (Malaysia Nanban, 7 Oct 2015); etc. In the consumption of news, the headline is critically important. Often people do not read the story beyond

the headline, and even if they do, it is the headline that people recall. In Europe and the United States it has been found that the combination of a focus on crime and the ethnic identification of suspects has an “attribution effect” among readers, namely: “They identify young black males as the major criminals and ghettos as its major location” (van Dijk, 2013, p. 165). It could be hypothesized that a similar attribution effect may be present in Malaysia, though the identification is by nationality rather than ethnicity.

The press also reflects public concern about Malaysia’s reliance on foreign workers. The national story that attracted most sustained attention during the review period was the MOU with Bangladesh. In February 2016 it was reported that Malaysia and Bangladesh had signed an MOU that would bring in 1.5 million workers from Bangladesh, with a levy per worker fixed at US\$467. There was no additional information available, and the press reflected concerns about the high numbers of workers and anxiety that these workers would be doing jobs that could otherwise have been done by Malaysians.

The gender of the workers is mentioned in 43 of the examples. Of these, 21 stories are about women, and it is very striking that nearly half (ten) of all stories that explicitly mention women migrants are about sex work, and only four are to do with domestic work. Given the numbers of domestic workers in Malaysia, the fact that only four stories out of 158 were concerned with domestic workers is surprising.

Migrants were quoted in 15 of the stories; police in 13; and other officials, often government officials, in 72 stories. The voice of government was therefore very strongly represented in the coverage.

#### 4.1.5 Qualitative findings – Thailand

As noted in Section 2.3.4, a total of 60 stories (72 articles) from the Thai press were analysed and the period covered was from 22 March 2015 to 26 February 2016. The findings below are based on the number of stories (N=60) – i.e., real-world events covered by the press – and not the number of articles (N=72).

In the Thai-language press the terminology for “migrant” translates to “alien labour” or “alien person”. These terms reflect official terminology used in both law and policy. The main law governing employment of foreign persons and issuance of work permits in Thailand is the Alien Employment Act B.E. 2551 (2008). The office under the Department of Employment of the Ministry of Labour that is responsible for the employment of foreign workers under this Act is called “The Office of Alien Workers Administration” in Thai. Rules, regulations, and manuals related to foreign workers also use the same term. Although this official term applies to all non-Thai citizens (with certain exceptions), the general public understands “alien labour” as meaning low-waged workers mostly from Cambodia, the Lao People’s Democratic Republic, and Myanmar; while “foreigners”, *farangs*, or “expats” mainly refer to skilled and Western workers.

Of the 60 stories chosen from the Thai press, there were nine about migrant domestic workers, and five of these used the term *mae baan*, which might be translated as “housekeeper” and can also mean “housewife”. This is in contrast to the English-language press, which does not usually use either “housekeeper” or “housewife” (35 cases compared to 236 uses of “maid”). *Mae baan* is respectful of the domestic worker role (unlike *khon chai* – “person for use” – which was used in only one outlet), though it does have “part of the family” connotations.

The nationality of the worker is sometimes mentioned in the headlines (nine stories), but usually headlines tend to be more generic (for example, “Immigration Bureau waded to arrest overstay foreigners – violated seven days laws – seized more than 9,000 persons”, Thai Rath 25 Oct 2015). Of the instances where nationality was part of the headline, three articles mentioned Myanmar nationals, three Cambodians, two Vietnamese, and one Chinese. When it is mentioned that the migrant is female (six times), only once is she a sex worker; the other five times she is a domestic worker.

As with the Malaysian press coverage, the main emphasis of the stories in Thailand is illegal status and overstaying, with the focus very much on the arrest of the undocumented workers, rather than the employer as employing illegally. This was the principle frame in 24 of the 60 stories. In fact, only eight

stories were not crime-focused, and they were almost all about policies. There was attention to sectors – particularly fishing, which was the focus of six stories (ten per cent of the sample), though other sectors (poultry farming, hotels) and employers more generally were also exposed. In 14 of the stories it was the employer who was the criminal. In contrast to Malaysia there were also a significant number of stories on trafficking (seven) and on smuggling. Of the 52 stories related to crime, nearly one third (18) gave numbers of arrests, and a further three provided the value of an amount stolen, suggesting that for these stories there is some reliance on official press releases.

#### 4.1.6 Conclusions

The press coverage of migration in both Thailand and Malaysia is heavily focused on legal status, but there is also a connection between “illegality” in respect to immigration status and “illegality” in terms of criminal activity. As will be demonstrated below, employers too were extremely concerned about the potential for their domestic worker to be associated with criminal activity. The relation between press and public attitudes is complex, however it is clear that both need to be tackled. Although it is tempting to use these results to claim that one country’s media is more or less “immigrant friendly”, it is important to remember that these publications are not representative of either country’s whole media environment. Furthermore, the substantial use of the modifier “illegal”, while suggestive of a particular stance, needs to be interpreted alongside other factors that may not be immediately apparent from quantitative assessment – such as tone, sentiment, or claims to other kinds of authority. But, what the results do reveal are clear differences in this particular portrayal between the two English-language publications that merit closer follow-up.

In all the stories selected for qualitative analysis the voices of migrants themselves are absent. Migrants featured in only three of the more than 200 reports, and in all three instances they were paraphrased rather than quoted directly. In contrast, police comments were given in 23 cases and other officials in 17. The lack of migrants’ voices in press coverage means that journalists and other actors have a disproportionate influence on how migrants are portrayed in the media, heightening the risk of negative or biased representations. In order to change public attitudes towards migrant workers, including migrant domestic workers, journalists should ensure that their voices are equally represented in the media. There also needs to be increased awareness among journalists and other stakeholders on the contribution of migrants, including domestic workers.

## 4.2 Employers' responses to press coverage

In both Thailand and Malaysia, the employers surveyed associated migrants in general with crime, and 36 out of 105 employers felt that migrants bring crime to their country of destination (table 6).

Table 6: Employers' answers to question "Do migrants bring crime to Thailand/Malaysia?" , by country

	Malaysia	Thailand	Total
Yes	19	17	36
No	12	11	23
Depends	16	25	41
Don't know	2	1	3
Unknown	1	1	2
Total	50	55	105

The Thai employers interviewed all referred to news stories about domestic workers (often referred to specifically as Myanmar domestic workers) killing their employers and taking their goods. This kind of coverage was felt to be a problem – three employers said that there was no appreciation of what might have been done to the worker. One person pointed out that the actual proportion of domestic workers murdering their employers was likely to be extremely small, yet they take up a lot of column inches. Concern was also expressed about a lack of engagement by reporters, and lack of information about what employers' responsibilities are.

In Malaysia most of the employers interviewed referred to the case of Ms Yim Pek Ha, a former flight attendant, who severely abused an Indonesian domestic worker she employed, including burning her with an iron and scalding her with boiling water. Ms Yim was sentenced in 2008 to 18 years in prison, and this case seems to have made a lasting impression. The media coverage monitored for this study showed that press had presented a number of stories about labour shortages and policy negotiations around migrant workers, but none of these were cited by the employers. The stories that they repeated were largely about physical harm, whether perpetrated by an employer or by a domestic worker. Generally employers felt that the coverage of migration and domestic work was unbiased and accurate, in part because employers were implicated in the poor treatment of workers.

Employers in both countries demonstrated some sensitivity to negative media coverage about migrants and the broader consequences of this negative coverage. Widespread coverage of workers murdering their employers, for example, was viewed as disproportionate, and some employers recognized that it "creates images of migrant workers in a negative way. When news comes out people only read the headlines" (Thai female employer aged 61+). Employers too can be demonized: "We do hear stories about bad employers, but some of the cases are so bad that it makes other bad practices seem OK" (Thai focus group participant). This negative presentation of both migrants and employers could be represented as balanced: "Of course you know of abuse cases, where the maid is tortured... but you also hear the story of maids killing the elderly person, or leaving children alone in the house. So you hear good and bad on both sides" (Malaysian employer). Particular cases seem to get stuck in people's heads, and one Malaysian employer suggested:

If you are talking about a marketing campaign to encourage goodness, you have to make it known... People tend to be more attracted to negative stuff. Like Lim Pek Ha got stuck in my head forever. Why couldn't it be the employer of the year or something like that?

The consequences of fear of crime and how this can be used to justify restrictive practices will be discussed below. Employers often struggle to manage inequality, and it seems one way of doing this can be through fear of being a victim of crime. One Thai employer was refreshingly honest about his anxieties in this regard: "They earn low wages so this makes me feel there is a possibility they will kill me. In reality that's not going to happen, but this is what I feel."

#### 4.2.1 Understanding demand for migrant domestic workers in Thailand

While there is very little literature on the history of domestic service in Thailand, the practice of young people coming to work in the homes of those wealthier than them – sometimes, but not always, the homes of relatives – has a long history. Muttarak (2004) claims that the past ideology of *thāt* (debt bondage) and patron client relations created a boundary between the employers and those who perform domestic work that continues to have ramifications today. This kind of arrangement was also associated with mobility and the practice of the urban middle class in Thailand taking in young women from rural areas, particularly the north-east, and providing them with room and board in exchange for domestic work, which continued well into the twentieth century (Toyota, 2005).

Let's say, since I was born I had domestic workers. *Thai female employer aged 51–60*

In Thailand most of our employer interviewees had been brought up by Thai domestic workers. They often recalled these workers with real affection, and some were still in touch with them: "I can remember her face and how close I felt to her" (Thai female employer aged 61+). Toyota (2005) has analysed the shift from the employment of Thai rural–urban female migrants to cross-border migrants beginning in the 1970s, but becoming marked in the 1990s. Toyota attributes this shift to new and higher earning opportunities for Thai women, and the incompatibility of domestic work with *thansamay* or "modern" status. Some of the Thai employers interviewed had themselves previously employed Thai workers, but all said that now they could not find Thais to do this work. A 2008 study found there continue to be some, mostly older Thai women who are domestic workers, usually housekeepers (Boontinand, 2010). Our employer survey conducted in Thailand found that only two people out of the fifty-five surveyed disagreed with the statement: "Thai people do not want to be domestic workers." They often attributed this to improved education, the attraction of factory work and the low status of domestic work: "To call someone *khon tam ngaan baan* [domestic worker], no one likes that word. It is about perception. If one asks, 'What do you do?' and you answer, 'Domestic work'... she will not be happy" (Thai female employer aged 61+). In 1999 the Thai Department of Employment initiated a THB1.5 million (\$41,911.15) programme called "Supply of Domestic Workers 1999" as a response to a perceived shortage of "quality Thai housemaids" (Toyota, 2005). It had a major problem attracting trainees (only 329 in all), and outcomes were disappointing because employers were not prepared to pay a wage that recognized the value of the training.

I could track the Thai. I have less trust for the migrant. I don't know the background of the person. *Thai female employer aged 41–50*

If they are migrant workers, it is difficult for us to visit their homes. There is no fundamental trust at first. We are scared of them and they are scared of us. *Thai female employer aged 51–60*

At the same time political violence in Myanmar and Thailand's relative prosperity in relation to its immediate neighbours meant a continuing flow of often undocumented people across land borders and a ready supply of domestic workers. This facilitated an increase in the numbers of less well-off households employing migrant domestic workers as child carers and elder carers as well as housekeepers.

Increased demand for migrant workers has been attributed to the growing middle class and economic expansion, dual-earning families, decline of the extended family, and gender relations (Muttarak, 2004). The importance of migrant domestic workers in facilitating Thai female employment outside the house was recognized by our interviewees, some of whom also referred to difficulties that meant other female relatives, such as mothers and mothers-in-law, were unable to support them with childcare. However, in our sample, 35 of 55 employers in Thailand, or about two-thirds, were working full time outside the home (four of these were male); 11 were working part-time; three were full-time household managers; and five were retired. This is a sampling bias, as it is likely that those not working outside the home are more flexible and therefore more easily available for interview, but it does also indicate that increased female labour market participation is not the only reason that employers hire domestic workers. For example, one noticeable feature of our findings is the number of workers who have responsibility for domestic animals. Employers often said that that one reason they needed a domestic worker was to take care of pets, and domestic workers too described doing this kind of work.

They saw taking care of the dogs as a very important matter... If you compared me to the dog, they loved the dogs more than me... I had to eat the leftover food, but they bought really good and expensive food for the dog, 80 baht per can. I was not jealous of the dog; I'm just making a comparison. *Hom, Shan domestic worker from Myanmar aged 29*

Employers interviewed and surveyed seem ambivalent in their responses to the increasing employment of migrant workers in the sector. Some employers were very negative about Thai employees, describing them as lazy and thieving, but more often employers said that they would prefer to employ Thais. Several described an initial lack of trust for migrants that they had needed to overcome when they first employed a migrant worker, but some then said their best employees were migrant workers.

On the other hand, 35 out of 55 employers agreed that migrant workers were “more diligent” than nationals. Forty-five felt that the Government should allow more people to enter legally to work.

As table 7 indicates, some employers related diligence to nationality. Given the size of our sample, it is not possible to discern the nature of the hierarchy of preferences for different nationalities, but it is clear from our interviews that nationalities are an important factor in employers’ decisions about whom to employ. In Thailand the majority hired Myanmar domestic workers; though Thai interviewees often seemed to be particularly worried about Myanmar migrant workers and found them “scary”, in part because they are imagined as coming from a violent society.

[B]ecause they have wars at home, they are in an environment that induces them to be cruel persons automatically, and death is a normal situation for them. *Thai female employer aged 41–50*

Shan workers in Chiang Mai seem to be an exception, however, with employers saying they were desirable workers on account of similarities in culture and language.

Table 7: Employers' answers to "Are migrant workers diligent?", by country

	Malaysia	Thailand	Total
Yes	16	26	42
No	12	8	20
Depends	17	9	26
Don't know	3	8	11
Unknown	2	4	6
Total	50	55	105

#### 4.2.2 Understanding demand for migrant domestic workers in Malaysia

In contrast to Thailand, in Malaysia only one interviewee had been brought up with a domestic worker in the house (a live out Malaysian citizen). When the issue of domestic work is discussed in Malaysian public debate, it is associated wholly with migration. Malaysian employers rely on migrant workers in their homes, and attempts to fill the labour shortage with native workers have been unsuccessful (Elias, 2013). There was an attempt to encourage Malaysian women into doing domestic work through a Government "home management" initiative in 2014. However, officials interviewed for this study explained that this had a very low take up, partly because it was aimed at supporting single mothers to do this work, and they found it difficult to attend trainings because they took them away from their children. It is estimated that there are currently some 300,000 migrant domestic workers employed in Malaysia, the majority of them from Indonesia. In fact, the number of migrant domestic workers may well exceed 300,000, given that most estimates are based on official statistics of documented labour migrants (UN Women, 2013b; Huling, 2012).

Most Malaysian employers interviewed said that they started to employ a domestic worker when they had their first child, which might be explained by the immigration rules requiring that employers have young children or sick parents. As in Thailand, while the majority of employers were working full time (30 out of 50 respondents, and of those 30, 11 were male), seven worked part time, eight were full time household managers, and four were retired, again indicating that employment of domestic workers is not only about replacing the labour of female citizens who are working in the labour market. Moreover, surprisingly over 40 per cent (85 out of 200) of the domestic worker survey respondents in Malaysia were not doing any care work. Even if they had originally been employed to look after a child or an elderly person, once the child had left home or the elderly person passed away they continued to work for the employer. Forty-three, or nearly one-quarter, were working in their employer's business. This suggests that the domestic work visa route may be being used to facilitate the entry of non-care workers. For those working in private households, some seem to be performing tasks that they are explicitly prohibited from doing. Immigration rules in Malaysia require that domestic workers are not assigned to washing cars (IDM, 2016), yet 63 of the 200 workers surveyed counted washing cars and bikes among their responsibilities.

Employers in Kuala Lumpur felt that migrant workers were more diligent, and most agreed that Malaysian people do not want to be domestic workers. Even so, less than half (N=20) thought that the Government should make it easier for migrant workers to enter legally to do this work. Most of the employers interviewed employed Indonesians, who were felt to be closer in religion and language (even though notably only 14 of the employer sample were Malay; 21 were Chinese; and 14 were Tamil). Filipinas were considered expensive and “calculative”. It is difficult to avoid the implication that this is related to the differential income requirements and MOUs governing the employment of different nationalities. This appears to be producing a segmented labour force.

In both Thailand and Malaysia, “migrant workers” are not considered a homogenous group. Different nationalities are regarded as more or less suitable for domestic work and more or less trustworthy. These attitudes are clearly affected by their broader context: in Thailand, for example, fears about Myanmar nationals committing crimes were closely allied with the knowledge that these workers had often fled violent experiences. However, this was viewed as less of an issue for the employment of domestic work because domestic workers are usually women. In Malaysia, workers from Indonesia were considered culturally closer, but also they were cheaper to employ than Filipinos. Thus in Malaysia and Thailand, as elsewhere, there is a hierarchy of nationalities with some nationalities being considered more suitable for domestic work, or perceived to be more skilled than others, and in both states the employment of men, other than for specific roles such as gardening and chauffeuring, was inconceivable.

Williams (2014) has analysed how European Union states’ care, employment, and migration regimes provide differing institutional contexts that shape a common outcome: migrant women in low-waged care markets. That is, it is not simply women “choosing” to go out to work that creates a demand for paid child and elder care workers, but that insufficient state provision also generates demand for certain types of workers. This was vividly illustrated by one Malaysian employer:

I started employing a domestic worker when I had my first baby. At that time both me and my husband were working... Our maternity leave is two months, which means you are leaving a three-month-old baby with the nursery, and they have lots of kids and babies to take care of. We didn’t like the idea. *Malaysian female employer aged 41–50*

The world of work does not accommodate the labour of care. The very short maternity leave available for Malaysian citizens means that working parents must leave their babies when the babies are very young, contributing to the “demand” for in-home care provision, particularly since the fixed hours of institutional care often do not match the demands of careers. The ideologies of care and of care’s relation to the home and family are also important to appreciating why demand for care services can translate into demand for services in the private household. Many families can feel that in-home care is simply a more suitable form of care, particularly for younger children.

In the case highlighted above, employing a domestic worker was critical to facilitating this Malaysian woman’s employment, and it illustrates how migrant domestic workers can be an important element in the mix of provisions that make a social safety net for citizens. However, these workers find that they themselves are excluded from protection, as pregnancy can mean that workers are unable to renew their visas and they may find themselves required to return. This was the case for the employer cited above:

The second one worked for four years... We bought her return ticket but she didn’t come back. We found out later that she was actually pregnant, so she couldn’t have come back anyway. *Malaysian female employer aged 41–50*

### 4.2.3 Conclusion

There is nothing new about the demand for people to do domestic work in Thailand and Malaysia, but the factors that shape this demand have changed. Presently, there are demographic reasons, such as ageing populations, that intersect with other realms of public policy, such as the feminization of employment outside the home and limited maternity leave, and with cultural expectations that child and eldercare should be largely home-based. The relevance of cultural expectations should not be underestimated, particularly as they also shape the relation between demand and social status. Domestic workers are necessary to service certain kinds of lifestyles and practices, such as pet owning, and their employment contributes to employers' social status. This is also a relevant factor in any analysis of the relation of migration to the sector, and the differentials between different nationalities of worker.

Clearly the negative images and discourses disseminated in the media and by officials create a hostile environment for migrant workers. It is not possible to say whether press coverage is a cause or consequence of these kinds of attitudes, though it does suggest that contact with migrants might not be sufficient to overcome hostility and xenophobia, as all of these respondents had close contact with migrants through employment in their homes. If increased rights are to be secured for migrant domestic workers, then some of these embedded stereotypes and damaging images need to be challenged and unsettled. In terms of challenging and complicating public perceptions of migrants, there is a need to recognize that these perceptions are fuelled by the dominant discourse espoused by journalists and politicians. However, further than this, it must be recognized that the specific rights abuses faced by migrant domestic workers cannot be interpreted without critical analysis of racialized and gendered narratives on domestic work (in terms of who should perform it for whom; how they should behave; and what constitutes appropriate behaviour for employers and workers). Only through interrogating these ideas about ethnicity, race, gender, and class can a fuller understanding of the challenges facing domestic workers in claiming, asserting, and realising their labour rights be developed.



'She inspected me every month... I was thinking "Why don't they trust me? I have stayed here for so long, what would I steal?"'

Pyone, a Myanmar domestic worker

## 5. Employment relations: Contract and fictive kin

How relations with domestic workers in private households are imagined and managed is highly sensitive to history and cultural practices. However, one can crudely distinguish between two models: contractual relations and fictive kin. This distinction was implicitly acknowledged by some of the employers interviewed. One Thai employer for example made a distinction between "modern people" who understand about rights, and older people and those in high society who oppress domestic workers.

Contractual employment relations find their idealized form in the relation between a factory worker and their employer. The worker is selling their labour power for a particular period of time and/or to complete certain tasks. A person does not have to have a written contract in order to be engaged in a contractual relation. A written contract is an expression of a contractual relationship, but it is not necessary to it. The contract sets out tasks, hours, and conditions for termination. Both parties freely enter into the transaction as equal and individual actors, and it is imagined as amoral and as separate from affective relations. For domestic workers this model of relationship usually offers an acknowledgement of some labour rights (though not necessarily parity with standard workers) and recognition of their status as workers. It is this model which is promoted by labour and migrants' rights activists.

Fictive kin relations are by contrast bound up with affective relations, mutual dependence, and duty. "Fictive kin" – or "false kin" – is a term used by sociologists and anthropologists to describe social relationships that are not based on "blood" or on marriage, but are explicitly likened to these ties. It suggests a close relationship that is governed by emotion and reciprocity rather than contract. The fictive kin concept is particularly associated with the employment of live-in workers. It draws on hierarchical relations of status, and the participants are not imagined as coming from positions of formal equality. The emphasis is not on selling labour power, but on "helping". "Helping" is what the domestic worker does in the household (rather than "working"), but also what the householder does for the worker. These relations find their idealized form in the fictive sibling or auntie relation that a domestic worker may have with children they

care for in a family. However, the manner in which this relationship is expressed when it comes to adults in the family can be more difficult to pin down, and being an “auntie” to a child does not effectively make the domestic worker the sister of that child’s parent: “When I was a kid I called the nanny *pee*. When I grew up my Dad told me to call her by her name and not *pee*... He said now I’ve become *jao nai* (boss) and *jao nai* does not call her *pee* because I’m now the employer” (Thai male employer aged 26–30).<sup>1</sup>

## 5.1 Fictive kin: Just like one of the family?

The model of treating domestic workers as “part of the family” is often viewed as problematic by both labour and migrants’ rights activists. They argue that it leaves workers open to abuse, as their status as workers is not recognized. Domestic workers may, for instance, give up important contractual rights, including minimum wage, right to association, and rest and leave protections in return for an ill-defined relationship that often results in long working hours and poorly defined tasks. As one employer in our focus group put it: “Having a live-in maid is more than just a cleaner; it is someone who rules the house, more like a butler, who can answer at your beck and call. If it wasn’t live-in then they would be more specific about what duties they do” (Thai female employer aged 61+).

Employers all over the world deploy fictive kin as a means of managing employment relations in private households, and it is a feature of the au pair scheme in states across Europe and North America. Interviewees in both Thailand and Malaysia emphasized the fictive kin model as particularly culturally appropriate to their country. Government interviewees, while recognising that domestic workers were workers, also emphasized treating people as part of the family as a cultural and historical tradition.

In the survey, when asked how they assessed their current employment situation, those domestic workers who felt that their employer was a ‘good’ employer were more likely to say that they were treated as part of the family than as a worker (see table 9). This indicates that the fictive kin relationship is not necessarily incompatible with good working conditions or respect for workers’ rights.

Table 8: Domestic workers’ view of their current employers, by country

	Malaysia		Thailand	
	N	%	N	%
My employer is a good employer. My rights as a worker are respected	28	14	37	18.5
My employer is a good employer. I am treated as part of the family	111	55.5	76	38
My employer is sometimes good to me, but sometimes there are problems	31	15.5	64	32
My employer is not a good employer	4	2	6	3
My employer is a bad employer	6	3	1	0.5
Unknown	20	10	16	8
Total	200	100	200	100

<sup>1</sup> *Pee* is a term of respect used for anyone older or as a mark of distinction. In the Thai language there are particular pronouns used to address fictive kin. For example: *pa* [aunt], *pee* [older sibling], *nong* [younger sibling]. The use of these terms may increase the feeling of being “part of the family”.

Homes are spaces of emotion, they are not just where jobs get done, and these emotions are not simply extras but go to the heart of the employment relation. Employers frequently referred to the best workers as those whom they could trust, whether in terms of their personal belongings – “She knows the key to our safe” (Malaysian female employer aged 41-50) – or in terms of reliability and behaviour. For some, total trust was never possible. One of the employers we interviewed employed two workers who had been with her for over 10 years but “we are still careful and do not leave things that may attract their attention” (Thai female employer aged 61+).

Domestic workers also considered employers’ trust to be very important to their relationship. Pyone, a Myanmar domestic worker living in Thailand, had worked for the same family for 13 years:

She inspected me every month. Once a month she searched my bag and my body, touched here and there to see if something was stolen before I left the house. Every time I had my monthly day off I felt sad... In my mind I was thinking, “Why don’t they trust me? I have stayed here for so long, what would I steal?”

For workers, trust seems to be closely allied to respect for their integrity and their personhood. Like employers, they had different ideas about what was acceptable behaviour. One worker took offence when her employer accepted MYR3 (less than US\$1) from her to cover the extra chili that she ate because she liked spicy food; another objected to her employer’s insistence that she use toilet paper rather than being able to wash herself; and yet another said that she would draw the line if she found her employers gossiping about her. Workers emphasized the importance of verbally expressed respect– “please, sorry and thank you” and disliked being “scolded”, though some employers interviewed were quite unabashed about the possibility of shouting at their worker: “I can get angry suddenly. I can scold and that is difficult” (Malaysian female employer aged 41–50).

It is important to recognize that domestic workers themselves can seek out a relationship where they are treated as part of the family and may choose such an arrangement over one that offers better pay and conditions:

My friend asked me if I wanted to earn THB12–15,000 (US\$335.29-419.11) taking care of old people but I didn’t go... My relatives back home said I don’t need to earn lots of money because that means I’ll have to work too hard and won’t be comfortable. They told me I should stay with my good employer who understands *khon chai*<sup>2</sup> even though the salary is low... I think money is important, but I think she is really good, so why shouldn’t I be good to her? *Mia, Vietnamese domestic worker aged 52*

Workers used “part of the family” as a positive descriptor of relations in the household, but this did not mean that they equated fictive kin with free labour or with emotional commitment. Kamlee is a 35-year-old Shan woman who described her employer as a ‘good’ employer. She lived in specially provided accommodation with her husband and three children, and felt the relationship she had with the employer was “like family”. This did not signify closeness: “I don’t need to be involved with them much.” She was not unhappy and felt well treated, but she also looked forward to a future when things were different, specifically: “I want to have my own house, and be in a situation where I do not have to be a *ke kaa* (servant/slave).”

The concept of fictive kin captures the emotional aspect of domestic work and the relationships that can tie a worker to a family even more effectively than immigration status or contract. These relationships are not recompensed or recognized in contractual arrangements. However, there are clearly serious problems with the way this model can turn employment rights into favours bestowed by “benevolent” employers. For example, despite sick pay being enshrined in various international labour standards, continuing to pay wages when a domestic worker was sick was not regarded as observing minimum employment standards, but as evidence of being a ‘good’ employer and a nice person. Moreover, being part of the employer’s family means that one can be treated as if one does not have one’s own family demands and responsibilities:

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<sup>2</sup> Literally “person-for-use”, a term that is still in some use in contemporary Thailand.

“Malaysians will not work in the house; they will run back to their own houses. The Indonesian workers will stay permanently, as they can’t return. They will be around until their contract ends” (Malaysian male employer aged 41–50). This last speaker equates permanence with staying for the duration of a contract, suggesting that this is about security from the point of view of the employer. Workers also suggested that being part of the family was suitable for certain periods of one’s life: “If you have a husband, better to stay with your husband. If not, it is better to stay with your employer,” as a Shan woman working in Thailand put it.

It is not just that the fictive kin relationship means that many domestic workers forfeit their rights as workers, but they often do not exchange their rights as workers for rights as family members. The long years of caring for children through babyhood and adolescence can be dismissed for those who are not the parent/mother as though the account is fully discharged by the pay: “With my kid I would have all the rights, but not for *nong* [a pronoun in Thai referring to a young person]” (Neung, domestic worker from Lao People’s Democratic Republic aged 31).<sup>3</sup> During our focus group discussion in Bangkok, one employer talked admiringly about the way that one of his employees cared for his elderly father, who he described as “very spoilt and demanding”. “When he shouts at her, she is super calm. If I were her, I would quit!” (Thai male employer aged 21–30). When this statement was made focus group participants all laughed because they knew that, unlike a domestic worker, he cannot quit being the man’s son. But it is the fact that these ties are so difficult to terminate that means that actual kin relations are not fictive. In the case of fictive kin, the relationship is not necessarily forever. The temporalities of a fictive kin relationship are crucial to its fictive nature. Unlike “real” kin, it is relatively easy to withdraw kinship status from domestic workers, and at key moments in their lives (pregnancy, ill health, old age) the kin relationship is often dissolved by the employer. When a “real” family member can expect support, a fictive kin member may find that support withdrawn.

One of the issues that fictive kin concept confuses is that a person who is “part of the family” can make claims for inclusion, if not equality. However, while presenting domestic workers as “part of the family” might sound welcoming and open, families are spaces that are imbricated with power and status, with particular consequences for women. It should not be especially surprising that being described as “one of the family” does not necessarily bring with it dignity, respect, and equality. Drawing on feminist analyses of hierarchies, power, and violence within the household, Huang and Yeoh (2007) emphasize that the home is not a space free from conflict:

[T]he home is as much a site of oppression and resistance for women as it is of nurturing and caregiving... Because the home is a site where power relations are played out, it often falls short of its idealized construction as a place of safety and support, and instead becomes a place of spatial restriction, abuse and violence.

It is not that employers who invoke familial relations with domestic workers are speaking insincerely – although in many cases idioms of kinship are no doubt explicit tools of manipulation – but rather that family life can be defined by relations of violent hierarchy. This is especially pertinent for women (Huang and Yeoh, 2007). While the private home is often imagined as a safe space for women, in practice it can be a place of abuse and violence for wives and children as well as for domestic workers.

## 5.2 Between fictive kin and contract

Employers in both Thailand and Malaysia generally agreed that domestic workers should be treated as part of the family. However, in practice both workers and employers described a slippage between these two typologies, which are not mutually exclusive.<sup>4</sup> When asked whether domestic workers should be regarded as workers, over two-thirds of respondents agreed, but over half also agreed that domestic workers should be treated as members of the family (table 9).

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<sup>3</sup> Other research has found that this is also reflected in relations with old people, wherein adult children do not recognise the love that their elderly parents feel for their carers, and indeed these children can become very anxious about perceived threats to their inheritance.

<sup>4</sup> Marriage, for example, is depicted as a specific kind of contract, yet it also lies at the heart of families.

Table 9: Employers' answers to "Should domestic workers be treated as family?", by country

	Malaysia	Thailand	Total
Yes	45	41	86
No	2	9	11
Don't know	1	5	6
Unknown	2	0	2
Total	50	55	105

Table 10: Employers' views about whether domestic workers should be treated as fictive kin or employees, by country

	Malaysia	Thailand	Total
Employees only	13	2	15
Fictive kin only	5	20	25
Agreed with both employee and fictive kin	36	22	58
Unknown	6	1	7
Total	50	55	105

The preference for the fictive kin model was more marked in Malaysia, with 20 employers out of 50 opting for that choice and only two employers unequivocal that domestic workers were employees and should be treated as workers (table 10). In Thailand, the balance was rather the other way. As will be discussed below, how employers imagine the relation with their domestic worker does not correlate directly with rights, but the representation of this relation to themselves and to others is important for framing engagement with other employers around the politics of domestic work. It also suggests the relation between law and culture, as domestic workers in Malaysia are cast principally as dependent migrants, unlike in Thailand.

Domestic workers are both part and not part of the family, and employers can impose a number of distinctions in order to distinguish them from the family. Throughout the world, hierarchies and ambiguous working/quasi-familial relations – and the tensions they give rise to – create mechanisms of separation in the use of space and utilities within the household (see table 11). Workers may be forbidden from eating with employers' families, and the segregation of different utensils, meal times, furniture, and laundry is often seen as necessary to ensure sanitation and class division (see Muttarak, 2004 on the Thai context; see also Hondagneu-Sotelo, 2001). Romero notes that it is not domestic work itself which is degrading – after all women employers often seek a replacement for their reproductive labour when employing paid domestic work – but it is “the interpersonal relationship between employers and employees; specifically, the practices through which employers structure their employees' work in order to differentiate and inferiorize them (control over their food, the spaces they move in, the use of uniforms, etc.)” (Romero, 2002).

Table 11: Domestic workers answers to “Are you able to use your employers’ dishes and cutlery?”, by country

	Malaysia		Thailand		Total	
	N	%	N	%	N	%
Yes	153	76.5	86	43	239	59.75
No	26	13	47	23.5	73	18.25
Unknown	21	10.5	67	33.5	88	22
Total	200	100	200	100	400	100

Individuals create and maintain boundaries around spaces, roles, and relationships. These intersect with socially constructed boundaries, for example, the boundary between “home” and “work” or between “family” and “non-family”. Within households, employers may restrict domestic workers’ access to particular spaces, or permit them to enter certain spaces only for specific purposes such as cleaning. They may also limit boundaries to the domestic worker’s roles with children in particular, for example not allowing them to read to children.

Employers vary in the ways they perform “boundary work” and differ in terms of whether they include domestic workers in family life (to what extent and under what conditions), and thus between the socio-spatial boundaries they draw. Employers also construct socio-categorical boundaries differently, in terms of highlighting or downplaying hierarchies between themselves and domestic workers. Lan (2003) constructs a kind of typography of worker-employer relations according to these two axes. Overall, this typography reminds us that worker–employer relations are not a monolith and are often defined by complexity, contingency, and contradiction.

Domestic workers were subject to different mechanisms of separation, and even when included could be differentially included: “In our house everyone eats together... although my maid sits at another table, as we want to be able to chat amongst ourselves obviously” (focus group discussion Malaysia).

This may be experienced by the domestic worker as very humiliating. However, when it came to sharing space, some preferred to be kept separate: “*Khun yai*’s daughter said, ‘Come and eat together with us,’ but I think of myself as *khon chai*. I sit on the floor. Once *khun yai* [grandmother] has finished eating, I eat.”

This slippage is also apparent in the uncertain position of domestic work in government departments. In Thailand, officials clearly stated that domestic workers were part of the family for social reasons, and this was one reason why labour authorities cannot inspect their employers and why social security was not appropriate. The Ministry of Social Development and Human Security (MSDHS) has responsibility for promoting gender and good family relations. However, despite their characterization as fictive kin, domestic workers do not fall under the Ministry remit, and MSDHS was clear that their conditions should fall under the remit of the Ministry of Labour. It is important to bear in mind too that government officials are often also employers themselves. Indeed, if employers of domestic workers were required to recuse themselves from matters to do with policy and regulation of domestic workers, then it would be very difficult to find officials to take their place.

Employment relations as described by both employers and migrant domestic workers suggest interdependence that is ambivalent on both sides. In Malaysia in particular temporality is an important factor in shaping attitudes, as it can translate into disposability. One model of conduct that emerged in Thailand from the interviews that straddles both the contractual and the fictive kin models is that of the employer being an *ajarn*. This can loosely be translated as “teacher”, with regard to the type of respect it designates, though it is a less formalized term. Imagining the relation as one between teacher and pupil did seem to be one way of acknowledging and managing inequality. This viewpoint sometimes went alongside a certain civilizational discourse, and migrants were seen as simple people who have never seen two-storey buildings and do not know how to cook beyond “vinegar and a little bit of sauce” (Malaysian male employer aged 61+).

They are simple people... I love how my maid emulates what we do as a family. *Malaysian female employer aged 41–50*

One Malaysian employer favoured Indonesians “because they are more teachable, because they come from a more difficult environment”. This was echoed by a Thai interviewee who said, “If you look at Thai society, a lot of people think that we are doing them a favour because it is so bad in their country.” On the other hand, one employer said that her domestic worker was her “teacher”.

### 5.3 The written contract

A written contract setting out the duties and responsibilities of both parties is indicative of but not necessary to, a contractual form of relationship. Thailand and Malaysia have government-issued contracts. The Thai contract was developed by the DLPW, while in Malaysia the contract is available on the website of the immigration office and there are also contracts associated with MOUs. Figure 11 below compares the issues covered in these contracts with what is suggested under Article 7 of Convention No. 189. A checked box means that the terms are covered, but it does not necessarily mean that they are covered to the standard proposed by Convention No. 189.

Most employer survey respondents felt that domestic workers had a right to a written contract, though in Thailand a substantial minority felt it was not an appropriate right for any domestic worker, whatever their citizenship or immigration status (see table 12). With regard to written contracts, one Thai employer explained the reason why people do not have them as: “People should do, but they won’t care or want to do it, and that goes for both parties” (Thai male employer aged 26-30). This attitude was confirmed by another employer we interviewed who thought that employers should offer a written contract, but “it’s too complicated and I’m too lazy” (Thai female employer aged 61+). Moreover, recognising rights in theory does not necessarily translate into giving it in practice, and just because an employer has signed a contract does not mean that they are abiding by its terms. As one employer said rather sheepishly, “I ticked them but I actually do not give these rights to my workers” (Thai male employer aged 26-30).

Figure 11: Government-issued domestic work contracts in Thailand and Malaysia as compared to requirements in ILO Convention No. 189

Clause	Thailand	Malaysia
 Name and address of the employer and the worker	✓	✓
 Address of the usual workplace	✓	✓
 Start and duration	✓	✓
 Type of work to be performed	“position” rather than type of work	“shall perform diligently, faithfully and sincerely all household duties assigned by the Employer which shall not include commercial activities”
 Remuneration, method of calculation, and periodicity of payments	✓	✓ “and the payment shall be in accordance with the labour laws of Malaysia” (NB: In Malaysia domestic workers are excluded from minimum wage protection.)
 Normal hours of work	Agreed maximum hours of work a day	✗
 Paid annual leave and daily and weekly rest periods	✓	✗ “the Domestic Worker shall be allowed adequate rest”.
 Provision of food and accommodation, if applicable	✓	✓
 The period of probation or trial period, if applicable	✗	✗
 Terms of repatriation, if applicable	“Employer has to transfer workers to a safe place when there is a crisis... and employer has to repatriate the employee back to their home country and pay the cost.”	✓
 Terms and conditions relating to termination of employment	✓	✓

Table 12: Employers' answers to "Should a written contract be a benefit for domestic workers?"<sup>5</sup>, by country

	Malaysia	Thailand	Total
Yes for all domestic workers including migrant workers	13	24	37
Yes for citizens who are domestic workers	0	7	7
Yes, but only for documented migrant domestic workers	32	0	32
It depends	2	6	8
Not appropriate for any domestic worker	2	15	17
Unknown	1	3	4
Total	50	55	105

Notably, of the 13 Thai employers survey respondents who felt that domestic workers were employees and not to be treated as family members, only six thought that all domestic workers should have a written contract. In other words, an employer regarding a domestic worker as a worker does not mean that they necessarily think they have a right to a written contract.<sup>6</sup>

Our survey of domestic workers also found that workers in Thailand were far less likely to have a written contract than workers in Malaysia (186 did not have a contract in Thailand compared to 19 in Malaysia) (see table 13). Having a written contract is so uncommon in Thailand that the worker's legal status makes little difference to whether or not they have a written contract. Of the 50 undocumented workers surveyed in Thailand, 49 did not have written contracts with their employers (and the remaining one was not sure). However, similarly, of the 150 documented domestic workers surveyed, only seven had written contracts.

Table 13: Migrant domestic workers' answers to "Do you have a written contract?", by country

	Malaysia		Thailand		Total	
	N	%	N	%	N	%
Yes	124	62	7	3.5	131	33
No	19	9.5	186	93	205	51
Don't know	51	25.5	7	3.5	58	14.5
Unknown	6	3	0	0	6	1.5
Total	200	100	200	100	400	100

<sup>5</sup> The term "benefit" was used rather than "right" to enable employers to state that these were not necessarily rights.

<sup>6</sup> It should be noted that informality of employment is very high in Thailand overall, so the context is one where written contracts are uncommon. In Thailand an oral contract is just as binding as a written one <http://www.thaiembassy.com/thailand/thailand-employment-contract.php> [accessed 28 Jan 2016]. The problem is that oral contracts can be very difficult to enforce.

By contrast, Malaysian employer survey respondents who felt that domestic workers should be treated as members of the family largely thought that they should also have a written contract. The prevalence of the contract in Malaysia is to be expected given that a copy of the contract signed by both parties is stipulated as an immigration pre-entry requirement. Indeed, in this context it is alarming that a quarter of domestic worker respondents surveyed in Malaysia (N=51) did not know whether they had a contract. However, it also suggests that the contract is an immigration mechanism rather than a labour mechanism. In the survey conducted with employers in Malaysia, the survey distinguished between the rights (“benefits”) appropriate for documented and undocumented domestic workers, and it is striking that the majority of employers thought that rights were only for documented domestic workers. There are, however, interesting differences with regard to employer perception of particular rights, as some rights seem to be more acceptable than others for undocumented domestic workers. In the case of the right to a written contract, employers in Malaysia felt particularly strongly that this is a right only for documented migrant domestic workers (N=32) perhaps partly because it is used as an indicator of legal employment.

Of the 186 workers in Thailand who did not have a contract, 104 said they did not ask for a contract. The enthusiasm of employers for contracts and the lack of enthusiasm on the part of workers must be understood in terms of the kind of relationship the contract establishes. In this case domestic worker respondents were asked to explain why they did not ask for a contract, and they gave two main reasons: either they did not know what a contract was, or (as the majority answered) they associated having a contract with being tied to an employer: “It’s complicated if I want to quit” (domestic worker from Myanmar aged 22, working in Bangkok); “If I have a problem I will not be able to leave the employer” (Shan domestic worker from Myanmar aged 31, working in Chiang Mai). Thus, while a written contract is customarily associated with free labour, for these women it was rather felt to limit their freedom to leave. Since domestic work is within the informal sector, workers are theoretically free to leave at any time and the freedom to retract from an employment relation is one of the only means that workers have of limiting employers’ powers over them. Workers have every incentive to move frequently until they find the most rewarding job. This can clearly be problematic for employers, particularly for those who are looking for paid carers, or who have particularly precise requirements in the doing of household work. In practice, however, workers can find it extremely difficult to leave employers, even without the additional perceived restriction of a contract.

Seeing a contract as chiefly a mechanism that limits the possibilities of changing employer rather than a guarantor of rights, makes domestic workers’ reluctance to embrace written contracts understandable. After all, as long as one can leave an employer, other contractual details can be negotiated with the ultimate sanction of being able to withdraw one’s labour. Restrictions on exiting the employment relation were explicit in the terms and conditions promoted in government-issued contracts. For example, in the contract attached to the MOU agreed between the Governments of Cambodia and Malaysia, the first of the listed duties and responsibilities of a domestic worker is: “The Domestic Worker shall work only with the Employer and shall not seek employment or be employed elsewhere” (Appendix B, 3(a)). Article 15 of the Thai contract stipulates: “Throughout the contract, the employee shall not change an employer or terminate the contract in order to work for a new employer. The employee can request to change employer when an official is aware of the fact that the employer does not comply with a provision under this contract OR violates or fails to comply with law related to labour protection.” This is demanding of the worker, who can only “request” to change employer under egregious circumstances and otherwise is required to remain with them.

The Contract of Employment on the Immigration Department of Malaysia website<sup>7</sup> also ties domestic workers to their employer. This is in the context of a significant imbalance in the requirements between worker and employer, as a worker’s residence permit requires them to live in the home of the employer and not to leave the employer. The worker “is expected at all times to observe proper attire and shall be courteous, polite and respectful to the Employer and family members of the Employer” (Paragraph 3(f)).

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<sup>7</sup> The contract can be downloaded from the “Foreign Maid” section of the following webpage: <http://www.imi.gov.my/index.php/en/resources-and-archives/download-forms-i.html> [accessed 28 Jan 2016].

If the worker neglects household duties or disobeys lawful and reasonable orders or uses possessions without permission, then the employer has a right to terminate the contract. In contrast, the grounds under which domestic workers may terminate the contract are: (a) if their life is threatened by violence or disease; (b) if they are subject to abuse or ill treatment; and (c) if the employer does not pay them.

Constraints on contractual exit are reinforced by immigration regulations that make it extremely difficult for documented migrant domestic workers in both Thailand and Malaysia to leave their employer. In Thailand, migrant workers are tied to employers by the MOU and NV mechanisms, and employers are supposed to report domestic workers who leave their employment to immigration authorities. In Malaysia, the contract cited above is an immigration requirement. Furthermore, the Malaysian immigration authorities impose the condition that the employer must ensure that the domestic worker does not change employer or employment without the permission of the Immigration Department. Domestic workers are subject to sanction if they break the contract and this sanction is directly implemented by the employer, who has the authority to report them to the Immigration Department and order for the worker to return to their country of origin. While in theory employers are also subject to sanction, the means by which this may be enforced is opaque. Given that it is framed within the context of immigration requirements, which by their nature are primarily concerned with the entry and exit of non-citizens, there is a severe imbalance in the sanctions and enforcement. The Indonesian Embassy in Kuala Lumpur said it is difficult for migrant domestic workers to enforce their rights, even in cases of abuse.<sup>8</sup>

In general, employers surveyed were relatively supportive of domestic workers' right to change employers in case of abuse (table 14). Three employers in Malaysia thought that domestic workers should not have the right to leave employers in case of abuse, and four employers in both states thought it should depend on the circumstances. But the majority in both Thailand and Malaysia felt that the right to leave was an important mechanism of combatting abuse: "If you give the right to change jobs, no one would work for bad employers, right?" (Thai male employer aged 26–30). This was tangentially acknowledged in Thai Government interviews wherein officials claimed that abuse of domestic workers was unlikely because of the high demand for their services.

Table 14: Employers' answers to "Should domestic workers have the right to change employer if they are abused?", by country

	Malaysia	Thailand	Total
Yes for all domestic workers including migrant workers	9	49	58
Yes for citizens who are domestic workers	0	1	1
Yes, but only for documented migrant domestic workers	31	0	31
It depends	2	2	4
Not appropriate for any domestic worker	3	0	3
Unknown	5	3	8
Total	50	55	105

<sup>8</sup> Interview with Indonesian Embassy official, 2 December 2015

Indeed, there is some evidence that domestic workers take this issue into their own hands, though they do not necessarily use official channels to do so. Our interview with Malaysian officials confirmed that there were far more complaints from employers about “runaways” than there were complaints from workers about employers. The latter were described as “pretty rare”, which is understandable considering that for migrant domestic workers lodging a complaint carries the possibility of losing not only their legal status and source of income, but also the risk of being made homeless if they are live-in workers (ILO, 2016a). In addition, other issues affect the number of complaints lodged, such as language barriers, lack of knowledge among domestic workers regarding their rights under the law, the length and cost of the complaints process, and a lack of faith in the effective functioning of the system (ILO, 2016a). The low number of complaints from workers also suggests that when necessary, some domestic workers will leave even if they are not permitted to do so. In the survey interviews, many domestic workers said that they would change employers until they found one that they could work with. Several employers described their experiences of “runaways” with no reflection on whether this could be anything to do with their employment conditions or relations, treating it as incidents of domestic workers’ unreliability rather than potentially indicating a problem. One Malaysian employer described how neighbours in his compound kept an eye open for any domestic workers who might be “running away”:

Now our area has a security guard so anyone who comes in has to register. Still recently one [domestic worker] was smart enough to call a taxi to come to the house. All the security guards have been instructed that maids cannot go out by themselves in a taxi or anything... In fact we have had a special room made in the security guard’s hut to keep these people, to keep them. That room is to keep runaway maids in. If they catch her they will lock her up because the owner won’t be around.

The above interview was conducted in English, which is not the interviewee’s first language. Yet the term “owner”, used on several occasions when he meant “employer”, indicates a certain attitude. Employers can talk about workers as though they own them, highlighting the freighted relationship between labour and personhood in domestic employment. Even more disconcerting is the apparent approval of detaining people against their will, especially as it appears to be the policy of an entire housing complex. Yet, like the majority of employers, this particular interviewee believed in the right of a domestic worker to change employer if abused, saying: “That one is a must... I agree with that.” This apparent contradiction between believing in a domestic worker’s right to leave, yet preventing domestic workers from running away, is perhaps due to a lack of clarity around what constitutes abuse in a context where domestic work is not fully contractualized and where kin relations are fictive. This is not only a question for employers, and as will be noted below, domestic workers also are often not clear when employer behaviour constitutes abuse.

## 5.4 Beyond contract

Domestic work in private households is regarded, both at the state and at the individual employer levels, as different from more “regular” work, and those who undertake domestic work are not considered subject to the same legislation and protections as are afforded to “regular workers”. In contrast to many other low-wage, informal sectors, such as agriculture and construction where workers are imagined simply as workers, the humanity and sociality of the worker is often ostensibly recognized in domestic employment. However, this recognition typically serves to further disempower workers, and they are easily ensnared in relations of personal dependency on employers.

The focus of this study was not on forced labour or trafficking in the domestic work sector, as there has been considerable attention paid to these issues in previous research. This is reflected in the methods used to contact research participants. The study specifically sought out employers who self-identified as ‘good’ employers, and many of the domestic workers were approached through organizations, indicating some level of freedom of association and movement. Surveys did ask workers whether they had experienced verbal, physical, or sexual abuse, and only a small minority reported having done so. Ten said that their current employer physically beat them (and of these, seven described their employer as bad employers,

and three said that their employers were generally good but there were sometimes problems). The majority said that they had not experienced these extreme conditions either currently or in the past. That said, abuse by employers may be under-reported in surveys. Researchers did not seek to influence domestic worker responses, but report this kind of exchange: Q: “Any verbal abuse?” A: “No...very rare.” Q: “So that means it happened?” A: “No, it is OK.”

It is notable that even when domestic workers later reported that they work exceptionally long hours or are not allowed to go out of the house, they still rate their employers as 'good'. Furthermore, it is notoriously difficult to generate robust data on sexual abuse using survey methodology, particularly when surveys are conducted in a public space.

However, there is also evidence of more disturbing tendencies. The ILO has established a set of indicators of forced labour (see figure 12) and some of these are clearly present and unchallenged as part of domestic workers’ day-to-day experience of employment relations.

Figure 12: Forced labour indicators



It is difficult to measure and judge abuse of vulnerability without long-term ethnographic work but some of the workers interviewed were clearly vulnerable when they first arrived in Thailand. The Shan women in particular often described fleeing dangerous situations with little prospect of return, and some would seem to have a prima facie case for asylum under the Geneva Convention (see box 5).

### Box 5: Refugee experiences of domestic workers

They said, "I did not allow you to sneak out and work in the farm, are you giving food for Shan soldiers? If you don't tell you will die. Have you ever seen Shan soldiers?"

I said, "I don't see. I see them some days, but other days I don't."

"Are they around here? If you don't tell, I will shoot you and you will die."

I said "Go ahead if you want to shoot". I had to be under their rules anyway. I told myself to be strong. I just thought, I will let it be. I did not do anything and they want me dead...They did not shoot to kill. They shot me in the shoulder... They had raped women and set their pubic hair on fire. Just like in the movies. I saw it with my own eyes. *Kamlee, a Shan domestic worker from Myanmar aged 35*

Kamlee had not wanted to leave her village, but fled to Thailand, making the dangerous crossing when she was six-months pregnant.

Hom (a Shan domestic worker from Myanmar aged 29) had travelled to Thailand when she was about 14 years old. Her parents had moved to Thailand from Shan State some time previously and were working as construction workers. They left her with her grandmother until she finished ninth grade but were worried about her safety and so brought her to Thailand, even though they themselves were not being paid any money. She found work as a domestic worker and was paid THB750 (\$20.96) a month. "Was I in hell? There was no time to rest, no time to eat, I had no bedding. There was a hard small pillow. I slept in the storage room... There was a lock but the employer had the key... If Myanmar, the country I lived in, had justice, had freedom, had no war, I would have preferred staying there."

Women coming to Malaysia did not describe situations of state violence, but grinding poverty "I came here as there is nothing in the village. It is a difficult life," says Mariam, a domestic worker from Indonesia aged 39. Employers were furthermore conscious of the poverty of their workers and viewed employment with them as a golden opportunity for domestic workers: "Her husband only transports small fish... our money is a lot. One thousand is 10,000 in their country. No one will get that much money a month there" (Malaysian employing couple, husband speaking).

Despite this recognition of the imbalance of power, some employers, particularly in Malaysia, thought it acceptable to hold their worker's documents. More than one quarter of our domestic worker survey respondents (N=108) did not hold their own identity documents (table 16). Most of these were working in Malaysia, though some were in Thailand. This is supported by our employer survey, in which the majority of Malaysian employers and a sizeable minority of Thai employers thought it was acceptable to hold workers' passports or identity cards (table 15). Malaysian interviewees said that document retention was a means of exercising control. One employer said when discussing whether migrant domestic workers should have the right to hold their own documents: "This one is a question mark because if they hold their ID documents their mobility becomes easier" (Malaysian male employer aged 51-60); and another: "If the passport is in their hand they can run away. That is the only reason why I keep the passport" (Malaysian male employer aged 61+).

Table 15: Domestic workers' answers to "Does your employer hold your passport?", by country

	Malaysia		Thailand		Total	
	N	%	N	%	N	%
Yes	70	35	10	5	80	20
No	120	60	185	92.5	305	76.25
Unknown	10	5	5	2.5	15	3.75
Total	200	100	200	100	400	100

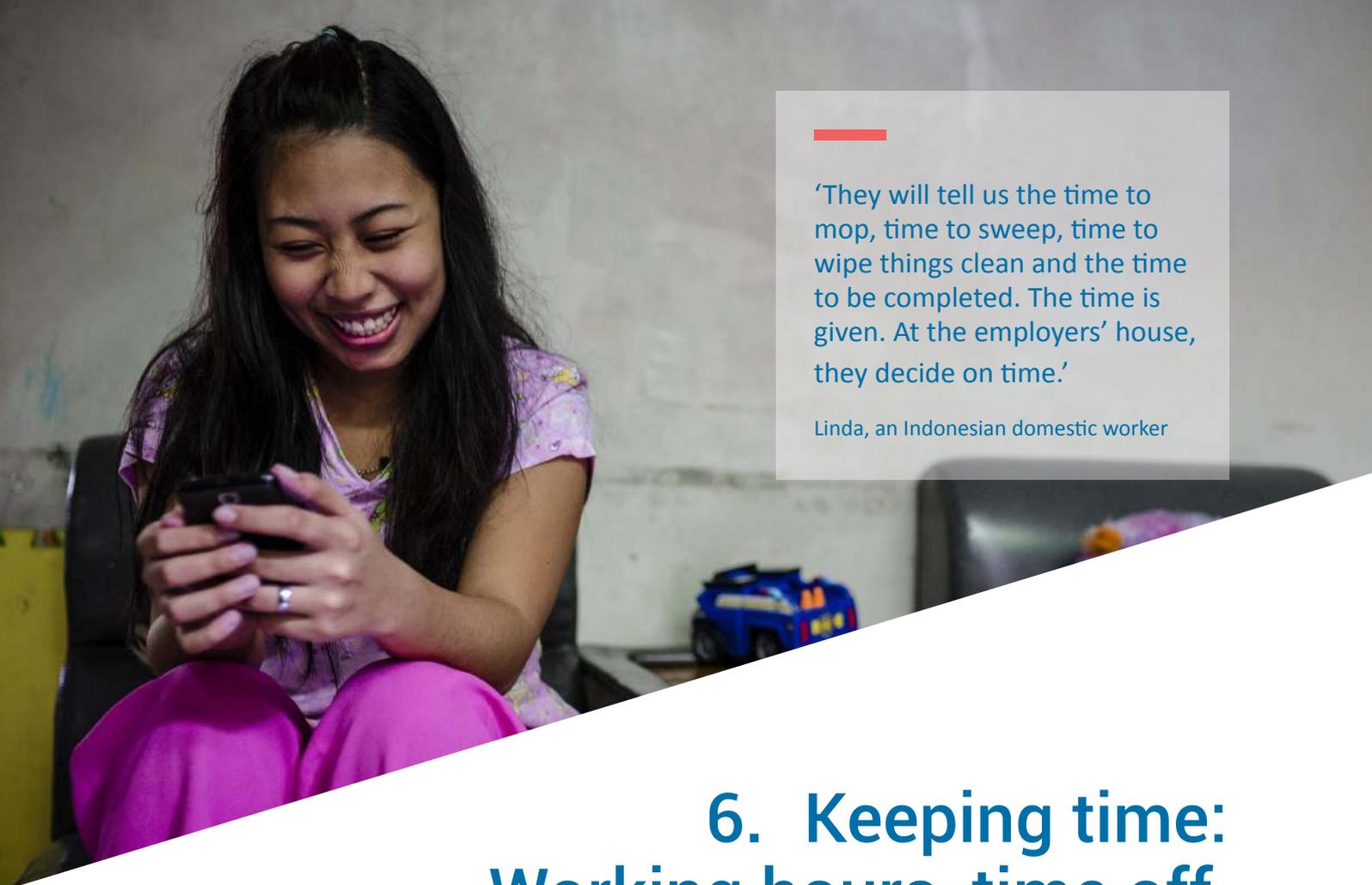
Moreover, while the Malaysian Government issued contract does stipulate a monthly wage, 70 domestic worker respondents said that their employers "looked after" their wages, and more than half (N=109) said that they had to pay back a debt to their employer either now or in the past before being paid their wages (only eight of the respondents in Malaysia had to repay a debt to a recruiter). This suggests that the concerns discussed in Chapter 3 about the MOU amendment facilitating indebtedness may be well placed.

Table 16: Employers' answers to "Should employers hold migrant domestic workers' passports?", by country

	Malaysia	Thailand	Total
Yes	31	14	45
No	11	27	38
Depends	7	12	19
Don't know	0	1	1
Unknown	1	1	2
Total	50	55	105

## 5.5 Conclusion

There are two models that are used to manage the commodification of domestic work: fictive kin and contract – "just like one of the family" or "a job like any other". One of the key findings of this research is the extent to which domestic workers themselves deploy the concept of fictive kin. The contractual model does not capture important elements of their work and their role, and being considered as "part of the family" can constitute a source of recognition and pride for domestic workers. Employers also deploy fictive kin relationships. Fictive kin is not simply an excuse to mistreat the domestic worker, but can also express recognition of the value of their work, particularly its emotional labour. However, in practice, employers often move between kin and contract, and this slippage is also evident in government approaches. More attention needs to be paid to this slippage, as effectively it is the employer who has the power to decide which model they will deploy and when, meaning that they can evade some of the more onerous responsibilities of fictive kin on the grounds that the worker is a worker and not part of the family, at the same time as escaping the requirements of a contract because the worker is part of the family and not a "regular" employee. This slippage is facilitated by the ambivalent legal position of domestic work in employment and immigration law regimes.



‘They will tell us the time to mop, time to sweep, time to wipe things clean and the time to be completed. The time is given. At the employers’ house, they decide on time.’

Linda, an Indonesian domestic worker

## 6. Keeping time: Working hours, time off, and autonomy

Regulating hours is a particular challenge for domestic workers (ILO, 2014b). Working time can be difficult to calculate, and for the purpose of analysis, this report has differentiated between working hours, weekly rest days, and annual leave. Reasonable time away from work is a requirement for any form of employment. It takes on an added dimension in the case of domestic work, particularly for those who live-in, because the home and the workplace are not always clearly differentiated. The ILO defines time off as periods during which a domestic worker is free to dispose of her time as she pleases and is not available to respond to calls. It includes the freedom to leave the house. This is particularly important because time off for domestic workers is more than time off from doing tasks; it is also time off from performing a role. It should be time when she can be autonomous and no longer directed by the employing household. However, as will be discussed, domestic workers may struggle for their right to such individual autonomy in practice.

### 6.1 Working hours

Both Thailand and Malaysia have set “normal hours of work” for workers (but not domestic workers) at eight hours a day. In Thailand, equal treatment in relation to normal hours of work in law should mean eight hours a day and not more than 48 hours a week, with a rest period of at least one hour in an eight-hour day. In Malaysia the law is similar, but there are special restrictions for women in the industrial or agricultural sector, who are not permitted to work between the hours of 10 p.m. and 5 a.m. and are not allowed to commence working without having 11 hours of consecutive rest-time.

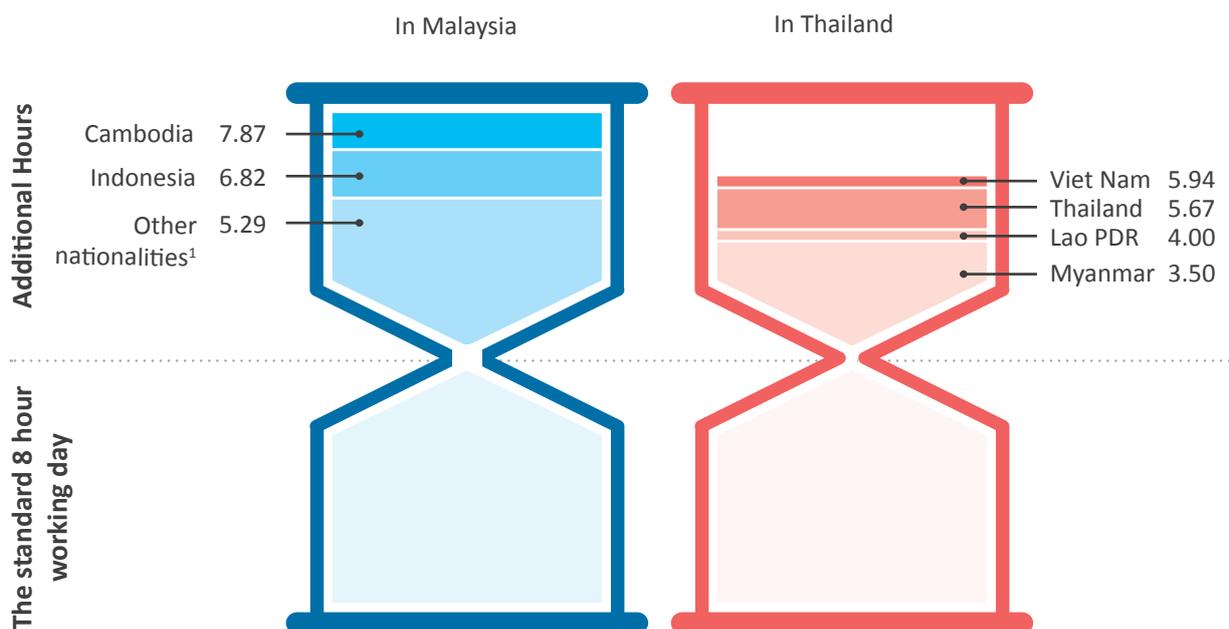
It is clear from our data that in both Thailand and Malaysia domestic workers were working excessive hours in relation to what is considered acceptable for other workers. In this sample, the average working

hours found in Malaysia (14.42) were significantly more than in Thailand (11.89). Our sample was not representative, but these findings are in line with the ILO findings that domestic workers in Malaysia work the longest days in the world (ILO, 2013a). Notably the average hours worked for live-out domestic workers were less. In Thailand, the average daily hours worked by live-out workers were 9.23. In Malaysia, while average daily work hours for live-out workers (12.46) were less than the overall average, the difference was less pronounced than in Thailand, perhaps because in Malaysia the live-out workers were working illegally.

Employers in both Thailand and Malaysia were clear that eight hours a day (the legal working day for standard workers in both countries) simply was not appropriate for domestic workers: “They are working full time. There is no such thing as free time. They work full time, no free time” (Malaysian male employer aged 61+). Only five of the 50 Malaysian employers felt that eight hour working days were an appropriate right for domestic workers, and this view was held by less than half (23) of the 55 Thai employers (though as noted above, this does not mean that these employers afforded this right to their workers). Moreover, only 10 of the Malaysian employers (or one-fifth of the sample) thought that domestic workers should have 24 hours’ consecutive rest, as compared to two-thirds of the Thai employers.

In both Thailand and Malaysia there is a significant relationship between working hours and nationality (figure 13), but there is hardly any correlation between legal status and working hours – indeed in Thailand, Thai workers are among those who often have the longest hours, whether or not they are carers.

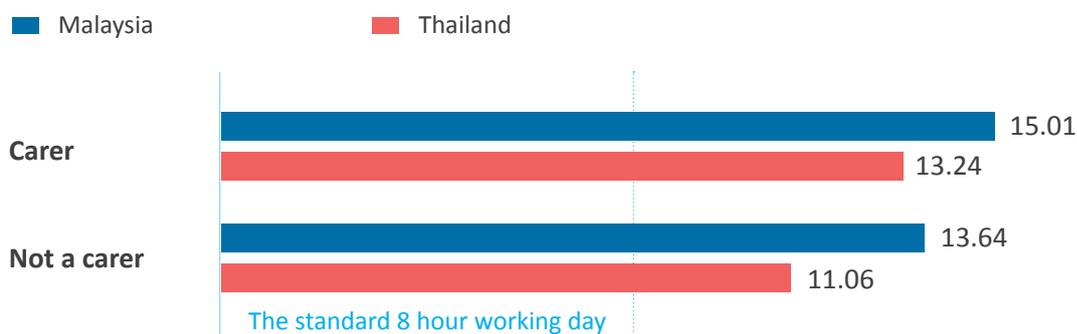
Figure 13: Average number of hours worked by migrant domestic workers in excess to the standard eight hour working day, by country of origin



Attitudinal differences clearly have an impact on working hours, but also important is the nature of the work that the person is doing and whether or not they are live-in. There is a significant relationship between working hours and carer status in both Thailand and Malaysia, with carers working longer hours in both countries (figure 14). Cambodian workers who are carers work particularly long hours, as do Indonesians who are non-carers.

<sup>1</sup> Sri Lanka and the Philippines

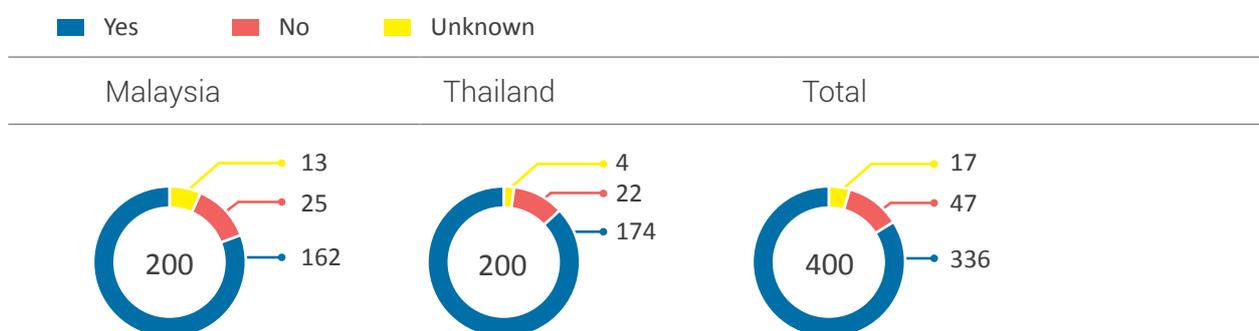
Figure 14: Average working hours of migrant domestic workers by status as a carer of children and/or adults, by country



Most domestic worker respondents said that they had a period of rest during their working day (figure 15). In Thailand 174 workers out of 200 said they had some rest time; though of these 174 workers, 108 had one hour or less. In Malaysia, 162 had rest time, and among our sample the average period was slightly longer than in Thailand – just 69 reported having one hour or less. Less than one third of workers in Malaysia had a daily period of 11 hours of consecutive rest. However, among both groups, a significant minority (46 in Thailand and 48 in Malaysia) could be woken or disturbed by their employer during their rest period.

Care work is difficult to manage within the strictures of industrial time. High quality care, as opposed to the perfunctory performing of tasks, is relational. Key to the quality is that the person cared for feels that the carer is not simply doing this as a duty and for money, but that they have an emotional relationship with them and crucially are available to them when they are needed. A single care worker given adequate breaks, holidays, and days off requires significant input and support from family members if reasonable hours are to be maintained. After all, eight hours of care labour in a day means there are still 16 hours that need to be covered, and one full weekly rest day too. Either the family must employ relief workers or they need to do it themselves: “We are individuals, unlike companies who have several workers. If the company does not have this worker, it still has other workers, but we have to do it ourselves” (Thai female employer aged 61+).

Figure 15: Domestic workers' answers to “Do you have rest periods during the working day?”



Long hours are not only associated with those workers who have care responsibilities. Because domestic work is not productive, it is difficult to measure in terms of tasks performed or intensity of labour. One employer who did implement an eight hour working day as a right circumscribed it with: “If the domestic

worker works at her fullest” (Thai female employer aged 51–60). This seems to be an important component of employers’ reluctance to allow an eight-hour day: They felt that the worker is not actually working a lot of the time: “They should have their eight hours of sleep... their work is domestic work. In between, they are not fully occupied... They have time to nap in the afternoon, we tell them to take a break” (Malaysian employer couple aged 51–60, husband speaking). Our interviews suggest that employers felt that a lot of the time domestic workers were doing nothing in particular or even resting – “She comes with me and sits here... If someone comes, there is work; if not, just sitting only” (Malaysian male employer aged 41–50). Employers perceived a trade-off between this lack of intensity – taking it easy – and longer hours.

However, this was experienced very differently by domestic workers, who saw being able to take it easy as the main difference between being in their own home and living with their employer. In their own home they could be “lazy”: “Working for *khun yai* I have to do it orderly. I have to do well. In my own home I can leave it until I have time... I can rest when I’m tired and do it later. But working for an employer, I get paid so I have to do better” (Mia, Vietnamese worker aged 52). In your own home you can leave the work until you want to do it and decide when to prioritize it. As one domestic worker put it: “They will tell us the time to mop, time to sweep, time to wipe things clean, and the time to be completed. The time is given. At the employer’s house, they decide on time, in our house, we decide on time” (Linda, Indonesian domestic worker aged 23).

Most of the domestic workers interviewed were unhappy about the lack of control they had over their hours. The principal advantage of factory work (another option often available to low-skilled migrant women) over domestic work, according to workers, was the possibility of controlling hours and being able to leave work behind. Employers are imagining that they are in the shoes of the domestic worker, but it seems they are forgetting that the domestic worker is not in her own house. So while employers may be able to be “lazy” and prioritize in their own home, this does not mean that domestic workers can because they are not simply substituting for the labour of their female employer and are in a very different relation to the household. While it was not explicitly stated by interviewees, it would appear that resting is perceived by employers as negative, rather than an essential part of well-being.

This is also related to the standard of the work, and domestic worker interviewees almost all agreed that they had to achieve a much higher standard of cleanliness when working for someone else than they did in their own house: “I do better than how I did at home. There, even if it is not clean, no one will scold at me. If I did some mistakes, employer will see. I have to pay more attention when I work” (Kamlee, domestic worker from Myanmar aged 35).

This was reflected on by a Thai woman whose long-term domestic worker went away: “During the three months when she went back home the two of us had to do things by ourselves. We looked at each other... OK, let’s not cook tonight. It’s tiring. When she was away I just cleaned the house once a week, but she normally cleans it every day.”

Domestic work is about performing a role and being in a certain relation to a family, it is not only about undertaking a set of tasks. It is therefore extremely difficult for those who live-in to step out of that role and leave work behind after the working day is done. There was recognition of this by employers, but they used it to support their position that a standard working day was not appropriate. A 41–50 year-old Malaysian female employer who worked for a labour rights organization felt that the work site meant that limiting working hours to eight a day simply isn’t feasible “because they live in our house. You can’t... When you have the maid living in the house with you, you can’t have the eight hour working time. They cannot just suddenly drop the plate and disappear.” Or, as another employer put it: “Can I tell members of my family that they shall not interact with me after eight hours?” Domestic workers cannot just step out of the domestic worker role when they have finished eight hours of work: “If you stay in, every hour, every minute, the boss controls you” (Pine, Cambodian domestic worker aged 35).

### 6.1.1 Stand-by hours

One of the ways of capturing the difference between industrial time and other forms of working time has been the concept of “stand-by hours”. Stand-by hours are when the worker is expected to be available in case they are needed but they may not necessarily be called upon, or as Convention No. 189 defines it: “periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls” (Article 10(3)). So a worker may be called on in the middle of the night if needed by the care user, but not necessarily. This was, unsurprisingly, largely an issue for the live-in workers of our sample, and particularly for domestic workers employed in Malaysia. Stand-by hours are not restricted to care work and are a feature of domestic work more generally. One domestic worker interviewee, for example, described how she often had to wait up so she was available to open the gate for her employers when they returned from parties.

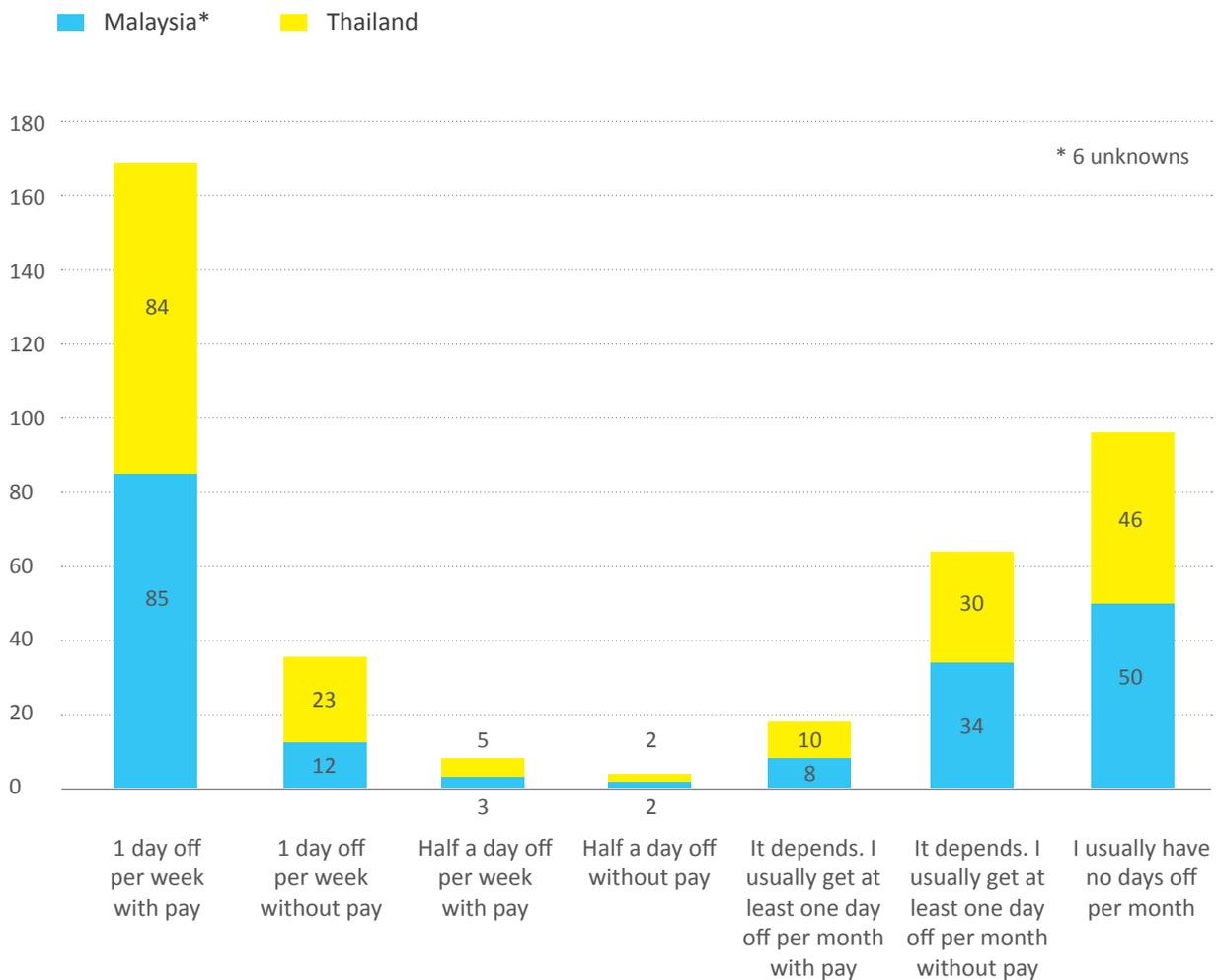
Employers interviewed regarded stand-by hours as not properly working, but workers were far more ambivalent. The survey questionnaire asked whether domestic workers were including stand-by hours in their estimate of working hours, and if so how many of their hours were stand-by. Because stand-by hours requires a particular understanding of how time in the house is organized, it also included a question about availability to the employer during rest hours as a consistency check. This revealed workers’ uncertainty about the stand-by concept. For example, people who said that they did not have to work stand-by hours also said that they could be woken up and had to be available to their employers. Furthermore, of the 24 people who shared their room with a child or an elderly person, 15 – or 62.5 per cent – said they were not working stand-by hours, but this seems in practice highly unlikely. One factor contributing to the discrepancy might be the regularity of being disturbed. For example, a person might not feel on stand-by if they are rarely woken by the child with whom they share a room. Being on stand-by and knowing that it is unlikely you will be called upon is very different from being on stand-by and being called upon four times a night.

Defining stand-by time and breaks can then be very difficult in practice. One of the main difficulties of live-in domestic work is precisely that there never is a real break, specifically because, as long as domestic workers are at the workplace, they must respond to calls whenever they are made. In other words, when they are not actively occupied with performing tasks, they are always on stand-by (ILO, 2014b). Workers’ and employers’ different perspectives on availability and lack of intensity contribute to different approaches about what constitutes working time.

## 6.2 Days off, annual holiday, and individual autonomy

If one is liable to be disturbed during rest hours, as 68 per cent of workers in Malaysia and 33 per cent of workers in Thailand claimed, it is difficult to effectively take time off and distinguish stand-by time from rest time. Accordingly, days off are therefore extremely important for domestic workers. According to both Thai and Malaysian labour law, standard employees should receive a minimum of one weekly rest day (24 hours of consecutive rest). In the case of Thailand a weekly rest day is also a right extended to domestic workers. As can be seen in figure 16 below, less than half (N=160) of the workers surveyed were given a weekly rest day with pay.

Figure 16: Domestic workers' answers to "Do you get a weekly rest day?", by country



Given the problem with stand-by hours and rest time, being able to leave the house on one's day off has a particular salience. It is not only a case of withdrawing one's availability, but not being simply in the relation of "domestic worker" to the household and having some time to lead an autonomous life. This is where being a migrant domestic worker can have very particular consequences. Autonomy is limited by immigration requirements in both Thailand and Malaysia, as both governments require, and in some cases will enforce, dependence on a particular employer. In Malaysia the Immigration Department even asserts that "employers are responsible for the conduct and discipline of the FDH while she is in Malaysia" (IDM, 2016). Furthermore, the practical reality of migration means that people are often separated from friends and loved ones, and so may have less incentive to go out. After all, if the domestic worker is "part of the family" this erases the worker's own family, and the separation often enforced by immigration controls and migratory processes affect this erasure in practice. Importantly, given the isolation of the private household, being able to leave can also enable domestic workers to access organizations and compatriots for advice and support as well as relaxation.

Table 17: Employers' answers to "Should domestic workers have the benefit of being able to leave the house in their free time?", by country

	Malaysia	Thailand	Total
Yes for all domestic workers including migrant workers	4	33	37
Yes for citizens who are domestic workers	0	1	1
Yes, but only for documented migrant domestic workers	9	0	9
It depends	9	16	25
Not appropriate for any domestic worker	25	1	26
Unknown	3	4	7
Total	50	55	105

It was acknowledged by Malaysian officials interviewed and by the Indonesian Embassy in Kuala Lumpur that employers in Malaysia commonly assume that domestic workers should remain in the house all the time and weekly rest days are often not given. This is a result of the regulatory framework, which gives workers and employers the choice of whether or not to implement a weekly rest day, a right which arguably should not be considered a "choice".

As can be seen in table 17 above, only four of the 50 Malaysian employers surveyed felt that domestic workers should have the right to leave the house on their day off. Interviewees were concerned "they will get spoiled joining unnecessary people" (Malaysian male employer aged 41–50). Another employer suggested, "The problem is that we don't know where they go; so it's better to pay them and keep them in the house" (Malaysian couple, husband speaking aged 50–59).

It also suggests that being able to leave the house when you are not working is not considered a right but rather a privilege. Neither legal status nor length of stay have a statistically significant impact on freedom to go out in either Thailand or Malaysia. In this context it is not surprising that, while workers complained about the long hours they worked, employers often said that workers would prefer to work than to have the day off because they wanted the money.

Table 18: Migrant domestic workers' answers to "Can you go out in your free time?", by country

	Malaysia		Thailand		Total	
	N	%	N	%	N	%
Yes	86	43	25	12.5	111	27.75
No	48	24	8	4	56	14
Only with permission	37	18.5	98	49	135	33.75
Don't know	8	4	1	0.5	9	2.25
Unknown	21	10.5	68	34	89	22.25
Total	200	100	200	100	400	100

In Thailand most, but not all (N=33) employers felt that domestic workers should have the right to leave the house on their weekly rest day (see table 17). However most of the domestic workers surveyed were not able to go out in their free time without the employer's permission, indicating that they were still subject to their employer even on their days off (see table 18).<sup>2</sup> Immigration restrictions may also operate to restrict workers' movements, both directly and indirectly. Workers who are in the NV system are not permitted to move from the province where they are working. Anxiety about being picked up by the authorities can also mean that workers do not want to leave the house. In the Bangkok focus group discussion one of the participants described how his domestic worker had missed one of her three monthly reporting sessions. He was a lawyer and had tried very hard to get her legalized, but it had proved impossible: "My maid can't go outside the house. She is scared of the police and being caught. Even if the employer wants to be good, if the policy of the government is not good we can't do anything."

For workers who are not permitted to leave the house, an alternative means of escaping the domestic worker role is to meet with people with whom one is not in a service relation, for instance by having visitors. Unfortunately, this too was often forbidden by employers, and again this was particularly notable in Malaysia (see table 19). Domestic workers in Malaysia reported being more restricted regarding visitors than did domestic workers in Thailand, though even in Thailand nearly one-quarter of the sample surveyed were not permitted to have visitors (see table 20). In Thailand, the freedom to have visitors decreases in the case of domestic workers who work as carers, and in Malaysia no undocumented workers were permitted to entertain visitors.

<sup>2</sup> The number of domestic workers who reported that they could only go out with permission in their free time was markedly higher in Thailand than in Malaysia. However, given that not permitting domestic workers to leave the house is so normalized in Malaysia, this might indicate a methodological issue, as those domestic workers in Malaysia who are able to leave the house (and therefore be surveyed) are potentially more free than most.

Table 19: Employers' answers to "Should domestic workers be allowed to have visitors?", by country

	Malaysia	Thailand	Total
Yes for all domestic workers including migrant workers	3	25	28
Yes for citizens who are domestic workers	0	1	1
Yes, but only for documented migrant domestic workers	10	1	11
It depends	8	21	29
Not appropriate for any domestic worker	25	4	29
Unknown	4	3	7
Total	50	55	105

Table 20: Domestic workers' answers to "Are you are allowed to have visitors?", by country

	Malaysia		Thailand		Total	
	N	%	N	%	N	%
Yes	72	36	81	40.5	153	38.25
No	105	52.5	47	23.5	152	38
Unknown	23	11.5	72	36	95	23.75
Total	200	100	200	100	400	100

These kinds of restrictions either run counter to the idea that domestic workers are "part of the family", or suggest that the ways in which they are included in the family are highly patriarchal. If the domestic worker is like an "auntie", one might expect her to be able to leave the house when she wishes, or to have visitors of her own. Thus when employers deployed the fictive kin model, they often had to manage the contradiction that while domestic workers are like family members, they are in their (i.e., the employer's) house, and so these workers are part of the household but do not belong in the home. Employer interviewees suggest that fear of crime served as both justification and explanation for these restrictive measures and notably overrode any thought of the social and emotional needs of workers:

I understand that some people must be able to visit and people have a right to socialize but... this is my house... this is a developing society. The person who does domestic work earns a lower income and there is a possibility they could be associated with crime. It is possible that the person can bring someone in to rob us. I am worried.  
*Thai male employer aged 26–30*

There is no need for that [visitors]. Firstly, she is in a foreign country; if visitors are coming, why, and who? ... I don't know who is coming. These are people who may end up having boyfriends and running away. *Malaysian male employer aged 61+*

Danger, yes surely there is possible danger in their friends visiting my house. *Malaysian male employer aged 41–50*

Yet fears of crime and the urge to protect one's private space may also overlap with a negative response to manifestations of the worker's autonomy. So one employer described how horrified he was when he and his family returned to the house after they'd left on a day trip to find that the domestic worker had taken a surprise decision: "She had already ordered a McDonald's and the guy was delivering McDonald's to the house, which really took us by surprise. So we don't know what they do at home" (Malaysian couple aged 51-60, male speaking). Yet it is autonomy from the role of domestic worker as well as the tasks of doing domestic work that is a component of time off.

This hostility to visitors also often extended to telephone usage. "Sneakily" using the phone, or using a mobile too much, particularly if the worker might be calling a boyfriend was a source of concern. A Malaysian female employer aged 41–50 says a lot of problems stem from "the error of hand phones... that's where they get contact with the outside world. Most of the time they are OK until they get their hand phone and people start calling them." From the point of view of the workers, mobile phones were for many an important appliance. Kyek, a Shan domestic worker in Thailand, described working for a very difficult family where she was treated very badly, but she did so very instrumentally, because she had lost her phone and was determined to remain until she had made enough money to buy a new one. As soon as she had enough cash, she left. One interviewee explained how to make a conference call and talk to five friends; while an employer complained exactly about her worker doing this, and talking to people while she was sweeping the floor. A Malaysian male employer was very strongly of the opinion that domestic workers should be treated as part of the family, yet he was adamant that: "A maid should not have a phone. That's all... It looks cruel, but it is to keep them safe. We allow them to call their homes from our fixed lines."

The denial of worker's rights to weekly days off and visitors is not only an infringement of labour rights, but equally it is a denial of what might be reasonably expected in a familial relation. It is further compounded by limitations on annual leave. In Thailand, workers are entitled to a minimum of six days paid annual leave plus 13 public holidays a year. Over 85 per cent (N=171) of the 200 respondents working in Thailand said they had annual leave, though half of these respondents were given less than the mandated 19 days. Furthermore, this leave was unpaid. Malaysian workers have the right to 8–16 days of annual leave, depending on their length of service. However, as discussed above, domestic workers are not included in this because they do not fall under the definition of worker in Malaysian labour law, and annual leave is not mentioned in the Government-issued contract (neither are working times nor days off).

The right to annual leave is not uncontested, with 16 employers saying that it was not appropriate for any domestic worker (table 21). And, even though most employers support the idea of annual leave for at least some domestic workers, this does not mean paid leave. Among the domestic worker survey respondents, 227 (approximately 57 per cent) had no paid annual holiday. Of the 175 who did have paid annual holiday, 63 had eight days of holiday or fewer a year. In interviews with Malaysian employers the fact that domestic workers are migrants, and migrants in turn are temporary, contributes to the sense that there is a "natural" limitation on annual leave:

They came under contract, then follow the contract, so there is no such thing as annual leave. They work for two years, then we give them a plane ticket and send them off... They are only here on a two-year contract, pension will not come in, nothing like that, nothing... Whatever benefit there is, is within the salary. *Malaysian male employer aged 61+*

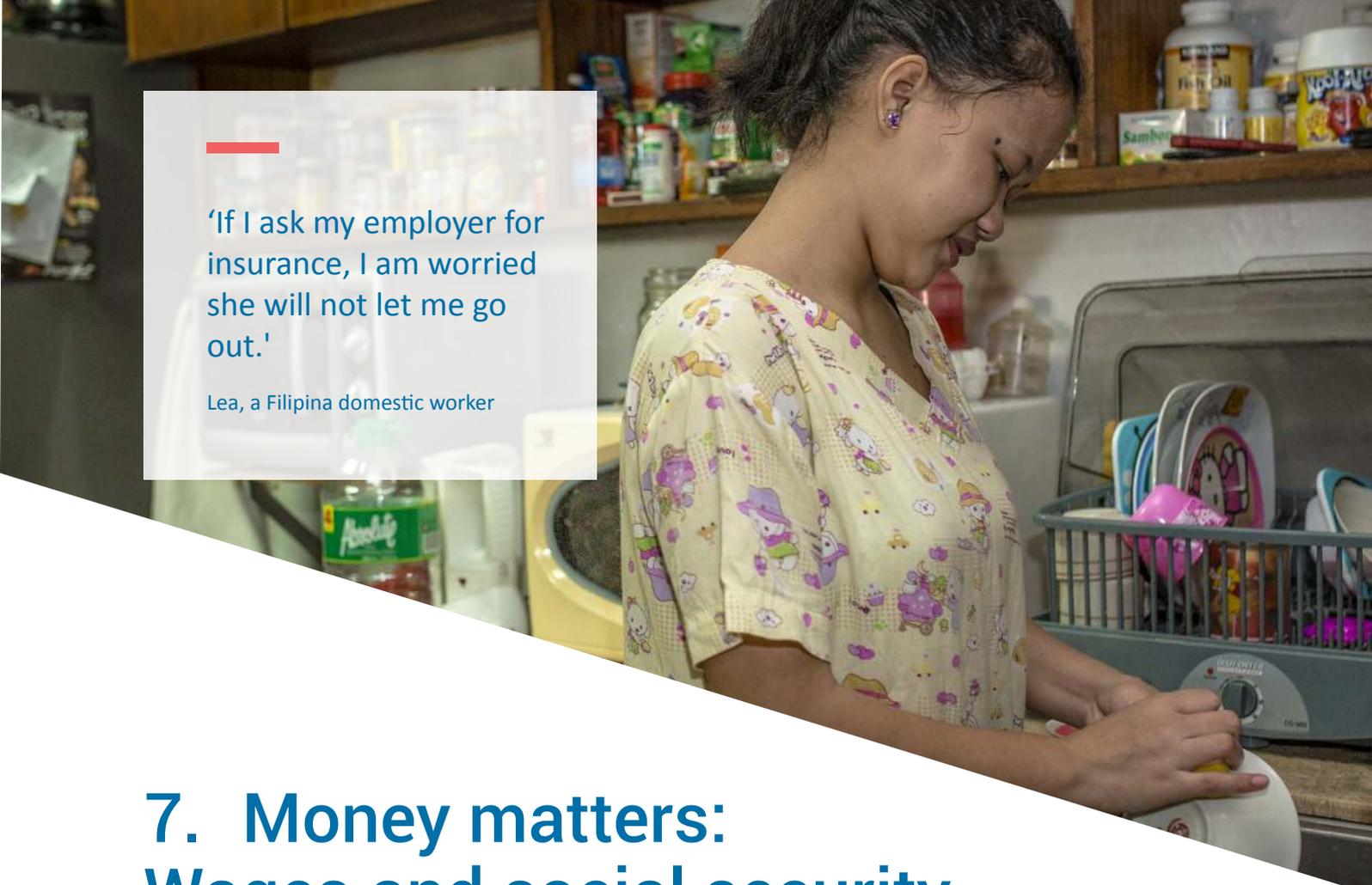
Table 21: Employers' answers to "Should domestic workers have the benefit of annual leave?", by country

	Malaysia	Thailand	Total
Yes for all domestic workers including migrant workers	8	39	47
Yes for citizens who are domestic workers	0	3	3
Yes, but only for documented migrant domestic workers	25	0	25
It depends	3	6	9
Not appropriate for any domestic worker	12	4	16
Unknown	2	3	5
Total	50	55	105

Examining the average number of annual leave days across the two categories of workers by live-in status, it is observed that in both the countries, there is no significant difference in the average number of leave days of the two groups. Living in does not make any difference to the average number of annual leave days a domestic worker takes in Malaysia and Thailand even though one might expect that live-in workers' rights to holidays are particularly important to preserve.

## 6.3 Conclusion

The fictive kin model is particularly detrimental with respect to hours of work and leave days. Domestic workers in both Thailand and Malaysia work exceptionally long hours, particularly if they are care workers and if they live in. While there has been excellent research and organising done around the concept and practice of stand-by hours, much remains to be done. The right to be absent from the house on one's weekly rest day and the right to annual leave are particularly important if domestic workers' autonomy and rights are to be respected.



'If I ask my employer for insurance, I am worried she will not let me go out.'

Lea, a Filipina domestic worker

## 7. Money matters: Wages and social security

While domestic work is excluded from minimum wage coverage in both Thailand and Malaysia, this research found that most, but not all, employers agreed that domestic workers should be paid the same minimum wage as any other worker (table 22). In Malaysia, however, employers felt that, as with other rights, this was suitable only for documented workers.<sup>1</sup> At first sight it seems that in both countries domestic workers are earning above the minimum wage, but a closer look reveals that this is far from the case, particularly when one takes working time and social security into account and analyses data by the nationality of the worker

### 7.1 Minimum Wage

Table 22: Employers' answer to "Should domestic workers have the benefit of minimum wage?", by country

	Malaysia	Thailand	Total
Yes for all domestic workers, including migrant workers	8	36	44
Yes for citizens who are domestic workers	0	5	5
Yes, but only for documented migrant domestic workers	18	0	18

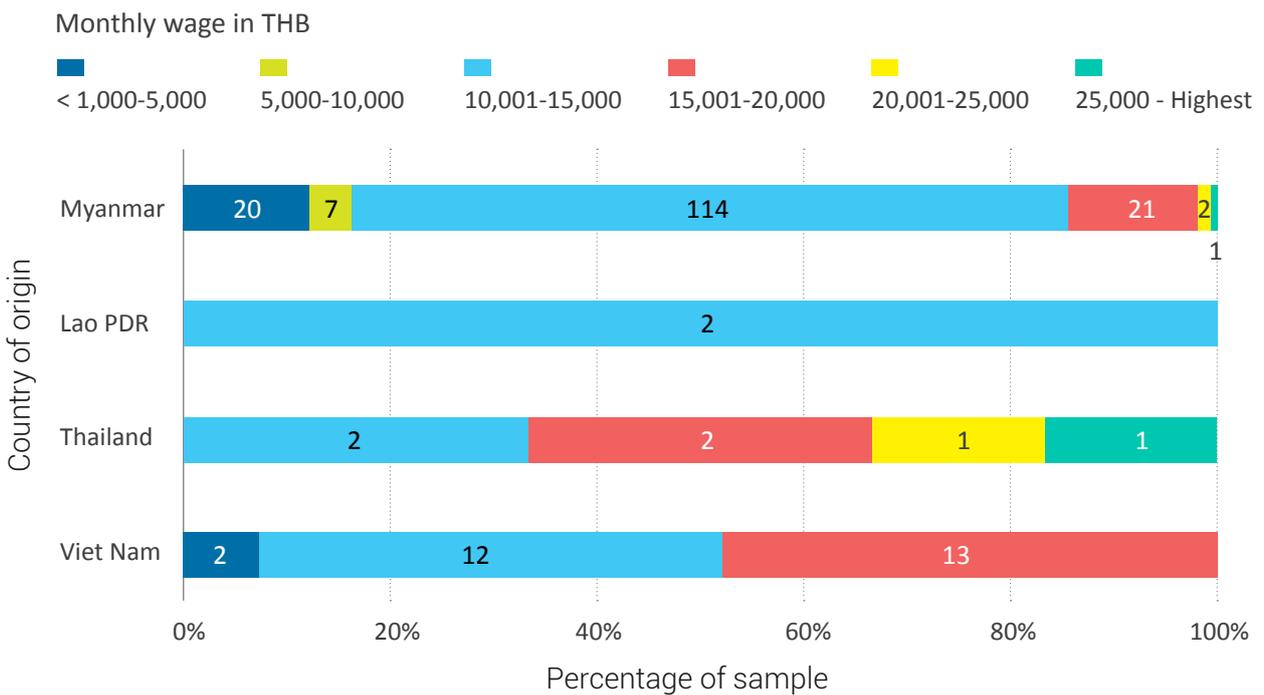
<sup>1</sup> As shown in Tunon and Baruah (2012), about 80 per cent of the respondents in Malaysia, Singapore, and Thailand felt that unauthorized migrants cannot expect to have any rights at work. With respect to pay, most respondents were of the view that authorized migrant workers cannot expect the same pay and working conditions as nationals for carrying out the same job: 64 per cent in Thailand and 73 per cent in Malaysia.

It depends	6	6	12
Not appropriate for any domestic worker	12	4	16
Unknown	6	4	10
Total	50	55	105

The daily minimum wage in Thailand was THB300 (\$8.38) a day at time of fieldwork. Most respondents' average pay in Bangkok was THB10,700 a month (\$298.97) and in Chiang Mai THB8,000 (\$223.53), although it was unclear from survey data if this pay was then subject to deductions. These figures suggest approximately THB350–445 (\$9.78–12.43) a day in Bangkok and THB265–333 (\$7.40–9.30) a day in Chiang Mai. Depending on whether or not workers have a paid weekly rest day, most were paid above the daily minimum. It should be noted that it proved very difficult to obtain comparable wage data from domestic workers, with some giving their wages per day, others per week and others per month. These figures are calculations made for this study and are approximations only.

Although the sample size is small, it seems that nationality is significant for wages in Thailand, and Thai workers are the highest paid (figure 17).

Figure 17: Monthly wages of migrant domestic workers in Thailand, by nationality

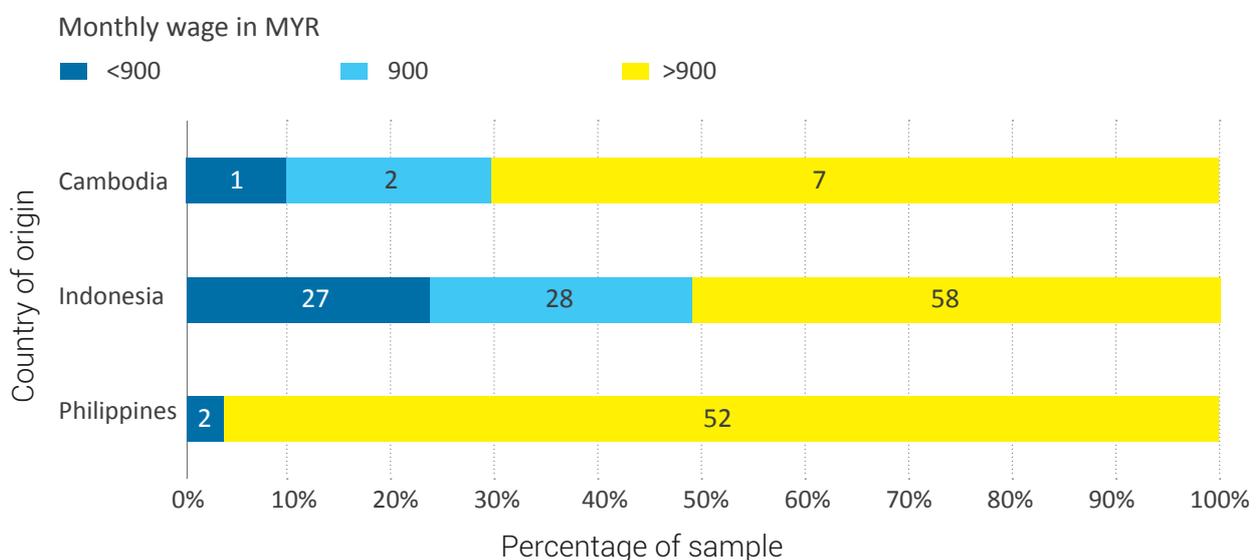


In Malaysia, the monthly minimum wage was MYR900 (\$214.01) at the time of fieldwork, set to change to MYR1000 (\$237.78) in July 2016. Our survey found the average domestic worker wage was MYR1,100 (\$261.56) per month.

As in Thailand, wages differ significantly by nationality. The reputation of Filipinas among the Malaysian employers interviewed was that they were “expensive”, and an employer has to earn a higher wage if they want to apply to hire a Filipina domestic worker than if they want to hire an Indonesian worker. These differences are in part a result of the differential rates of MOUs with sending countries or the regulations of sending countries with regard to migrant wages. For instance, according to the Indonesian consulate,

the MOU with Indonesia set the minimum wage at MYR900 (US\$214.01), whereas the Philippine Overseas Employment Administration (POEA) Governing Board Resolution 5 of 2006 set the minimum salary for Filipino domestic workers overseas at \$400 per month, or MYR1,682.<sup>2</sup> Our findings, however, indicate that not all workers are receiving the rates set by the MOU or the governments of origin countries. For instance, More than half (N=38) of the 62 Filipinas for whom the research has wage data earned below MYR1,548 (\$368.09); 11 earned MYR1,549–1,999 (\$368.32–475.32); and three earned 2,000 (\$475.57) or above. The lowest salary among Filipina workers was MYR1,000 (\$237.78) and the highest MYR2,500 (\$594.45). Wages for Indonesians were significantly lower. Of the 129 Indonesians who gave wage data, 30 received MYR899 (\$213.77) or less, (below the minimum stipulated by the MOU); 68 earned between MYR900–1,200 (\$214.01–285.34 respectively); and 31 earned MYR1,200 (\$285.34) and above. The lowest paid was MYR400 (\$95.11) a month and the highest MYR1,900 (\$451.79) (figure 18). This suggests that the MOU is not ensuring wages.

Figure 18: Monthly wages of migrant domestic workers in Malaysia, by nationality



This difference was tested for significance within the sample and the relationship between wages of domestic workers and nationality was found to be significant in the case of Thailand, but interestingly in neither country was legal status or length of stay significant for wage level. It is also worth noting that there seems to be a relation between having a written contract in Malaysia and wage rate, with respondents who had a written contract earning higher wages. It was not possible to gauge this in Thailand because so few domestic workers have written contracts.

Based on the wages reported by migrant domestic workers in this study, it would appear as though the majority (though not all) earn above the minimum wage. However, when the number of hours worked are taken into account, this no longer holds true. For indicative purposes only, if it can be assumed that the Thai minimum wage of THB300 (\$8.38) per day is for a maximum eight-hour day, then the minimum hourly wage is THB37.5 (\$1.05). Given that domestic workers in Bangkok are working for an average of 11.9 hours a day, their minimum daily wage should therefore be in the region of THB445 (\$12.43) or approximately THB11,570–13,795 (\$323.27–385.44) per month depending on how many days a week are worked. Similarly, in Malaysia the minimum wage per hour is MYR4.3 (\$1.02). Given that domestic workers are working some 14 hours a day, their minimum daily wage rate would be approximately MYR61.5 (\$14.62) or approximately MYR1,599–1,906 monthly (\$380.21–453.22) depending on how many days are worked. The

<sup>2</sup> For more details see <http://www.poea.gov.ph/gbr/2006/gbr2006.html> [accessed 02 Feb 2016].

vast majority of workers in both states earned below these amounts: in Thailand 91 per cent of workers earn THB12,000 (\$335.29) or below, and in Malaysia 92 per cent of workers earn MYR1,600 (\$380.45) or below.

Even these minimum rates would not bring parity with other workers. Given that the maximum working day is eight hours, between three and six hours of the day worked by domestic workers should constitute overtime, payable at a higher rate. In practice, for reasons related to hours discussed above, overtime pay can be difficult to apply in the case of domestic workers. However, if one takes being paid extra for special events, such as late night parties, as indicative of overtime recognition, the proportions are disappointingly low: approximately 20 per cent of workers in Thailand, and 20 per cent in Malaysia said that they would be paid extra for these occasions.

Of course one major difference for domestic workers who live in is that they do not have to pay rent or food costs.<sup>3</sup> For both workers and employers this was acknowledged as part of the deal:

Three hundred baht per day is not appropriate because of the nature of the work and... it depends on how they live... Like in my house she always has food, soap, shampoo, toothpaste. When I have bought something I don't like, I need somewhere to give them away. When I travel I collect the soap from all the hotels... and I give them to her in bags. *Thai female employer aged 61+*

It is generally accepted that employers provide accommodation and food for those who are living in and that this is in addition to their salary – only two workers said that this was their in-kind payment for work. Most workers felt they had enough to eat, though a substantial minority felt they did not, particularly in Thailand (see table 23). Undocumented workers were more likely to say that they did not get enough to eat.

Table 23: Domestic workers' answers to "Are you getting enough to eat?", by country

	Malaysia		Thailand	
	N	%	N	%
Yes	167	83.5	147	73.5
No	16	8	23	11.5
Sometimes	7	3.5	15	7.5
Unknown	10	5	15	7.5
Total	200	100	200	100

While employers imagined domestic workers enduring long hours because their work was less intense, for workers the trade-off was between length of hours and living costs:

At the factory I would have to start at a certain time. This will be more comfortable than living with an employer, but if you compare that to live-in domestic work you cannot really save money because you have to pay for the rent, water, and electricity. *Hom, domestic worker from Myanmar in Thailand aged 29*

<sup>3</sup> While this is often treated as being particular to domestic work, there are other sectors where employer-provided accommodation is part of the arrangement.

Living in is “free” in terms of cost, but it is living out that gives “freedom”. Employers often referred to paying for the workers’ living costs in their interviews. While the majority of domestic workers in both Thailand and Malaysia did not consider this an in-kind payment, it was referred to by both parties as an important element in the exchange. However, the meeting of these costs are not a straightforward transaction, but increase dependence and reflect status – as is suggested in the case where the employer gave the worker hotel soaps.

There are, however, hidden costs for both parties. The problem of hours and autonomy for workers have been mentioned, but employers too did not always find it easy to be living with domestic workers, and some said that the smaller size of houses now compared to the past made it much more difficult to share space with a domestic worker. One employer found the weekly rest day to be an opportunity to escape from each other once a week: “So they would not be bored of us and we would not be bored of them” (Thai female employer aged 61+).

## 7.2 Social security

In Thailand and Malaysia, domestic workers are effectively excluded from the social security provisions governing standard workers, including pensions and maternity pay and leave (see box 6). One Malaysian employer, when asked whether domestic workers should have a right to a pension, stated that such benefits are already included in the wage: “Nothing like that... because they are coming to work on a contract. The salary is there, whatever benefit is within the salary” (Malaysian male employer 61+). However, the problem is precisely that these costs are usually not incorporated into the salary, and this is especially true if the domestic worker is being paid at minimum wage.

### **Box 6: Domestic workers’ social security exclusion in Thailand**

According to officials interviewed, one of the main reasons for the exclusion of domestic workers from many labour- and social security-related laws in Thailand is that an individual employer (as opposed to a company or business) does not have the capacity to provide full protection under these laws. Officials also explained that the fictive kin model is important in Thai culture, and they believed there was a danger that heavy enforcement of labour laws would undermine these kinds of relations.

National social security protection can comprise a wide range of insurance and safety net schemes, including health, pensions, invalidity, maternity, and sick pay. Most employers agreed that they should pay sick pay when their domestic worker falls ill (38 out of 50 in Malaysia, and 47 out of 55 in Thailand). Under Malaysian immigration the employer is responsible for any medical bills incurred by the worker and most of the domestic worker survey respondents in Malaysia said that they believed their employer would pay for their medical care if they fell sick – though whether this would happen in practice is not confirmed. Seven of the 200 domestic worker respondents in Thailand and 27 of the 200 respondents in Malaysia said that they did not know how they would meet the costs of health care. In both Thailand and Malaysia, domestic workers are exempt from each country’s workmen’s compensation act, meaning that they are not entitled to compensation if they suffer injuries, illness, or death during or as the result of work duties.

As discussed above, paid domestic work is often analysed as a substitute for female household labour and uncommodified care, and the rise in demand for domestic workers in Thailand and Malaysia is often attributed to a corresponding rise in female employment and dual earner households. However, while the employment of domestic workers facilitated motherhood and employment, over four-fifths of Malaysian employers surveyed (N=41) thought that maternity leave should not be a right for any domestic worker. Nearly three-fifths of Thai employers (N=30) on the other hand thought that maternity leave should be given as a right to domestic workers whatever their citizenship. That said, some employers had a minimal

understanding of maternity leave: “I am OK if the maternity leave is two days but I could not take it if the maternity leave is very long. Otherwise I would not hire” (Thai female employer aged 61+). The primacy of the employers’ requirements over the workers’ reproductive responsibilities still holds. Domestic workers might want to have children or to live with their own children but “if the mum has to take care of her child, will she have time to work?” (Thai female employer aged 41-50).

The Thai employer respondents and interviewees were generally more sympathetic to the relevance of social security coverage for migrant domestic workers than Malaysian employers (table 24). Thirty-four out of 55 employers in Thailand felt that domestic workers should have the right to register with Government social security schemes (though this could be either Section 40 or Section 33 – please refer to Section 3.1.2 above for details), and the officials interviewed proposed that the Thai Government hold a consultation session on this issue with employers.

Table 24: Employers’ answers to “Is social security coverage relevant for domestic workers?”, by country

	Malaysia	Thailand	Total
Yes for all domestic workers	0	34	34
Yes for citizens who are also domestic workers	0	9	9
It depends	0	8	8
Not appropriate for any domestic worker	0	1	1
Unknown	50	3	53
Total	50	55	105

In Thailand there has been considerable discussion about domestic workers not being covered by social security provisions. There appear to be differences of opinion between different ministries about the exclusion of migrant domestic workers from the system. From the position of the Department of Employment, officials suggested that as domestic workers are workers (not least because they need a work permit), they should have access to social security. However, the Department of Social Security has questioned whether domestic workers are workers, given that domestic work does not produce profit in a traditional manner. In fact, Thai domestic workers do have access to social security under Section 40 of the Social Security Act, but as most domestic workers in Thailand are migrants, they are not covered (though some of the survey respondents did seem to be covered, presumably because the employer has registered them at their business rather than saying that their employment is in the private household). One employer was particularly vociferous about the importance of social security for migrant domestic workers claiming:

I think the Government is not smart...for people of working age rarely go to hospital... It is security for everyone... It is a benefit that can help other people. The security system is how we share good and bad, and some will be left over for the Government. Speaking as an employer, I would register domestic workers under the social security system, as it will cover everything and we will not have any risk. *Thai female employer aged 51–60*

This viewpoint was not uncontested. Another Thai employer felt that it was the responsibility of the employers rather than the state to cover the additional costs of domestic workers:

Do we want them to be rooted here? If they stay with us, the employer should take care and not leave this

obligation of the Government. If the worker stays with the employer for that long, it is as if they have left their lives with us. So stay on. But it should not be like Thai people who are taken care of by the Government... It is inappropriate... other people in the country have not hired them. *Thai female employer aged 61+*

Among Thai employers, pensions were imagined as the employers' responsibility on the basis that this is a long-term relationship (table 25): "I will take care of them until they die... They are very good and dedicated their lives to us. They work their entire lives for us and they will die alone? On the day they could not work anymore, we should give pension" (Thai male employer aged 25–30). This suggests that fictive kin relationships, in some cases, are felt to give certain responsibilities to the employer, though importantly, as this employer acknowledged, he is rich and can afford to give a pension. It may be in practice more difficult for others. Also, in practice these kinds of decades-long stays may not be desired by employers or by workers. Several of our interviewees said that domestic work was suitable for migrant women when they first arrived in Thailand and could not speak Thai, but when they had more facility with the language they could move on to other work. Given that this study was a snapshot and did not follow migrants' career trajectories, there is no way of knowing whether these interviewees were citing received wisdom, or if it described an opportunity that was open to them.

Table 25: Employers' answers to "Is old age pension relevant for domestic workers?", by country

	Malaysia	Thailand	Total
Yes for all domestic workers	3	26	29
Yes for citizens who are also domestic workers	0	5	5
Yes, but only for documented migrant domestic workers	6	0	6
It depends	3	12	15
Not appropriate for any domestic worker	32	8	40
Unknown	6	4	10
Total	50	55	105

Interviews with Malaysian employers suggest that maternity rights and pensions were not relevant to them, not because they did not care, but because the worker would be returned to their country of origin and was a temporary worker. Unlike some of the other rights, such as working time or minimum wage, maternity rights were simply treated as if they were out of employers' hands: "For domestic workers, they are not allowed to have a baby, and then the moment they are pregnant we have to send them back already. Those are the rules in Malaysia. So it [maternity leave and pay] doesn't apply" (Malaysian female employer aged 41–50).

There was the same kind of response when it came to pensions. Immigration requirements state that migrant domestic workers must be under the age of 45, and employers believed that pension rights were superfluous, stating: "We don't want an old worker" (Malaysian female employer aged 51+); "If they're already old, it's better for them to go home" (Malaysian female employer aged 41-50) and "They are only here on a two-year contract, pension will not come in [to it]" (Malaysian male employer aged 61+). However, this viewpoint disregards the idea that social security benefits could be portable.

Domestic workers, like all migrant workers in Malaysia, must pass a medical on arrival, provide a medical

report from their country of origin, and undergo annual health checks with the foreign workers medical screening board (FOMEMA). If workers do not pass these check-ups, they will be returned – compounding the idea that migrant workers are fungible. If a woman is found to be pregnant, she may be pronounced “unfit” to work and have her contract terminated. Some workers may decide to terminate the pregnancy as a consequence.<sup>1</sup> This could be analysed as an institutional extraction of reproductive labour, as migrants undertake the labour that is necessary for the reproduction of Malaysian citizens (children) and of Malaysian ways of life. They are taught to cook suitable foods, care for the elderly, and keep Malaysian homes. They facilitate the lives and lifestyles of Malaysian citizens, but they themselves are not allowed to marry or have children while they are in Malaysia. While domestic workers can be critical to family life and also to facilitating working mothers and working wives, they themselves are not permitted to become mothers or to marry either a Malaysian citizen or a foreign worker while they are in Malaysia.

### 7.3 Conclusion

The average wages of migrant domestic workers, while low, at first sight look in keeping with the pay received by other low-waged workers, particularly when one considers that food and accommodation are included for live-in workers. However, closer attention to the data exposes a more discomfiting story. First, significant proportions of domestic workers do not always feel that they have enough to eat (25 per cent of respondents in Thailand, and just under 20 per cent in Malaysia). Second, if one calculates the effective wages per hours worked, then the pay of domestic workers is significantly below the minimum wage. Third, average pay masks significant discrepancies between the pay of different nationalities. In Malaysia these discrepancies are scaffolded by the differing income requirements placed on employers depending on the nationality of the person they are hiring.

When it came to social security rights, employers – particularly those in Malaysia – tend to view the social relations surrounding the work of the women they employ as external to them and beyond their control, thereby relieving them of responsibilities. Thus the rights and benefits that would normally be guaranteed by the kind of contractual relations that are embedded in the Malaysian system are waived because, immigration requirements essentially consider workers as temporary and disposable if they become sick, pregnant, or too old, even if visas can be renewed. And the familial relations that would normally act as a safety net at times of crisis are also withdrawn, and this too is legitimated by workers’ temporariness. Domestic workers will be part of the family and subject to contractual relations while fit and healthy, but both forms of protection can be removed at the employers’ and state’s discretion.

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<sup>1</sup> There has been little research done on this, but according to a report in 2002 from a clinic in Penang they were performing 30 abortions a month for foreign workers <https://www.malaysiakini.com/news/6409> [accessed 22 Oct 2016].



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'I am not praising myself, I am just being straightforward.  
I am a good person.'

Kamlee, a Myanmar domestic worker

## 8. Domestic workers' perspectives

The previous sections examined domestic workers' rights (or lack thereof) using the framework of contractual rights. This section examines what is not captured by such a framework. It considers why fictive kin is used not only by employers, but also by domestic workers, and the implications this has on the relationship between them. More specifically, it will consider how being "part of the family" captures the affective or emotional relations of the private household, which can get overlooked if the focus is only on contractual arrangements.

### 8.1 Self-perception of domestic workers

Migrant domestic workers are often constructed as a homogenous group by policy and campaigning. Migrant domestic workers are, however, as varied a population as any, and it is therefore not possible to generalize about their "self-perception" any more than the self-perception of Europeans, or women, or aid workers. However, migrant domestic workers do share the common position of having to manage the social perception of them as migrant women and as domestic workers. Several of the people interviewed were self-conscious about their lack of education, saying that domestic work is a job that can be done if you are "not smart" and knowing that "society looks down on the poor and illiterate". However, it was not unusual for interviewees to demonstrate considerable self-respect and self-worth, and that they were diligent, honest, and hard-working – "I am not praising myself. I am just being straightforward. I am a good person" (Kamlee, Shan domestic worker from Myanmar aged 35, working in Thailand). They had pride in their work and in doing a good job, even if their employer denigrated them. How they maintained this self-respect varied (see box 7).

### Box 7: Kyek's determined quest for a better life

One of the most striking interviews was conducted with Kyek, a 28-year-old Karen woman from Myanmar. Kyek was very determined to improve herself, and she left home to escape domesticity: "I felt if I continued staying here – I was 14 years old – I would be like them: married, have babies and family. Just that. Human beings were not born to just be that. We should be able to improve to the better future. I wanted to know how it is like in the outside world." She wanted to see the world and asked if she could join her parents who were working in Thailand. She described a dangerous journey crossing the border illegally: "It was raining, was dark. Crossing the river and the forest I felt unsafe, and people on my journey teased me as they saw I was a girl and travelled by myself." For a while she lived with her mother, who was working in a small factory, and there she had the chance to marry but she turned the man down: "I want to learn about the future, how to spend life," she said. Kyek left and came to Bangkok, starting as a live-in domestic worker when she was 15 years old. Thirteen years on she is still working as a domestic worker, but educating herself and planning to get a degree and become an educator herself: "No one is literate since they were in the womb. Everyone was born to earn more knowledge."

One challenge faced by domestic workers was how to maintain self-respect in a job where one often feels subject to the whim of others. Interviewees commonly referred to their work as "following orders", and one worker described domestic workers as in this way being "like a soldier". One striking commonality between interviews was the emphasis that many interviewees gave to the virtue of endurance and patience: "I stayed there for long and I endure" (Keyk, a Karen domestic worker from Myanmar aged 28, working in Thailand); "I can withstand anything" (Sharon, an Indonesian domestic worker aged 32, working in Malaysia). That is, there is a sense of their own strength and courage in the face of adversity, and many expressed pride in endurance and in being hard-working, even if this was not appreciated by employers. Sharon, an Indonesian domestic worker working in Malaysia, described how proud she was of all the work she managed to do, despite constant verbal abuse from her employer – she knew that she had done a good job: "I remain silent... I know my place... I am not a stupid person. I could still work better than I did when I was working with her." Indeed, being wary of seeming too clever was considered by some to be important, as employers might become anxious and start limiting their freedom. This sense of pride of work meant that a majority of interviewees said they would prefer to work cleaning a private household than cleaning in a factory – the general opinion seemed to be that it was cleaner and safer, and several interviewees also felt that they would prefer not to have colleagues: "too many rules in a factory and too many steps in the chain of command" as one worker in Thailand put it. However, nearly all those surveyed and interviewed said that having more control over one's time and being able to leave work behind was a definite advantage of factory work.

Endurance was often future-orientated. Endurance has a value in itself, but it was also often for a purpose. Kamlee, for example, came to Thailand from Shan State in Myanmar when she was six-months pregnant and worked first on an orange farm and then moved on to work in construction, earning THB150 (\$4.19) a day. A person who hired the contractor to do construction work on their house then asked the construction employer if she could be their domestic worker. "I live in this house as if it was my house. They have never complained about me using water or electricity. They let my whole family stay: my husband, my mum, and three children." In this respect she was very happy, and found her employers to be kind and generous, but still said of her situation, "I endure it for now." Like almost all of our interviewees, Kamlee had plans to set up a small business, selling food or owning a small shop. It is interesting to note that the kinds of businesses envisaged – food selling – are gendered work that does not require a formal education. But in stark contrast to domestic work, it is autonomous, "outside", and with control over one's own time. It is also risky, and having capital to mitigate against the risk was considered important by many women. It signifies "a life with freedom where I don't have to be someone's employee" (Hom, a Shan domestic worker aged 29, working in Thailand). All interviewees except one were future-orientated in their outlook, and this might

be thinking about the future for themselves or for their family. For mothers there was considerable pride in being a good mother and earning money for their children. Daughters were proud of earning money to support their parents. They had plans.

Not all were so forceful, of course. A young Cambodian woman who had recently arrived in Malaysia and felt caught between an abusive husband in Cambodia and an employer she was frightened of in Malaysia had no expectations her plans would ever come true. She seemed to feel caught in the present because her family are “very poor now. They need help now.” Yet she also had little control of her time on a day-to-day basis, that is, she did not feel she had control over either her long-term or her short-term future.

Fictive kinship enables a worker to claim an emotional relationship with the family they work for and with the people that they care for. Kyek, quoted above in box 7, is clearly a strong woman with ambitions and clear about what she wants out of life. She looks after two older people and earns THB6,500 (\$181.61) a month: “They say if they give high salary, it won’t be a family any more. You have to work according to the system. If [it is] like a family, you won’t get a high salary.” Kyek knows that she has a lower salary than many of her friends, and that she does not have the benefits associated with being a worker. She also says she could leave and find better paying work. But she is treated with respect, and visitors bring her gifts when they come to the house:

If you ask domestic workers, they want employers who are *mee nam jai* (generous/kind), meaning that we can talk to each other informally... I know their traits... sometimes they are *arom mai dee* (moody), and *chun chiew* (bristly) but they are old people like my own grandparents. I stay to take care of them. I can leave when I have a family, but now I’m single... They treat me well... better than my own parents. They gave me love. My parents do not give me love. They have never said that they love me. They have never said it. The man says that they love me and the woman said she also loves me as if I was her lineage.

The delicate balance she described involved her family history, her life stage as a single woman, and the personal relationship between her and the employers. It is of its nature unique and not replicable – and it could easily go wrong. What would happen if she became pregnant or sick for a long period, particularly since she felt that her employers did not have much money? However, Keyk was happy with the arrangement for now and felt that she had “freedom” within it. This exemplifies the “part of the family” relation that some workers seem to want.

In Keyk’s case, contractual and affective relations were entangled because the couple that she cared for were also paying her salary. There can be further complications when the person/people cared for are different from the person paying the salary, and the emotional relationship is between the worker and a person who is not formally the employer. Those caring for children and the elderly often find themselves in this kind of triangular relationship. It can make for difficult emotional situations, where love is reciprocated between the worker and their charge, but overlooked by the employer.

Neung, a 31-year-old woman from Lao People’s Democratic Republic, described a working situation that seems to fit the archetypal “part of the family” arrangement. Like Kyek, she feels that her employers make reasonable provision for her. Her accommodation is nice and she is well fed, but she is paid only THB8,500 (\$237.49), and she knows that her employer is not fulfilling all her obligations when it comes to her rights as a worker:

I heard about minimum wage, day off, processing the immigration card, and health check-ups. I have to tell the employer every time that there is a TV announcement. So I told them jokingly about day off, ‘*Mae* [mother in Thai], you have to give three/four days off a month.’... She laughed and that’s it.

Neung has been offered work in other houses, but has not so far taken it up because her main job is to care for an 11-year-old boy whom she has cared for since birth. She loves him dearly:

There is no other feeling apart from raising him and that I don't want to go. I want *nong* [pronoun for a younger person] to be older so he can take care of himself, and I don't have to feel *pen huang* [worried] when I leave... When my friend talked about salary I felt *noi jai* [sulk], but when I think of *nong* I feel it's alright, I can stay... I raised *nong* and he feels attached to me. Sometimes I want to go home, but he cries. He is still like that even today. I feel sorry for him, so I have to say, 'I'm not going. I was just kidding.'

Neung feels she is exploited, but still she stays because she does not want to hurt the boy. Her love is such that she has decided she will never again look after a child or an older person: "It is not that I would be bored or annoyed or anything, but I'm afraid that they will be attached to me and I won't be able to go anywhere."

Often separated from their loved ones, working long hours, and isolated from friends and wider society, this kind of situation is not unusual for domestic workers. Neung has stayed because she is attached to the child she has cared for over 10 years: "I still want to see the kid grow... Even though I receive low salary, I still yield to that." Pyone, a 46-year-old woman of Nepalese descent from Myanmar stayed with a family for 13 years because she raised a baby, and she described enduring very oppressive conditions: "The Thai woman was evil. She counted the instant noodles... whether *Mae baan* would sneakily eat", but "The kid loves me, I love the kid." The father would hit the children when he got angry, and he and his wife argued constantly, making the home environment difficult. When Pyone eventually left, she found it very difficult and she broke off all contact because she knew she would find it too distressing. Sharon, a 23-year-old Indonesian domestic worker endured very bad working conditions and working in a business, shouting and scolding, but stayed because "I love the baby so much... I fear if I answer my employer back... I will not be able to see the baby again." There is nothing fictive in the emotional attachments of these "fictive" kin.

Emotional engagement is not only about these intense relationships with charges. Several of our domestic worker interviewees described doing a lot of emotional management within the family. The grandparents of the children Pyone cared for were worried that their stepmother wasn't taking proper care of their grandchildren. They were in close contact with Pyone, asking her to cook good food for the children. She described a household full of emotions:

When the family eats together, when the father and the kids were having fun and laughing, she [the stepmother] would get jealous and say something and fight and explode. The same thing happened every time. When they were happy this woman came in and exploded... When the father got angry he would hit the kids. I don't like hitting kids. I said, 'Pa, please don't do this'... The woman got jealous and said, 'Are you two boyfriend and girlfriend?' Her mind is negative... I endure.

This kind of emotional management work perhaps explains some employers' suspicions about manipulation by their domestic worker: "They know how to manipulate, especially when there are two people in control," as one employer put it.

Of course as well as costs there are rewards in these relationships, as workers can feel loved by the children and old people they care for. Some employers demonstrated genuine affection for their workers. One described how close she perceived herself to be to the first Myanmar worker she employed:

She acted as if she is my child... My house is strange because it does not have a kid. We don't have much expense because we both work a lot. Therefore, we don't have a problem to give money to her. She lived here and she loved us too... and where we went, we went together. She was young and she might have a family, but staying with us she might not have a family. *Thai female employer aged 61+*

This was often mixed with an appreciation of domestic workers' efforts and an acknowledgment of their inequality:

She is like a friend... I can trust her. She managed everything... but also I know that she will leave in the end. I don't think she will be my employee for the rest of her life although I would be very happy if she does. We laugh together about staying together for 100 years and how old she would be. But at the end she has to go back home to take care of her parents. *Thai female employer aged 61+*

Nevertheless, the emotional imbalance is clear. Houses are also places of irritation, where people's quirky habits grate, but the scolding can only go one way. Employers readily admitted that they could sometimes fly off the handle, but by contrast, workers often felt that they had to keep silent, and deciding when to speak out was a difficult balance. "If I asked my employer for insurance, I am worried she will not let me go out... I won't complain, if I complain they won't let me go out. When I go out at least I can find another employer" (Lea, a Filipina domestic worker aged 41, working in Malaysia). Domestic workers could know their rights, but in practice not be able to demand them: "*Najib* [the Malaysian Prime Minister] said it must be done this way, according to law, but employers don't follow the rules" (Linda, an Indonesian domestic worker aged 23, working in Malaysia). Even aside from caring for children and old people, domestic workers often described doing a considerable amount of invisible emotional management, including dealing with jealousy, anxiety, and bad tempers.

On the other hand, several domestic workers talked about reciprocity: "If *jao nai* [boss] is good, *khon chai* [people for use] has to be good" (Mia, 52-year-old Vietnamese woman in Thailand). Some workers felt that they had more power and control over their situation and their relationship with their employer than is normally imagined. "Not every employer is bad. It depends on how you treat them," Keyk said. Good employers get treated with respect and understanding. Lea, a 41-year-old Filipina woman working in Malaysia, felt that being treated as part of the family isn't only about them being nice to you, but you protecting them and not taking advantage of them. "Protecting" was also the word used by Linda, a 23-year-old Indonesian woman, who used the word to emphasize the importance of making sure that nothing happens to the employers and to their children. There was a strong awareness of the emotional costs and trade-offs of domestic work, and as Lea put it, these costs can in the end become unsustainable and you need to move on: "it isn't just your body that wears out but your 'temper'." It is perhaps the affective aspects of the work, whether caring for dependents or managing the emotions of adults, that is overlooked by the emphasis on contract. By engaging with the "part of the family" model, domestic workers are asserting the value of their work even as it escapes the market. To paraphrase the author Viviana Zelizer (1994), their work may be considered economically worthless, but it is also emotionally priceless. This suggests the importance of engaging with the emotional aspect of domestic work that can elude the market and contract, but which is critical to domestic workers' experiences.

## 8.2 Working together

Fictive kin is often viewed by activists, trade unionists, and other organizations as a veneer that serves to excuse employers' poor treatment and denial of rights to domestic workers. This overlooks the important fact that domestic workers also deploy the fictive kin model, and they deploy it persistently and consistently. It is not enough to claim that this is "false consciousness". For domestic workers, the fictive kin concept clearly captures elements of the relation between domestic workers and the households where they work. It can help to express the fact that, as outlined earlier in this report, domestic workers do not just undertake tasks but also have a particular role in the family. For the workers themselves it seems that the problems associated with fictive kin are not simply (or even in some cases primarily) the denial of workers' rights, but that fictive kin often does not mean the same commitment to long-term emotional and social well-being that is assumed in kin relations. Sole emphasis on contract as the answer to the problems faced by domestic workers can overlook these issues.

Of course, not all domestic workers and not all employers want a fictive kin relation. Some are more contractually orientated than others. This can lead to a mismatch in expectations: if a domestic worker wants to feel treated as part of the family but is treated as a worker, or vice versa, it will inevitably lead to feelings of grievances. This is complicated by the fact that, as previously discussed, these are not mutually exclusive models. It is important therefore for employers to establish a culture of dialogue with their employees, enabling honest discussions about what fictive kin means in their particular employment relationship, and its implications in terms of working practices and emotional relationships. Simply ignoring fictive kin as an unwelcome distraction from contract means that these kinds of discussions are institutionally unsupported. However, whatever the extent of the fictive kin relationship, it should never preclude respect for domestic workers' rights as workers and as human beings.

To encourage dialogue between workers and employers, it is important to support the development of domestic workers' organizations that can articulate and represent the needs and interests of domestic workers, including migrant domestic workers. Organising is also a way for workers to support each other, share information and advocate for change. In Malaysia, the majority of domestic workers surveyed did not participate in organizations (148 out of 200), whereas in Thailand the situation was reversed (163 participated in organizations and 36 did not, and one person did not say). Some differences between the situation of migrant domestic workers in the two states and their relation to the different legislative environments have been observed. There may be a relation between these differences and organizational participation, though the research instrument was too general and the sample size too small to effectively explore this (see box 8 for more on the challenges domestic workers face with regard to organizing). However, what is observable in both Malaysia and Thailand is that those who participate in organizations are significantly more likely to think that their employer is a 'good' employer. Furthermore, in Malaysia, those who participate in organizations are significantly more likely to earn higher wages.

### **Box 8: Domestic workers organizing**

Migrant domestic workers face numerous barriers to organising as workers. Long working hours, lack of days off, isolated workplaces, language barriers, and limited knowledge of labour rights make it difficult to unite with other workers. Furthermore, migrant and local domestic workers are often unwilling to join workers' organizations due to the threat of being fired or fear of local authorities and police (APWLD, 2010).

In Thailand, domestic workers are not allowed to join trade unions, as they are not recognized as workers under the Labour Relations Act of 1975. Even if domestic workers were allowed to unionize, only Thai nationals are allowed to form or lead unions, adding a further barrier to the organising of migrant domestic workers. Despite these restrictions, however, domestic workers in Thailand are organising (though informally) and with the support of HomeNet Thailand they have formed the Network of Domestic Workers in Thailand, which includes a separate migrant domestic workers' network.

In Malaysia, the Trade Union Act states that migrant workers are allowed to join unions as long as they do not hold official positions. However, the Malaysian Trades Union Congress has twice applied to register a Domestic Workers Association, but the application has been rejected without explanation. An appeal against this decision was filed in 2014, but as of yet there has been no response (ILO, 2016a).

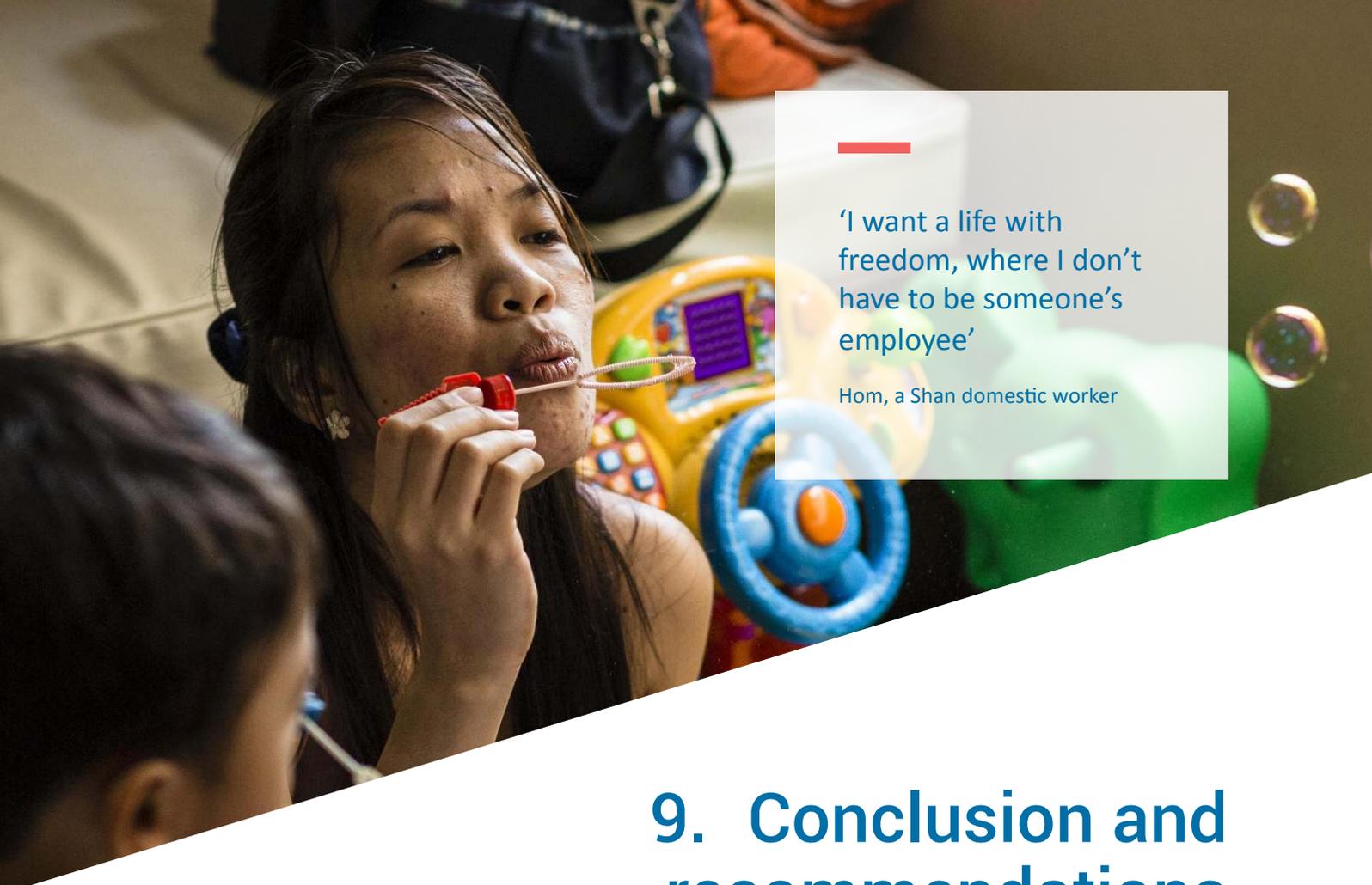
Neither Thailand nor Malaysia are signatories to ILO Convention on the Freedom of Association and Protection of the Right to Organize, 1948 (No. 87). Only Malaysia has ratified the Convention on the Right to Organize and Collective Bargaining, 1949 (No. 98).

Employers' organizations could also be important tools for improving the employment conditions and experiences of domestic workers. Many of the employers surveyed said that they would ask other employers for advice if they had any difficulties with their domestic workers. They were aware of conditions in the households of their friends and there was some suggestion that they compared themselves: "I know that my friend does not let her domestic worker eat at the same table. She does not buy certain food for her domestic worker. But other houses might give their domestic workers more than us" (Thai female employer aged 61+). Another employer, who felt that she was a very good employer even though she did not pay very much, said that "just knowing that I treat my employee like this they (the neighbours) already don't want their domestic workers to talk to my domestic worker. The way I treat my domestic worker and the way they treat theirs is very different" (Thai female employer aged 51-60).

Table 26: Employers' answers to "Do you discuss the benefits you give to your workers with other employers?", by country

	Malaysia	Thailand	Total
Yes	19	37	56
No	20	9	29
Don't know	9	6	15
Unknown	2	3	5
Total	50	55	105

Employers also reported that they discussed what benefits to give domestic workers with other employers, though this was more common in Thailand than in Malaysia (see table 26 above). This indicates that there is a need for knowledge sharing among employers, and therefore a role for organisations, including employers' organizations, to spread information about domestic workers' rights and encourage best practice. Furthermore, there could be a role for professionals outside the family in encouraging fair treatment. For instance, the second employer quoted above described how she was reprimanded by a nurse for not sorting out her worker's registration and health card. This obviously made an impression and, though she was clearly proud of her reputation as a 'good' employer, she was also open to being challenged and improving employment conditions further.



—  
'I want a life with  
freedom, where I don't  
have to be someone's  
employee'

Hom, a Shan domestic worker

## 9. Conclusion and recommendations

The work of domestic workers is usually given little respect, despite the dependence of families and societies on their labour. As waged labour has become increasingly normalized and regulated and the wage earner constituted as the normalized subject, the centrality of social reproduction work has been forgotten. While viewed as exceptional because it does not fit the conventional models of employment and contract that underpin the way waged labour is organized, domestic work has always been done and in this respect is not exceptional at all. In fact, what is surprising is that we tolerate a discourse that has such difficulty in accommodating this most basic of activities. Domestic and care work are treated as if they are leftover arrangements, when in fact they precede “normal” employment.

Improving the situation of migrant domestic workers requires both attention to policy and law – employment as much as immigration – but also the culture around domestic work, gender relations, and attitudes to migration. This report has found that the press coverage of migration in both Thailand and Malaysia encourages a perception of migrants as “illegal” and criminal, and that some employers actively draw on these stereotypes to justify limiting migrant workers’ individual autonomy, which is already circumscribed by the deployment of fictive kin relations that can be withdrawn at short notice at the employer’s behest. The fictive kin model is particularly detrimental with respect to hours of work, and domestic workers in both Thailand and Malaysia work exceptionally long hours, particularly if they are care workers. One of the striking commonalities in employer interviews was the emphasis on the importance of recognising that domestic workers were human beings. This was often referred to as characteristic of being a ‘good’ employer. It was not clear what this recognition would mean in practice, though there were indications that it set a low bar: “Think of them as human too and give them enough rest” (Malaysian male employer aged 41-50). Being a human being affords more limited rights than being a worker – as is evident in the case of social security.

Kamlee, a domestic worker from Myanmar working in Thailand, stated, “People treat you badly when they think that you have no choice.” This is an important observation. It is often assumed, in press and policy

and public opinion, that it is abusive employers who withdraw freedom and opportunity from domestic workers. Kamlee suggests rather it is the other way around, and that it is a person's lack of freedom and choice that gives the license to abuse. The institutional and policy context is critical in shaping the attitudes and practices of employers. Employment of domestic workers is a cultural and social practice as much as it is an economic one. Everyone has a role to play in creating societies where domestic workers are treated with respect and the importance of their work is acknowledged.

## 9.1 Recommendations

Good employment practices in the home are to the benefit of everyone, not just workers. Extending labour protection to domestic workers – recognizing domestic work as work – is an important step in creating more equal and cohesive societies. Respecting the labour rights of domestic workers and treating domestic workers with respect provides a good example to children and young people, and is an important element in ensuring good relations in the home. Too often, labour rights are regarded as incompatible with fictive kin relations, but rights can – and should – coexist alongside this kin model. Respecting rights allows for mutual trust to flourish, creating more harmonious households for all parties. Creating workplaces where migrant workers are treated equally with national workers is also vital in changing the lived experience of migrant domestic workers in Thailand and Malaysia. Along with employers and domestic workers, the responsibility of ensuring labour rights is also the responsibility of all actors in the broader society, including media and civil society. To this end, recommendations are structured around three key areas: employment relations; immigration status; and changing culture.

### 9.1.1 Employment relations

Domestic workers in Thailand and Malaysia are often in ambivalent relations with their employers, being regarded as fictive kin and as workers when each model is useful. It is critically important that domestic workers are recognized as workers.

1. The governments of Malaysia, Thailand, and countries of origin should sign and ratify Convention No. 189. In consultation with domestic workers' and employers' organizations and civil society, governments should draw from the standards in Convention No. 189 and Recommendation No. 201 to guide the development and/or review of suitable laws and policies. There is a particular need to set and enforce basic employment protections, including working hour limitations, minimum rest periods, holidays/leave, sick and overtime payment, and minimum wage protections.
2. Domestic workers' right to social security and social protection must be acknowledged. Specifically, the Thai Government should include domestic workers and migrant domestic workers under the Social Security Act. At a minimum, the Thai Government should extend its planned research regarding the suitability of Section 33 coverage for domestic workers to include migrant domestic workers. The Malaysian Government should extend the minimum wage to domestic workers, and enable contributions to and benefits from the Employee Provident Fund, maternity pay, and unemployment schemes.
3. The Governments of Malaysia and Thailand should review any existing government-issued employment contracts, drawing particularly on the standards in Convention No. 189 and Recommendation No. 201 and reflecting that contracts must meaningfully protect both employers and domestic workers. The My Fair Home model contract<sup>1</sup> devised with the support of HomeNet is a good starting point. However, such contracts are a supplement, not a substitute, for labour protections and social security provisions.
4. Governments should develop mechanisms to ensure that workers' rights are respected, including the establishment or extension of complaints mechanisms for domestic workers that enable the reporting of exploitation, underpayment, or any other abuse without fear of retaliation. This complaints mechanism

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<sup>1</sup> Available at <http://www.idwfed.org/myfairhome/download/employment-contract/thailand> [accessed 28 July 2016].

should be located under employment protection structures, not within immigration enforcement.

5. Civil society, in cooperation with government labour protection departments, should explore dedicated communication with domestic workers, perhaps through radio or social media, explaining domestic workers' rights and sharing information about support groups and trade unions.
6. Alongside trade unions and governments, civil society is best placed to educate domestic workers and employers on how to calculate working hours, including stand-by hours, using the tool developed by the ILO.<sup>2</sup> Calculating working hours should enable workers and employers to better regulate the right to daily and weekly rest. Employers should be encouraged to set aside ideas of "work intensity" and recognize that stand-by hours are not rest time and should be paid accordingly.
7. Employers should respect live-in domestic workers' right to freedom of association and movement, including their right to leave the house during their free time and weekly rest days. Employers and workers should discuss the terms under which visitors are permitted.
8. Government departments, civil society, and trade unions should work to inform domestic workers and employers about the function and benefits of employment contracts. Government should ensure that domestic work contracts are enforceable through regular labour channels.
9. Government departments, civil society, trade unions, and the private sector should promote a trade union- or worker-endorsed model contract and encourage its use among their employees.

Alongside traditional labour protection mechanisms, it is also important that the affective dimensions of domestic work are recognized. To this end, it is recommended that:

10. Civil society, governments, and other stakeholders should design awareness-raising programmes for employers and workers emphasising that treating someone as "part of the family" includes respecting their human and labour rights.
11. Governments, civil society, and other stakeholders – in consultation with workers' and employers' organizations – should investigate how employment contracts can better reflect the emotional ties of a worker and employer.
12. Civil society, trade unions, and employers' organizations should establish appropriate informal mediation and dispute resolution mechanisms available to all domestic workers and employers regardless of nationality or immigration status.

### 9.1.2 Migration/immigration status and domestic work

Migrant domestic workers are often caught between immigration law and employment law, and are particularly vulnerable if they are undocumented. The majority will seek to be regular, if possible and not burdensome. To this end we recommend:

1. Rather than separate MOUs, governments of countries of origin should work together to advocate for improved labour rights and social protection for all domestic workers, regardless of nationality, in major destination countries. Though MOUs can improve labour protection for some migrant domestic workers, they can also have the unintended effect of institutionalising discriminatory practices towards those workers not covered by such agreements and creating inequality between migrant populations.
2. Where MOUs are used, origin and destination states should ensure that domestic work is properly incorporated and provisions are in line with the standards of Convention No. 189. Furthermore, the terms and conditions of MOUs should be made known to employers and to domestic workers. Any

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<sup>2</sup> See ILO: Working around the clock?: *Manual for trainers to help live-in domestic workers calculate their working hours* (Geneva, ILO, 2014), [http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---travail/documents/publication/wcms\\_308825.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_308825.pdf) [accessed 28 July 2016].

policy changes should be communicated in a timely manner in simple and understandable language.

3. Governments should ensure that employment protection and immigration enforcement issues are treated separately to enable domestic workers to make complaints about labour rights violations without fear of removal.
4. Governments should simplify the processes enabling migrant domestic workers to change their employers in cases of abuse or exploitation.
5. Consulates should consider hosting official networking meetings for migrant domestic workers that could function as forums for advice and support.

### 9.1.3 Change of culture around domestic work

The contribution of domestic workers is often undervalued. This denigration of domestic work has negative consequences for women's equality and economic empowerment more broadly. There is a need to change the culture around paid domestic work and migration. The media and civil society have important roles in this, as do trade unions that by organising and representing migrant domestic workers, can increase domestic workers' voices and visibility. To this end, it is recommended that:

1. Governments, civil society, trade unions and other stakeholders should conduct a coordinated and evidence-based publicity campaign on the social and economic value of domestic work.
2. Governments, civil society, trade unions, and other stakeholders should educate the public, particularly young people, on the rights of domestic workers and on the positive contributions of migrant workers.
3. Civil society and the media should work together to develop a better understanding of the situation of migrant domestic workers among journalists and other media representatives. They should also cooperate to increase understanding among civil society organisations on how to constructively engage with the media around migrant worker issues.
4. All stakeholders, including and especially media, should use respectful terms to describe migrant workers and domestic workers. Media channels should develop or revise style guides with attention to the terms used for "migrant" and "domestic worker", and consider the use of "undocumented" or "irregular" rather than "illegal" in reference to immigration status.
5. Journalists should ensure that voices of migrant workers are equitably included in media coverage related to labour migration. Reflecting migrant workers' voices ensures that migrant workers are seen as individuals, rather than a mass, and challenges negative stereotypes and perceptions. This encourages a balanced understanding of labour migration.
6. Civil society and trade unions should facilitate the national and multinational organizing of domestic workers, including citizen domestic workers, to increase both domestic worker and migrant worker voice and agency.
7. Employers of domestic workers should be encouraged to organize either independently or under the banner of existing employers' federations. Employers' organizations could be used in wage-setting negotiations and to support and share information on best practices, as well as to educate others on domestic workers' rights.
8. Civil society, consulates, and destination country governments should work together to develop an "employer of the year" award, to be nominated by a domestic worker and to be promoted in order to motivate and recognize good practice.
9. Civil society, government, and other stakeholders should support the development of domestic workers' ambitions and education, including through language and financial literacy training.

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## Annex I. Contacting domestic workers in Thailand and Malaysia

### Contacting domestic workers in Malaysia

In Malaysia, the researcher used her contacts in the Indonesian Embassy in Kuala Lumpur and the Consulate in Penang to access workers who were renewing their employment contracts. The Embassy also gave her access to its weekend courses (culinary and other) for domestic workers conducted at the Indonesian School in Kuala Lumpur. Filipina domestic workers were contacted through St John's Church in Kuala Lumpur. Filipinas attend the Tagalog mass every Sunday in large numbers, and the area surrounding the church becomes a vibrant small business centre on Sundays, selling Filipina food and other goods. The church is also a gathering place for members of various Filipina associations, including the Filipina Community Association (TFC), so as well as simply approaching people who were attending mass the researcher met with TFC members facilitated by the organizer. Also in Kuala Lumpur the researcher was assisted by the North–South Initiative (NSI). This is a youth lead initiative based in Malaysia with the aim of bridging the solidarity divide between the north and south in terms of human rights and social justice. It organized a gathering of domestic workers of three different nationalities, but unfortunately on the day of the event only one group, the domestic workers from the Philippines, turned up. Almost all were members of UNIMAD (United Workers for Mutual Advancement and Development), another Filipina worker's association in Malaysia. NSI also put the researcher in touch with a Cambodian who works for a domestic workers agency who had access to friends and families who have arrived from Cambodia to work in Malaysia. She brought together a group of Cambodian domestic workers (both with and without documents) for this survey. Finally, some workers were found using personal contacts, and by approaching people in McDonalds Kotaraya (a shopping mall) Kuala Lumpur, a weekend gathering place for Filipina domestic workers.

In Penang the Lifenet Church organized weekend masses for Filipina workers. The church used a shopping lot to carry out their prayers and share information. The pastor who conducts the weekend session organized a Christmas party for the workers, and he kindly permitted the distribution of the survey on this occasion. Tenaganita, an NGO that focuses on protecting and promoting the rights of women, migrants, and refugees, also assisted through their office in Penang. They introduced the researcher to some of their contacts and arranged surveys with women who were in their shelter. Non-members of organizations were surveyed by approaching them in Komtar, a shopping complex in Penang that attracts many migrant workers during the weekend.

### Contacting domestic workers in Thailand

In Thailand the researcher attended meetings and events with NGOs. Homenet is an NGO based in Bangkok. It supports two networks of domestic workers, the "Network of Domestic Workers in Thailand" and the "Network of Migrant Domestic Workers in Thailand", comprising domestic workers from Myanmar, including ethnic Burmese, Gurakha, Paoh, Karen, Mon and Shan. Many of these workers are employed by non-Thai households. The ILO and Homenet organized an event in November to conduct surveys, and 26 members working for Thai employers participated. The researcher also accessed domestic workers through a school run by the Thai Action Committee for Democracy in Burma (TACDB) that teaches Thai, English, and computing to migrants every Sunday. Finally, workers were accessed through religious institutions

and events. The Calvary Baptist Church on Sukumvit Road in Bangkok has a mass on Sunday for people from Myanmar, which was attended by a number of domestic workers, many, but not all, working for expatriates. By coordinating with a domestic worker, the researcher attended Shan religious events at Wat Mai Yai Mon and Wat Mai Sathupradith, two Shan temples in Bangkok. Leaders of migrant domestic workers introduced her to Nepalese-Burmese domestic workers and invited her to a Karen party where several domestic workers were surveyed.

In Chiang Mai the researcher organized an event for survey distribution with the MAP Foundation, which has a network of domestic workers who are mostly from Myanmar's Shan State. She also accessed workers through the Human Rights and Development Foundation (HRDF), which is supporting migrant workers to organize as a trade union called Migrant Workers Federation (MWF). She approached individuals working for the Mekong Migration Network (MMN), Migrant Workers' Rights Network (MWRN), and Migrant Working Group (MWG), and also received some contacts of people and churches. She also met domestic workers through the Migrant Learning and Development Center (MLDC) in Sarapee District, Chiang Mai Province; the Migrant Learning Center (MLC); the Burma Study Centre; and the Pa Pao Temple, which provides informal education sessions for migrants largely from Shan State. She contacted the Seven Fountains Jesuit Retreat Center (SFSC), which put her in touch with Catholic priests who say mass for migrant workers. Other churches that helped were the Meeting Point Church and the Chiang Mai Grace Church. In order to meet people who did not attend religious services and were not members of organizations, access to the queue at the immigration office was facilitated by HRDF and kindly permitted by the immigration police. The HRDF and the researcher also contacted the owner of a grocery shop by a construction site to introduce them to the wives of construction workers at a site in Chiang Mai, several of whom worked as (live-out) domestic workers. Personal contacts introduced her to a house where Karen workers relax on their off day. Finally, there was a two-day concert organized by the Thai Government targeting Shan workers (the majority of migrant workers in Chiang Mai). Famous Shan singers came to perform and government officials held a Q&A/game for workers related to immigration law/rules. The relevant departments and NGOs had information stalls and the survey was promoted at one of these stalls.

The researcher met a Vietnamese worker through a personal contact and discovered that they have a strong network. Some got to know each other on the bus during visa run trips. All of those interviewed could not easily leave their place of employment, but they kept in contact through a phone package. They would take it in turns to buy a THB12 (US\$0.34) daily package and conference call the group. The researcher provided the participants with THB60 (US\$1.68) of phone credit after the survey as an incentive for participation.

# Worker, helper, auntie, maid?

## Working conditions and attitudes experienced by migrant domestic workers in Thailand and Malaysia

Domestic workers, the vast majority of whom are women and girls, make a critical contribution to societies and economies across the world. Still, domestic work is typically not regarded as work and is often excluded from full protection under labour legislation and social security provisions. It is usually carried out for private households, often without clear terms of employment, leaving workers vulnerable to abuse. Furthermore, domestic work is increasingly done by migrant workers, who may be further disadvantaged by restrictive migration laws and difficult recruitment, emigration and admission procedures. While existing research has focused on the extent of legal protection and employment conditions of migrant domestic workers, research on attitudes and behaviours towards domestic workers is in its nascence.

To obtain more knowledge on the link between attitudes – of both employers and the public – and the working conditions experienced by migrant domestic workers, the ILO and UN Women partnered with the University of Oxford Centre on Migration, Policy and Society (COMPAS) to carry out innovative research in Thailand and Malaysia. The study provides important insights on domestic workers' perceived role as both family members and workers, and how this affects everything from working hours to wages, freedom of movement and association, and access to social protection. The report concludes with recommendations for policy makers, employers, civil society and the media on how they can contribute to improving the situation of migrant domestic workers in Thailand and Malaysia.

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