2 From Breaking the Silence to Breaking the Chain of Social Injustice: Indonesian Women Migrant Domestic Workers in the United Arab Emirates

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Abstract[3]

This chapter provides a perspective on the chain of social injustice faced by Indonesian migrant domestic workers in the *United Arab Emirates* (UAE). By using the lens of gender to connect practices within the Indonesian management system for labour migration with those guided by regulations governing the management of foreign labour in the UAE, the chapter reveals the consequences of the absence of a specific law governing the presence of domestic workers in both countries. Labour migration management systems are bounded by the nation state, whereas domestic workers must rely on transnational coordination between two systems. Where their work is not legally defined, they can become subject to arbitrary treatment at different points in their migration along a transnational chain of relations of structural dependency. They tend to bear the weight of institutional dysfunctions, often with dire consequences for their private lives. Learning from their experiences can help us draw lessons for future action towards achieving standards of decent work within a territory and standards of basic human security applicable to their transnational movement. Just as research into transnational migration has moved beyond methodological nationalism, so also labour migration policy needs to find frames of reference appropriate to context to ensure that workers' rights are protected in different places.

Keywords: domestic work, decent work, gender, migration, transnational, Indonesia, United Arab Emirates, social justice, human security.

2.1 Introduction

> "We have broken the silence. We have yet to break our chains."[4]

Ai-Jen Poo, a second-generation domestic worker and director of the National Domestic Workers Alliance in the *United States of America* (USA), made this statement in June 2011 on her way home from the hundredth annual conference of the *International Labour Office* (ILO), which passed the Convention Concerning Decent Work for Domestic Workers. After decades of hard work, the Convention now recognizes the labour rights of persons engaged in domestic work under an employment relationship within a territory as well as when this relationship involves the movement of a person from one territory to another. The Convention is a victory for campaigners who have succeeded in breaking the wall of silence around domestic work. It has destabilized the hegemonic view that demarcates the limits of thinking about the value of domestic work and the status of persons engaged in it. It has recognized that, today, this service has become a subsector in a broader economy of care organized transnationally.[5]

Complex histories of labour—slavery, colonialism, and other forms of servitude—and their gendered understandings have indeed fostered a hegemonic view

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4 See at: <http://www.aflcio.org/Blog/Organizing-Bargaining/Domestic-Workers-We-Have-Broken-the-Silence.-We-Have-Yet-to-Break-Our-Chains> (accessed 19 March 2012).

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of domestic work as unproductive, i.e. 'non-work' and a 'private matter'.[6] This view underpins the rationale for the exclusion of domestic work from formal regulations concerning labour migration and their enforcement. The Convention, in fact, requires governments to take action by designing inter-state arrangements (bilateral, regional, or multilateral agreements) to govern in accordance with national laws, regulations, and practices the operation of private employment agencies that recruit or place domestic workers. As the human subject is the primary substance of labour as well as of migration, the dignity of a person is to be honoured and treatment of labour as a commodity forbidden. Many governments have yet to take steps towards realigning their national laws and moving towards ratification of the Convention.

Using the cases of Indonesia and the UAE, this chapter offers an insight into the prospects of realizing standards of 'decent work' for domestic workers in the absence of a specific national law governing the workers' presence in the receiving country. It highlights specific dysfunctional aspects of existing measures of rights protection in both countries and the implications for domestic workers. Indonesia is a striking case for a number of reasons. First, although women's rural-urban migration for domestic work is an old phenomenon, traceable at least to the early days of colonization, only since the 1970s have Indonesians migrated overseas for employment in this sector (Silvey 2006). Second, there has been a remarkable rise in this migration since the financial crisis of 1997 and the subsequent process of liberalization. According to IOM (2010: 9), in 1996 Indonesian women represented fifty-six per cent of the total flow of over half a million Indonesian workers deployed abroad, but by 2007 the figure had risen to seventy-eight per cent of a total of nearly seven hundred thousand. Being mainly of rural origins with low education and skills, these women migrants are deployed mainly in domestic service. The major destinations are high-income countries in South-East Asia (Malaysia and Singapore), East Asia (Hong Kong Special Administrative of China and Taiwan), and West Asia, especially the countries of the *Gulf Cooperation Council* (GCC). Malaysia and Saudi Arabia are the major destination countries, accounting for more than seventy per cent of the total flow. In the GCC countries, since 1997 the UAE has become the most important destination after Saudi Arabia (IOM 2010: 15). Third, the annual volume of financial remittance from Indonesian labour migrants has grown from US$1.5 billion in 2002 to US$7.1 billion in 2010 – or about eleven per cent of the gross domestic product for that year (World Bank 2011: 139).

Seen from this perspective, Indonesia's growing labour exports seem to rely mainly on rural women's labour; there is no clear sign of diversification. Though financial earnings from remittances are growing, much of this still goes through informal channels.[7] Sassen (2002) uses the term the "feminization of survival" to refer to the ways in which particular groups of women and their feminine gender roles are deeply implicated in sustaining national economic restructuring in a globalized world. In Indonesia, this view may be more relevant to local economic restructuring, given the country's decentralization policy. Together, deregulation and decentralization have enabled recruitment agencies in particular provinces to gain an important position in matching local supply with international demand for domestic workers. Workers depend entirely on cooperation between the recruitment agencies in Indonesia as the sending country and the employment agencies on the receiving end (Linquist 2010). Where local practices of labour control are severe and archaic, many incidences of the violation of rights have been reported (Esim/Smith 2004).

Placing these issues in the context of the formation and transformation of the labour migration management system in the sending and receiving countries is helpful for understanding their individual operation as well as the interactions between them. Understanding how particular notions of 'gender' and 'work' are built into regulations and institutional practices that shape the organization of the migration of

5 For the full text of the Convention see at: <http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_157836.pdf> (accessed 21 June 2012).

6 Recent estimates reveal figures between 53 and 100 million domestic workers worldwide (if hidden and unregistered people are taken into account). Around 83 per cent of these workers are women or girls and many are migrant workers (ILO 2010). This confirms that women are the main cultural signifier of domestic labour globally, though men are also found in domestic work (Duffy 2011).

7 The Bank of Indonesia has estimated that in 2006 more than ninety per cent of the total flow (nearly US$2.7 billion) from Malaysia to Indonesia went through informal channels (Hernández-Coss/Brown/Buchori/Endo/Todoroki/Naovalitha/Noor/March 2008).

domestic workers may help to identify systemic dysfunctions that will carry negative consequences for the protection of the rights of domestic workers in different places. This seems to be the main challenge for future attempts to ensure standards of 'decent work' transnationally.

Section 2.2 reviews the debate on domestic work as an important concept in the gender politics of social equality, focusing on the contextual significance of its framing and the multi-scale implications for policy in today's reality. Section 2.3 discusses the main features of Indonesia's national regimes of labour migration and the UAE regulations affecting migrant domestic workers, highlighting how domestic work continues to be legally undefined. This has facilitated the formation of informal rules of governance concerning their presence in the Indonesian overseas workforce and in the UAE migrant workforce. Section 2.4 presents the outcomes of this socio-legal environment as seen in the operation of the migration business in Condet, Indonesia. It also discusses the effects on the lives of domestic workers in Abu Dhabi, who are known as 'runaways' in the local vernacular, and in legal terms as those who have 'absconded' from their employers. The narrations of the personal experiences of those who have sought protection in shelters set up by the Indonesian embassy facilitate an understanding of the practical meaning of being excluded from the law as workers, and an appreciation of the weight of inadequate national regimes of transnational labour migration on their lives. The conclusion points to the need for understanding of the social dynamics that has formed and transformed a national regime of transnational labour migration. This understanding can help shift such a regime towards a direction that can better address the specific aspects of the human security of domestic workers from a gender perspective. This would include (1) security of identity for those who join the transnational labour migration flows (legal identity, gender identity, and sexual identity); (2) security of regulations covering working conditions and wages; (3) protection when rights are violated prior to and during migration and on return. A law that governs the presence of domestic workers is the first step.

2.2 Framing Domestic Labour from the Perspective of Gender Equality: Context, Issues, and Implications

Housework, activities related to the maintenance of the home and the well-being of its members, is perennial, historically specific, and culturally defined. The framing and reframing of the definition of housework by different theoretical tendencies make manifest an ongoing struggle over the meaning of its economic, social, and cultural value. Since they are created by particular relatively powerful interest groups, value frameworks do play an important role in influencing public thinking and policy agendas. In the debate about housework – renamed as 'domestic labour' and 'domestic work' by various authors (see Kaluzynska 1980) – value frameworks are related to the wider debates about equal rights between men and women, and to the distribution of resources to ensure these rights. For this reason, value frameworks should be analytically treated as historical and cultural products. The following discussion presents the different framings of domestic labour on a broad canvas that can help capture the key aspects of people's engagement with, avoidance of, or resistance to domestic work and policy responses. Understanding domestic work through the perspective of the historical and cultural relationships between the state, men's and women's gender identities, and the family can help us to appreciate subtle differences regarding how rules concerning domestic work can be enforced, altered, reproduced, or reinvented at different levels and at specific points in time and space.

Within feminist debates in the Anglo-Saxon literature, housework as defined above has been variously framed, reflecting the historical transformation of the relations that organize domestic work. These frames are: the 'social factory'; the 'second shift'; the 'care deficit'; and the 'international division of reproductive labour'. Each category refers to an object of regulation and to the people being implicated, such as: 1) a wage for housework for the housewife; 2) subsidized childcare for working parents; and 3) the intersections between care regimes and migration regimes and their consequences for regulating the migrant workforce in care work.

The term 'social factory' emerged in the context of post-World War II growth and the rise of the nuclear family in Western democracies, as perceived through the application of Marxist categories to human activities hitherto unanalysed by mainstream po-

litical economy. Dalla Costa and James (1972) used the term to depict those working-class homes under state-led capitalism where women were toiling without recognition in physical isolation, resulting in their powerless position in the public domain. Though women's domestic work, as defined by the power holders, has no value, or only use value, it should be seen as effectively as productive as men's, and thus containing a surplus value. This argument was aimed at using economic value to justify women's class position in support of the campaign for a 'wage for housework'; housework was framed thus far as the 'labour of love'. An independent wage for women was seen as a means of freeing them from patriarchal bondage under a marriage contract.

However, both the absence of an employment relationship within the family applying to domestic work and its fragmented constitution posed many methodological problems for measurement and for discerning the embedded values – human and market. The debate about the use and exchange values was thus inconclusive. Himmelweit and Mohun (1977: 27) offered a compromise by acknowledging that domestic labour does reinforce women's subordination, but that this subordination is mainly due to the invisibility of domestic work and not necessarily due to profit. This had directed the campaign for gender equality towards making women's work – paid or unpaid, at home, in the labour market, in the community – visible to policymakers (Beneria 1992).

Today, in view of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) and the 1995 Beijing Plan of Action, a widely shared view of gender equality rests on the belief that a socially just democracy must create the conditions for women to earn their own income as a basic requirement for achieving their political rights (Molyneux/Razavi 2002). Yet, despite finely grained differences, the codification of women's work and wage as different from men's has historically been a stable system of practices and signification (Krais 1993); the gender division of labour at home can be extended to the labour market, as shown in early industrialization periods when women entered waged work (Rowbotham 1975), and during a resurgence of this phenomenon in the 1980s and 1990s (Tzannatos 2008). In industrialized countries, the corresponding support through family policy for women's responsibilities for household maintenance and child-rearing has been found to be quite diverse owing to factors related to sociocultural and political values and circumstances (Gauthier 1996).

The term "working women's 'second shift'" offered by Hochschild (1989) from a perspective of social psychology tries to capture the gendered division of responsibilities in the domestic sphere, including not just the manual work of maintenance of the living unit but also the 'embodied labour' in the management of emotions and healthy lives for family members. Her perspective has provided the analytical space to also appreciate the discrete meanings of certain housework activities within kinship, rather than seeing them seamlessly as drudgery. The idea behind the second shift, it seems, was to reject the notion of 'social factory' as a mechanistic concept, and to acknowledge the diverse activities of domestic work, some of which may be closer to the notion of care in human relationships.

Care involves the human beings for whom care is being provided as well as the ones who provide care. Care needs can be mediated by different relationships on a continuum of moments of the life cycle, and these can take many different forms. From this perspective, Folbre (2002) proposes extending family values to society as a whole in order to increase the quality and recognition of care, using different measures such as tax credits for the provision of care services by men and women who should also be encouraged to share care duties in the family and community.

In the face of the advance of market liberalization since the 1990s, intergenerational care (childcare and care for ageing people) has come under pressure in many countries. Generally, childcare arrangements to alleviate the 'second shift' for working parents, however modest, became no longer seen as an entitlement. Subsequently, national care regimes, within which domestic work is situated, have also been prised open to allow for the inflows of migrants workers (Lutz/Palenga-Möllenbeck 2011). Sevenhuijsen's (2003) study of the Dutch case directs attention to the shift of reasoning from the welfare to workfare regime and to how the politics of social policy have discursively relocated care from state to societal level by promoting practices of 'active citizenship'. At the same time, notions of relationality and interdependence have been used to justify the actual relocation of care responsibilities to families and communities. More generally, support for subsidized childcare in the 1990s was soon replaced by private services with tax rebates, parental/care leave and nanny/au pair arrangements (Morgan/Zippel 2003; Lutz/Palenga-Möllenbeck 2011).

From this position, Parreñas (2000) revises the concept of the international division of labour to

make it applicable to her analysis of practices of allocating domestic and care responsibilities between working women. Her concept of the international division of reproductive labour tries to capture a reality that involves women in Italy and in the USA who are employed in the formal labour market and who informally hire undocumented foreign women as domestic workers and nannies to shoulder the burden of their second shift. In turn, these foreign women reallocate their own second shift to women in their countries of origin for payment, or through the mechanisms of extended kinship. Hochschild (2000) reconceptualized this phenomenon as links between people and labelled it the "global care chain", emphasizing its interpersonal aspects.

A variation of how households and family respond to women's entry into the labour market may be found in East and South-East Asian high-growth countries. In Japan and South Korea the organization of domestic work under rapid industrialization has gone through several phases. In the early phase of development the 'second shift' did not seem to affect women workers significantly because most entered waged work at a pre-marital age, and withdrew from employment when they reached childbearing age. Re-entry to the labour market at a later age through casual and part-time work allowed them to combine work and family duties (Brinton 1994). This scenario changes at the onset of globalization. Given the difficulty of balancing work and family, more women have been delaying marriage to continue their education in order to have a career and an independent life (Raymo 2003; Brinton 2001). In Taiwan, Hong Kong, Singapore, and Malaysia, where rapid economic development was also based on the massive entry of young women into the labour market, the presence of migrant domestic workers has become more visible as a public issue throughout the 1990s and 2000s (Chin 1998; Cheng 2003; Lan 2008).

By contrast, the in-migration of domestic workers from Asia and Africa to the *Gulf Cooperation Council* (GCC) countries presents a different reality, which raises some doubts about the universal relevance of the concept of 'second shift' as originally defined. The GCC countries have been dependent on foreign labour since the beginning of the oil boom in the 1970s. They have adopted indigenization policies in the last two decades to reduce this dependency and have implemented massive social development programmes that drew many women into the spheres of education, economics, and politics. Even so, the current proportion of females in the labour force varies from twelve per cent in the UAE to sixteen per cent in Saudi Arabia and forty-six per cent in Kuwait (Baldwin-Edwards 2011).

Here, gender-based barriers to participation in the labour force do not seem to be related to women's lack of education and skills but to a combination of factors, such as religious and cultural values that bar women from certain jobs, or socio-spatial rules that affect their mobility. The significant presence of domestic workers in this case seems to reflect the structure of families and living arrangements, lifestyle, and the maintenance of newly acquired social status (Anderson 2000; Sabban 2002: 12–13). As has been suggested, the growing dependence of households on foreign domestic servants in the UAE may also be seen as part of the unspoken bargain between the modern state and the emerging civil society, by which the state provides a leisured life in exchange for complete political control, leading to what has been described by a local politician as the growth of an "unproductive family" (Sabban 2002: 13).

In this latest phase of the transformation of the relations that organize domestic work, there is a revision of the term 'second shift' into the 'care deficit', to emphasize 'care' as a public issue (Ehrenreich/Hochschild 2004) that concerns young children and the ageing population as well as the health care system (Yeates 2010).

In sum, the organization of domestic work, paid or unpaid, must be seen as contextual and nested in a mixture of care-related institutions within a broader policy framework concerning gender equality, the family, and women's economic participation in a nation state. The emerging intersection between care and migration as distinct national policy domains calls for analytical attention to the value frames applied in the interpretation of care and domestic work within the broader transnational economy of care. The place that care work (including domestic work) occupies in national law and policy regulating migration has consequences for how actors cooperate among themselves transnationally in order to move care and domestic workers as service providers across borders. Their modes of cooperation have implications for accountability that concern the protection of the rights of the workers who are being moved in order to deliver a service.

2.3 The Place of Domestic Work in Indonesian National Law on Labour Migration and the UAE Labour Law

Qualitative gender research on women's labour migration from Indonesia to the GCC countries has produced important insights into the role of state policy in producing the domestication of women transnationally (Silvey 2004), and into how women's agency in joining the overseas workforce as domestic workers is also shaped by their gendered identity, personal conceptions of motherhood, and faith (Silvey 2006).[8] Rudnyckyj's (2004) study of recruitment practices uses Foucault's concept of governmentality to dissect practices of the state and recruiting agencies, showing what she calls the "technology of servitude", or the production of the "maid" as a "docile subject" within a grid of power relations. Missing is a perspective that reveals what Rajan and Varghese (2010) call a "national regime of transnationalism" in labour migration that comprises specific administrative and policy frameworks, supported by discursive practices on national identity and interests in capturing transnational resource flows in migration. These provide the normative context within which transnational cooperation between institutions and private actors can take place in different localities. Situating Indonesian domestic workers in this perspective can help unpack the dense institutional context that regulates their migration and the connecting links with the receiving countries. Together these regulations and practices of relevant actors define the boundaries of women's agency in different places and at different stages of their migration.

Indonesia's Law No. 39/2004 on the Placement and Protection of Indonesian Manpower Abroad does not have a specific regulation governing domestic workers. UAE Federal Law No. 8 on labour excludes domestic workers, who are placed under immigration law where they are governed by the *Kafala* system (Esim/Smith 2004; Nisha 2011). Jointly, these laws leave domestic workers vulnerable to abuse without formal avenues for redress. Interpersonal relationships prevail over formal standards in rights protection.

8 Silvey (2006) shows how, as mothers and followers of Islam, in choosing to migrate for domestic work these women are also pursuing their desire to improve their children's social standing (through acquiring consumer goods such as motorbikes for their sons) as well as to improve their family status by visiting their Holy Land.

2.3.1 Domestic Work Undefined in Migration Law in Indonesia

Indonesia's Law No. 39/2004 is an extensive modern piece of legislation that provides guidelines for administering the country's labour migration policy and its decentralization. It has evolved since 1977 from previous regulations.[9] According to Robinson (1991; cited in Silvey 2004), the Indonesian government under Suharto's New Order had seen the prospects of gain from the export of labour to the Middle Eastern countries since 1983, when it permitted private agents to recruit its nationals to work abroad through formal channels. From 1984 to 1994 the majority of documented workers chose Saudi Arabia. Two-thirds of these workers were women, of whom some eighty per cent were estimated to be in domestic service; this was seen by the government as an emerging niche market (Silvey 2004: 250).

Under Suharto's New Order, state ideology concerning the family – built on the ideal of the middle-class nuclear family with a non-working wife – was altered to justify the active encouragement of low-income women to migrate overseas for work. These women were called upon to play the dual role of family maintenance and wage earning through migration "as long as their mobility did not interfere with their domestic duties...[and] for the sake of the 'national' family's larger goal of economic development" (Silvey 2004: 253).

Following the financial crisis of 1997 and the fall of Suharto's New Order, deregulation and decentralization policies have generated a remarkable growth of licensed migration brokers operating within a certain geographical and cultural proximity (Malaysia and the GCC countries [IOM 2010]). In 2002 Malaysia implemented the Immigration Act to limit migrant labour inflows, which resulted in the mass deportation of Indonesian migrant workers. Subsequently, migrant workers and migrant labour organizations intensified

9 Ministerial Decision No. 4/1970 on worker's deployment; Ministerial Decision No. 1/1983 on private companies in charge of worker's deployment; Ministerial Decision No. 5/1988 on employment between countries, extended by Ministerial Decision No. 1/1991 under the same name; Ministerial Decision No. 2/1994 on placement of workers inside and outside the country; Ministerial Decision No. 204/1999 on the placement of Indonesian workers overseas extended by Ministerial Decision No. 104/2000 and then extended again by Ministerial Decision No. 104 A/2002 on the same issue.

their demands on the Indonesian government for more protection (Ford 2004). This has prompted the introduction of Indonesian Law No. 39, 2004, a primary piece of legislation that provides the key legal principles for an extended system of administration under the Ministry of Manpower and Transmigration with an expanding numbers of affiliated Decrees in the last few years.

Law No. 39, 2004 makes no reference to 'domestic work' as a category, and mentions 'women' as a social group only once in Article 35, which refers to "female currently not pregnant" as a criterion of eligibility for employment overseas. It recognizes the presence of 'women' as a social group insofar as their state of pregnancy is concerned, and uses this as a barrier to entry. The character of the work they do in domestic service is left out. For this reason, this law cannot give women domestic workers the same protection it affords other workers. More significantly, it cannot include the category of domestic work until national labour legislation does.

Articles 33 and 34 of Labour Law No. 13/2003 differentiate between domestic employment and overseas employment. Supporters of a centralized approach to the management of transnational labour migration use these clauses to keep Law 39, 2004 on labour migration separate from labour law (Bachtiar 2011). The absence of an evidence-based discussion at the national level about legislation concerning domestic work, whether provided inside Indonesia or as part of the labour export programme, may reflect a deeply rooted ambiguity in society about gender relations generally, and domestic labour in particular. The tension between central and local government levels in interpreting responsibilities may also play a role.

In 2001, a Draft Law on Domestic Work was submitted by a non-governmental organization to the Provincial Parliament of Yogyakarta; but it was met with silence. Subsequent attempts were also made at the level of the City Government and the Regency Government of Yogyakarta (ILO 2006: 17). In 2010 a draft of the Domestic Workers' Protection Bill was placed on the national legislative agenda for debate, and again in 2011. In June 2012, Parliamentary Commission IX decided to postpone the debate. According to Amnesty International, the lack of progress on the Bill is due to unresolved disputes between political parties.[10] Though domestic work is not legally recognized, the risk of rape was included in Decree No. PER-23/MEN/V/2006, removed in 2007 and reinstated in 2008 due to pressure from civil society organizations. Thus the law now recognizes the risk of rape in the workplace but is still reluctant to recognize labour abuse.

Without legal recognition of their presence, female domestic migrant workers are vulnerable to violations of rights committed by the staff of recruiting agencies, trainers, employers, or other actors in the migration business. The protection they may receive overseas by the representatives of their government is derived from their citizenship and not necessarily from their being recognized as a full member of the Indonesian overseas workforce.

Furthermore, there is a consensus among scholars and civil society organizations in Indonesia that Law No. 39, 2004 is weak on protection. Despite a number of additional Ministerial Decrees and central government regulations, the overall assessment is that the law puts far too much emphasis on work placement and pays insufficient attention to protection measures within Indonesia's territory and abroad. Among the 109 articles and sixteen chapters, there are only eight articles (Articles 77 to 84) that regulate protection, while the rest deal with the mechanisms for the placement of migrant workers. The articles on protection do not codify the specific rights for which an Indonesian migrant worker can enjoy legal protection, and do not comprehensively govern protection in the migration process across all stages.

Article 76 states that private recruiting agencies can charge the following costs: processing identity documents; health and psychological tests; job training and certificates; others. The category 'others' is spelled out in Decree No. PER.14/MEN/X/2010 and covers: visas; food and accommodation during training; airfare; airport tax; local transport to the training centre; insurance premium; and agency service fees. Article 77 defines protection in phases: pre-placement, placement, and post-placement, and the rest of the provisions define placement in terms of the specific period during which the worker is deployed overseas.

Article 82 assigns private human resources companies to be in charge of recruitment and training; these are to be known as private recruitment agencies. The regulations covering education and training in the pre-departure phase (Article 42, sub-point 1) demonstrate the seriousness of the government in preparing the applicants for labour export programmes with knowledge of the law and an understanding of their rights in line with the requirements of their jobs in the destination country. As will be shown through the narra-

10 See at: <http://www.amnesty.org.au/news/comments/25963/> (accessed 19 June 2012).

tives of the migrant domestic workers in the UAE, this intent does not appear to have been taken seriously by private recruitment agencies, possibly due to cost factors and competition.

To obtain a licence, a private recruiting agency must have a work plan and sufficient capital requirements. The financial requirements for obtaining a placement licence consist of a deposit of Indonesian Rupiah 500 million (US$50,000) and a working capital of the same amount (ILO 2006). There is no requirement for the work plan to specify protection measures for overseas workers, for example against extortion and overcharging. As Bachtiar notes (2011: 1–9), eighty per cent of the problems facing migrant workers (identity fraud, extortion, and detention) occur on Indonesian territory. Yet there is no clause covering who supervises the recruiting agency and monitors overcharging. There is no penal sanction or punishment covering practices by a recruiting agency that violate the regulations regarding work contracts. Criticism has led to the introduction of Government Regulation No. 38/2007, which spells out the supervision of recruitment and outlines thirteen other responsibilities of local government,[11] but it is unclear as to whether local governments have the resources to carry out these duties (Bachtiar 2011).

Articles 83 and 84 require the worker to pay a fee to cover assistance and protection overseas. Decree No. PER-23/MEN/V/2006 obliges workers to pay for their insurance prior to departure, yet there is no clear indication of what services are available when the worker encounters a legal problem or a misfortune while working overseas. Finally, the law also refers to the implicit or partial involvement of family members when a migrant worker dies at her or his workplace (Article 73, sub-points 2 b, d, and e). It thereby places members of the family of migrant workers outside the process of decision-making in migration, whereas the emigration rule concerning passport processing requires the formal approval of a family member.

In sum, the combination of the absence of a special law governing the presence of domestic workers in the country and as they join the overseas workforce and the weakness of Law No. 39, 2004 on protection may be regarded as a structural cause of their vulnerability in the migration process. In spite of their contributions to the economic development of the 'national family', migrant domestic workers in Indonesia are still waiting for the nation to act on reducing their structural vulnerability.

2.3.2 Exclusion of the Category of Domestic Worker in the UAE's Federal Law No. 8 and the Role of the Kafala System

In the last three decades the oil economy has helped the UAE to acquire a prominent international economic profile and a regional political profile as one of the most liberal countries in the GCC. With a relatively small indigenous labour force, large-scale inflows of low-skilled guest workers and highly skilled expatriates were required to ensure the transition from a traditional subsistence economy, characterized by herding, agriculture, fishing, pearling, and sea trade, into a modern economy under a federal state system. The foreign labour force now constitutes ninety per cent of the total labour force (Shah 2008: 20). Low-skilled workers are deployed primarily in construction (infrastructure and housing) and in cleaning and domestic services.

As in other GCC countries, the UAE's management of inflows of expatriates and foreign workers has been supported by what Longa (2005) calls the "ethnocratic politics" of governing, or a normative system of inclusion/exclusion. Under this system, the indigenous people – a minority from a demographic point of view – are politically dominant and benefit from generous state support in many spheres of life. Foreign workers are governed by *Kafala* – a sponsorship system based on a two-year, renewable contract – and classified according to their region, nationality, ethnicity, and skills.

Shah (2008) notes that the UAE's structural dependency on migrant labour stems from two divergent tendencies. On the one hand, the strategic diversification of the industrial structure towards a post-oil economy has expanded activities such as manufacturing, construction, and services, some of which are labour-intensive and most of which are privately owned.

11 These responsibilities include: (i) information dissemination; (ii) registration of workers; (iii) selection of workers; (iv) supervision of recruitment; (v) facilitation of bilateral and multilateral agreement implementation; (vi) permit to establish a private recruitment agency branch office; (vii) recommendation for workers to obtain their passport; (viii) information and dissemination of information regarding opportunities in overseas employment in a computerized system and supervision of compliance by the migrant worker's application on payment of the required protection fee; (ix) socialization of the contents of placement and work contract; (x) assessment and validation of a placement contract; (xi) assistance, supervision, monitoring of placement, and protection of migrants; (xii) permit; (xiii) home return service.

On the other hand, nationals prefer employment in the public sector or to remain unemployed because of superior benefits. Attempts to solve this problem through the expansion of education and vocational training have achieved limited results. This has created not only a segmented labour market, but also spatially and socially divided societies, within which strong informal networks of care have been developing among the migrant populations across and also within ethnic, national, gender, and class categories (Ticku 2009; Kathiravelu 2012).

The UAE Federal Law No. 8 on the Regulation of Labour Relations of 20 April 1980 (with a consolidated version including amendments up to 2001) applies to foreign workers but excludes the category of domestic worker, locally referred to as a servant working in a private residence, though it is expected that changes will be made in view of the government support of the ILO convention on *Decent Work for Domestic Workers*. At the time of the research, the Immigration Department of the Ministry of Interior has jurisdiction over domestic workers. There is no other law governing their presence in the country; the employment contract is the only legal reference of their presence.[12] Under immigration law the following principles are binding:

1. A foreign national may stay in the UAE as a domestic worker so long as there is a sponsor (employer) willing to be her guarantor.
2. Prior to issuing a residence permit, the immigration office requires each employer and domestic employee to sign an employment agreement witnessed by an immigration official. The employment agreement contains provisions on the rights and responsibilities of both parties and the agreement will be a legal reference should there be any dispute in the future. In the event of a dispute concerning the content of the agreement, any party who feels a disadvantage may report the matter to the Unit for Handling Problems in the Immigration Office.
3. If a domestic worker runs away from her employer, the employer must report this to the Immigration Office and give the worker's passport to the Office.
4. A domestic worker who runs away loses all her rights as set forth in the contract and her residence permit will be revoked after the employer files a report to the Immigration office. No later than one week following that, the domestic worker must leave the UAE. Otherwise, she is declared to have violated the immigration regulations and her status is changed into overstayer and illegal, punishable by fine and imprisonment.
5. Every worker, including domestic workers wishing to leave the UAE, must first obtain clearance from the Immigration Office, who will issue his or her visa. Without clearance, a worker may not leave the UAE.
6. Under the sponsorship system (*Kafala*), a domestic worker does not have to obtain a labour card in order to be employed, nor does the employer need to seek the approval of the Ministry of Labour for their employment.

Rooted in Bedouin culture, the *Kafala* system is organized around the concept of 'guardianship' by which a 'guest' is given a place in the 'host' abode. The system operated as a custom of temporarily granting protection to strangers, and even affiliation into the tribe for specific purposes (Beagué 1986; cited in Longva 1999: 78). It was adopted as the practice of labour organizations on the pearling dhows and now serves more broadly in the organization of migrant labour (Longva 1999).

In its modern form, *Kafala* operates simultaneously as an employment and residence system, supporting a relationship of structural dependency that normalizes the practices of withholding migrant workers' passports and of socio-spatial control. These have given rise to practices such as guarded labour camps known 'bachelor cities' for male workers (Gardner 2011) and strict mobility control over live-in domestic workers.[13] In some cases, the *kafeel* (sponsor) may take on the position of a guardian who holds the responsibility for potential cultural transgressions by foreign workers. This can also normalize and legiti-

12 On 22 June 2011, the government of the UAE voted in favour of the the International Labour Organization's Convention 189 and Recommendation 201 on *Decent Work for Domestic Workers*. Before the convention comes into force, a two-stage ratification process must be completed: (1) the government must verify to what extent their existing laws meet the convention's requirements; (2) the government must then work to align themselves with the convention, if necessary. This may involve new legislation or amendments to existing law. See at: <http://www.thenational.ae/news/uae-news/uae-votes-for-new-charter-of-rights-for-domestic-workers> (accessed 9 March 2012).

13 See at: <http://www.ilo.org/public/english/region/arpro/beirut/downloads/aef/migration_eng.pdf> (accessed 1 April 2012).

mize control over the behaviour and social contacts of migrant workers. As Gardner (2010, 2011) shows, relations of structural dependency can turn into structural violence, particularly when migrants abscond from untenable positions with their sponsors, thus abandoning the sole legal position under which they can be employed.

The risks for those who run away from their employers are serious. The employer can make a statement of absconding to the UAE migration office, which releases all obligations towards their domestic worker. Under the terms of the Employment Agreement for Domestic Workers and Sponsors, running away from the employer is perceived as illegal and punishable by UAE law. Runaways know that they are breaking the law and can be deported. Still, the risk of leaving an oppressive relationship is better for them than staying without a voice. Joining the illegal labour force is an option, especially for those who have heavy financial obligations at home (such as debts incurred in the pre-migration phase), or who simply wish to recoup their losses.

Data gathered from different sources, including discussions with the owner of an employment agency in the UAE, revealed some important issues embedded in the practices of signing contracts that might explain absconding. An employer first places an order for a domestic worker with an employment agency and pays general fees to the UAE government when the worker arrives. These include a residency visa, a refundable deposit, service fees, and a medical test and government health card. The cost can run to 9,000 Dirham or US$2,450. In addition to this, a fee to the employment agency must also be paid, and this can be up to US$398 (as of 2005; Shah 2008: 10). Upon the arrival of the domestic worker, the employment agency and employer sign a written agreement that sets out a warranty for a replacement of the domestic worker in the first three months (probation period). If the worker cannot continue working for specific reasons, the agency is obliged to replace her with another worker. This contract is important to prevent disputes between the agency and the domestic worker's employer.

It is important to note that the agency is the first party and the sponsor (employer) the second party to the contract. The name and nationality of the employer and the name and nationality of the domestic worker and the wage are stated in the contract, which also has to be signed by the migrant domestic worker as a third party. From the perspective of the migrant worker, before departure a contract written in English and Arabic, rather than Indonesian, must be signed – a factor that contributes much to the clash of perspectives on wage and work conditions. Upon arrival, another contract, which assigns the worker to the position of the third part, must be signed.

Informants have reported cases in which the contract signed in Indonesia prior to departure specifies a monthly salary of 800 Dirham (US$217), the official minimum wage in the UAE, while the one signed in the UAE states their salary as 600 (US$163) or even 500 Dirham (US$136). From this perspective, absconding by the worker means a lost investment for the employer and administrative and legal problems for the agency. For the worker, absconding can be the result of a system of multiple contracts, an anomaly arising from the involvement of several parties at different stages (recruitment and placement). It appears that the employment agency can make gains from both the employer and the worker, by charging a fee to the former, and deducting the salary of the latter.

Since monitoring by the UAE Immigration Office can neither reach the daily practices of signing a contract, nor deal with the volume of labour disputes, many domestic workers end up running away from their employers rather than going to the Immigration Office. Consistent complaints about absconding from employers, as well as from the representatives of the migrant workers in the sending countries, have led to the launch by the government of Dubai of an initiative to enforce specific requirements in the contract. The initiative was later adopted at the federal (state) level and eventually the provision in the contract related to 'domestic help' was passed on 1 April 2007. This provision includes the following standards: duration of the contract, salary and other benefits, accommodation, healthcare, working hours, paid leave, repatriation ticket, dispute settlement, recruitment fees, and coordination with the relevant embassies. Domestic migrant workers are now obliged to sign the contract upon arrival under the auspices of the UAE Immigration Office. The worker's passport has been declared a personal document not to be withheld by an employer or agency.

In sum, the structural dependency of households in the UAE on domestic workers also comes with a price tag for all sides. Inadequate pre-departure briefings and inadequate training on legal rights and obligations can lead to conflict at the workplace abroad. Placing domestic work outside the labour law and under immigration law in the receiving country puts the worker under constant threat of deportation while providing no room for negotiation over labour con-

flict (perceived or real). Legally, the state is the sole protector of the rights of citizens, foreign residents, and workers. Yet governments on both the sending and receiving sides have allowed third parties to practise unfair contractual dealing regarding work.

2.4 Recruitment and Placement as a Business: The View from Condet and the Voices of Women Domestic Workers in Abu Dhabi

2.4.1 Field Research Methodology

The field research methodology tries to trace the articulation of standards of domestic work in practice, despite their absence in the law. Fieldwork in Indonesia was conducted in 2008 in Condet, a community that serves as a processing centre for labour migration. Observations aimed at mapping the socio-spatial aspects of recruitment, one-to-one interviews with several owners of local recruiting agencies, persons working with supporting facilities, and the relevant officials in the Ministry of Labour aimed at gaining insights into how Indonesian Law No. 39/2004 is implemented in the pre-departure phase, and at identifying the main legal and administrative problems that should be explored further in the UAE.

In the UAE, fieldwork was conducted in 2010 at the shelters set up by the Indonesian embassy in Abu Dhabi and the Indonesian consulate in Dubai, selected recruiting agencies and the Zayed Women's University.[14] These shelters provide accommodation and assistance to Indonesian domestic workers who have absconded and are facing problems with the law of the host country. During the research visits, there were always approximately seventy women in the Abu Dhabi shelter and 100 women in the Dubai shelter. Several *focus group discussions* (FGDs) were held in the Abu Dhabi shelter at different times. Between fifty-six and seventy women participated in the FGDs each time. Each FGD consisted of eight women, focusing on the extent to which they have a legal understanding of being a woman, a domestic worker, and a migrant, and how their status as a legal subject enables or prevents their access to legal assistance. In-depth interaction between the researchers and women migrant domestic workers took place mainly in Abu Dhabi, as the main research location. Following Kaptani and Yuval-Davis (2008), a participatory theatre was adopted as a sociological research method to provide embodied, dialogical, and illustrative data and information on the articulation of the power relations in different phases of the migration process in the lived experience.

2.4.2 Condet as a One-stop Service Centre

Originally a small enclave for the indigenous people of Jakarta (the *Betawi*) and a conservation area (Budiati 1995), in the last three decades Condet has been absorbed by urban development and now serves as a business centre for labour recruiting and deployment overseas, especially to GCC countries. The community has undergone Islamic gentrification in terms of fashions and lifestyles after decades of pilgrimage to Saudi Arabia and labour migration to the GCC countries. Much of its spatial transformation has been driven by its new role as an important service centre where rural women undergo the 'initiation rites' to become a member of Indonesia's overseas workforce as domestic workers. This is the place where the implementation of Indonesia's Law No. 39/2004 on the *Placement and Protection of Indonesian Manpower Abroad* can be observed as practised and lived. Condet may be considered as a silent witness of women's entry into the 'social factory' that produces 'domestic workers' as labour for export, a mechanical process with little regard for the dignity of the person.[15]

For migrant applicants, the pre-departure phase is the most critical and involves much paperwork: an identity card; an education diploma; a birth certificate or a marriage certificate; a letter of permission from husband or wife or guardian; a passport; a medical certificate. Migrant applicants have to rely on a recruitment agency for many services. An important point to note is that because the financial ceiling required by Law No. 39/2004 for eligibility to set up a recruitment agency is too high, few entrepreneurs could comply. An unintended consequence is the rise of unlicensed agencies.

In Condet, a common practice among unlicensed agencies is to "borrow" a licence from a legal agency to run the business. The owner of the registered agency to which the licence belongs controls its use.

14 Female students in this university employ domestic workers.

15 Women applicants must submit their bio-data, pictures, and other personal information to help recruitment agencies on the sending side and employment agencies on the receiving side find an appropriate match.

The choice of which company's licence to borrow is governed by family relationships or friendship. Anyone can run a recruiting agency with a borrowed licence, as long as the owner of the licence is kept informed about the operation. Bribes and other informal arrangements to obtain required documents and clearances are common among unlicensed agencies.

Despite government prohibition of pseudo-recruiting agencies, many still operate with a borrowed licence. One way of "legalizing" a pseudo-business consists of a request from the pseudo-agency to the licensed company to issue a formal letter of appointment as its 'sub-division'. The 'sub-division' receives a verbally agreed share from the licensed company, ranging from Indonesian Rupiah 300,000 (US$30) to Indonesian Rupiah 400,000 (US$40) per worker sent. If any government official, such as those from the Ministry of Labour or police, come to inspect it is sufficient for the 'sub-division' to show the letter of appointment and to ensure that there is no signboard in front of the office. To maintain the flow of the business as a pseudo-agency, the owner must regularly pay protection money to the local police.

Apart from recruiting agencies and their 'sub-divisions', 'street hawker agencies' are those unlicensed actors who usually settle in rented houses away from the main road, some of them only tenements. Local residents of Condet explained that these are sub-let to women migrant worker applicants who need a transit place for three or four days during which they must go through the pre-departure process.

Another affiliated business is the medical service providing blood and urine tests and X-rays for migrant worker applicants before they can proceed with training and passport processing. In Condet, there are at least eight medical centres in operation. The tariffs of medical tests set by the government in 2007 range from Indonesian Rupiah 306,500 (US$33) to Indonesian Rupiah 597,000 (US$65), depending on the requirements of the destination countries. The aim of the tariff is to ensure the quality of the medical tests. A local informant reported that some medical centres were found to be providing sub-standard health certificates for migrant workers. They lowered their fees to Indonesian Rupiah 150,000 (US$16) to attract clients and in consequence the tests were inaccurate, on one occasion leading to the return of about 1,000 migrant workers.

Legally, every recruiting agency is required to provide training for migrant worker applicants. The training is to provide knowledge and understanding of work skills base on the type of work, situation, condition, culture, custom, religion, work risks, language of the destination country, and the rights and obligations of the workers. In Condet most training facilities for domestic workers were integrated in the shelter, with limited scope for effective learning. Furthermore, many recruiting agencies do not own a training facility; applicants who go through these channels did not undergo any training. The involvement of multiple stakeholders in Condet in providing services to aspirant migrants cannot be separated from the fact that migration has become a lucrative business.

Using the research data collected, the relationship between structural dependency and the costs of migration for the workers are summarized in the following tables.

Table 2.1: Recruitment Fees Breakdown: A Sample. **Source:** Morgan and Nolan (2011).

Item	Cost (in IND Rupiah)	Cost (in US Dollars)
Medical examination	250,000	30
Insurance	950,000	111
Passport processing*	50,000	6
Airline ticket**	+/- 5,000,000	600
Labour tax on agency	250,000	30
Agency fee	500,000	60
Total	6,950,000	837

* The government charges a fee of Indonesian Rupiah 50,000 to process passports for new and first-time migrant workers and Indonesian Rupiah 300,000 for passport renewals.

** This is the largest expense and the one which agencies try to manage most closely, given the inevitable uncertainties around price fluctuations. Urgent demands to fulfil job orders often increase this cost further and cut into agencies' margins. The cost of the air ticket is adjusted for Jakarta-Dubai.

To sum up, a major outcome of the absence of a law governing domestic workers within a territory as well as when they migrate for work in another territory, together with the privatization of the migration business, is the fostering of an environment in which migrant domestic workers are subject to successive relations of structural dependency that can reduce their status to 'labour-as-commodity', rather than persons with rights.

Table 2.2: Recruitment and Placement: Successive Structural Dependency. **Source:** Compiled by the authors.

Recruitment, key actors, and pre-financing	Processing and pre-departure preparation	Work placement in the host country
Village Broker: • pre-finances cost for the aspirant migrant to travel to urban areas to apply for an overseas job. *Unlicensed company*: • works with a licensed human resource company and receives a share per worker sent.	*Human Resource Company* (locally referred to as recruiting agency): • liaises with unlicensed company to obtain qualified workers; • works with brokers in destination countries to deliver them; • income is based on the volume of employees placed in destination countries.	*Employment Agency:* • works with a human resource company in the country of origin of the migrant but has no incentives to investigate its practices; • receives a fee from employer per worker allocated.
Domestic Migrant Worker applicant under social and financial dependency: • borrows money from the village broker (or other sources), who can be a member of the local elite, in order to get to the recruiting centre; • if successful proceeds to the next step with a human resource company; • if unsuccessful tries another company, usually unlicensed; pressure of debt and honour is a strong incentive to continue; • faces more risks with an unlicensed company due to the lack of transparency and accountability.	*Successful Migrant Domestic Worker applicant under financial dependency* • receives an advance for ticket and other costs (fees, and pre-departure costs); • pays back through wage deduction for the first few months; • faces threat of deportation for non-compliance with employer's demands.	*Migrant Domestic Worker under social and legal dependency* • depends on employment agency as the third party in the destination country to mediate problems with the employer; • pays a portion of the monthly wage for this service; • submits passport to agency or employer; • in case of conflict with the employer goes to agency for mediation; • faces unclear standards on grievance handling processes (can be threatened at this stage to be forced to return to work or be locked up, both as a means of harsh punishment and as 'storage' until the next employer can be found).

2.4.3 The Weight of Dysfunctional Law and Policy on Domestic Workers: Voices from the Embassy's Shelters in Abu Dhabi and Dubai

As mentioned in the previous section, at the pre-departure phase recruiting agencies are responsible for the education and training of the workers and there is no obligation on the part of the government to monitor the quality of the training. The dire consequences of the lack of monitoring are expressed by the absence of any consciousness of the legal implications of moving across borders among the majority of women who have run away from their employers. Many women did not properly understand the official migration procedures in Indonesia, much less the legal protection provided in the United Arab Emirates. Most significantly, they did not realize the importance of a passport as a legal document. At the time of the interviews, there was no single woman who had her own passport with her. Suspension of passport by their employers, or recruiting agencies, was considered to be a 'normal' practice.

When asked

> "What do you know about the regulations in the United Arab Emirates which apply to domestic workers?",

a typical response was

> "... law of the UAE requires a domestic worker to have important documents, which means that an Indonesian citizen who comes to the UAE must have an identity document from her country. A domestic worker must know the name of her agency in the UAE and the name of her employer, comply with the law and customs in the UAE, work properly as expected by the employer, sign the contract and keep to the contract while working in the workplace...".

Another common response was

> "... never heard..." or ".... don't know..." or "...never know...".

Only few of them knew that the employer must also comply with, and treat domestic workers in accordance with the applicable law as set forth in the working contract. They understood that during their stay in the UAE, they are entitled to insurance and can access hospital care whenever they are sick or injured. They knew that, when abused, they are entitled to have their case specifically handled by the police, and they can report to the Indonesian embassy to seek justice from the UAE government when they are in conflict with their employer.

When asked

> "Who holds your passport while you are in the UAE?", "What is the content of the passport?", and "What happened to your passport when you ran away?",

a common response was that it was bound by the working contract, therefore must be held by the employer. If they cause trouble, the passport will move to another hand. If they went to the Immigration Office to try and settle their problem with their employer, then their passports would be held by the 'authority', cited as the employer, immigration office, agency, and the Indonesian embassy. None knew that since 2007 UAE law has prohibited employers and recruiters from withholding a migrant worker's passport.

Some of them mentioned that the Immigration Office in the UAE is the institution that issued their residence permit, and that a passport contains the status of a person in the UAE, i.e. the validity of their stay in the country and their status as 'domestic helper', and overstaying would make them subject to deportation.

> "...A passport is the evidence that we have stayed for two years in the UAE because we are not citizens of the UAE...".

The women workers also understood that if they practised *takmim* (absconding), their permit to stay in the UAE would expire. Some said that the employer should return the passport of the worker who ran away because, without a passport, the worker would not be able to return to her country. One woman shared her anxiety:

> "... I cannot return to Indonesia yet and will stay longer in the shelter of the Indonesian embassy, because I have to wait until I get a ticket, while my employer kept my passport. If the employer does not return the passport, I will be put in prison or return to Indonesia using a 'temporary' passport. Some employers keep or burn their passport as an expression of their anger against workers who run away ... to make their status illegal ... it is hard to recover the unpaid salary or salary which is taken by the employer without a legal status...".

These findings suggest that the training offered during the pre-departure stage, which should provide the migrant workers with legal knowledge, falls short of this duty. Training in the relevant laws seemed to be mixed with information about the working contract and the culture of the host country, and failed to impart systematically the knowledge of the law required when crossing national borders and the importance of the passport as a legal document. Training in knowledge of the relevant law is ultimately the responsibility of the government because it concerns the rights of migrant workers as citizens of Indonesia. Entrusting this task to recruiting agencies involves a conflict of interests, i.e. 'producing' obedient subjects to fulfil the employment contract smoothly versus imparting knowledge about the citizenship rights of workers deployed overseas by their government so that they can defend their rights.

Recruiting agencies in Indonesia are obliged by law to ensure their workers access to legal aid, covered by payment to the insurance consortium by the migrants before departure. In the event that migrant workers face a legal problem in the receiving country, the insurance consortium would cooperate with local lawyers or with the institution that handles legal protection for foreign workers. A gender-specific issue for migrant women domestic workers concerns the risk of rape. Despite the fact that the law covers the risk of being raped, this coverage is far removed from reality.

A runaway domestic worker shared her experience of being raped by her male employer as follows. After the incident, she reported to her female employer (the wife), who settled the matter with the placement agency and gave the agency 2,100 Dirham (US$573). The amount covered the salary owed to her, minus the cost of the flight ticket. The female employer told the victim to go to the employment agency to claim her entitlement. She proceeded with these instructions and was confined on the sixth floor of an office building where the agency is located for one month and four days, having to endure physical punishment, denial of food, and the threat of being sold to someone in Oman. She absconded from the employment agency with the help of co-workers (Indonesian, Filipino, and Indian women trapped in the same situation) to reach her embassy. At the embassy, she received protection but faced problems in processing her insurance claim due to the clauses that oblige claimants to attach a report from a medical doctor, a letter from the local police, specific medication and

treatment from the hospital, and/or a letter from the representative of Indonesia in the host country.

Even if these conditions are fulfilled, the prevailing practice of allowing the insurance company to appoint lawyers can create a conflict of interest because insurance companies are business-oriented entities, and therefore must minimize the scope of being the party who ends up paying the settlement (ILO 2006: 25). In fact, the insurance coverage for the risk of acts of violence, including rape, during the employment phase can offer protection on paper only.

Running away from a situation of abuse is a right. Because of the legal implication of absconding, running away is seen as a crime. The consequence of staying in the shelter is that they have to undergo the required process in the embassy, and they have to accept whatever decisions are taken for them. For those women facing a lawsuit due to charges such as adultery, theft, and child abuse, providing legal consultancy and aid has become the most important task of the Indonesian embassy.

The Indonesian government set up a labour attaché in 2005 in five host countries, including the UAE. Help mechanisms as of 2010 include: (a) sheltering; (b) reaching agreements with recruiting agencies to guarantee protection for domestic workers; (c) endorsing self-regulation by hosting regular meetings with recruiting agencies from across the UAE, determining the minimum salary standard for non-Emirati employees, and blacklisting unethical recruiting agencies; (d) facilitating dispute settlement (providing legal consultancy, legal service, and mediation).[16] However, because of the different legal jurisdictions only local lawyers are allowed to handle cases in the UAE. The involvement of Indonesian government representatives is limited to escorting the victim of an abuse to report her case at the police office. The alternative possibility is to build a partnership between the Indonesian representative and local Emirati lawyers, but this is not affordable for the Indonesian representatives because of very high fees, in addition to the costs of running the shelters.

Taken together, the experiences of domestic workers who have absconded and sought protection in the Indonesian embassy's shelters reveal a dysfunctional system of migration management that has allowed space for the circumvention of legal and administrative standards, which in themselves are already weak on protection and strong on fees to be paid by the workers. Ensuring the standards of 'decent work' for domestic workers deployed overseas will require an institutional transformation at many levels, with a special law governing domestic workers as the first step.

2.5 Conclusion

This chapter has shown how the absence of a specific law governing the presence of domestic workers in Indonesia's overseas workforce and the UAE's migrant workforce combined with deregulation of labour and migration-related services has fostered national regimes of labour migration that generate the conditions of structural dependency for domestic migrant workers. These occur at several places in the process of their migration and are interlinked. Within a larger policy environment that does not recognize domestic work as work to begin with, it is easier for the unethical practices adopted by mediating institutions to be diffused, allowing the framework of reasoning about the transnational migration of domestic workers to become tilted towards economic gains rather than the protection of rights. Understanding the social dynamics that have formed, and can transform, a national regime of transnational labour migration into a domestic service can better address the specific aspects of human security faced by domestic migrant workers in different places.

Domestic workers who have absconded and sought protection in the shelter of the Indonesian embassy in Abu Dhabi and Dubai may be considered as a prototype of the justice seeker in the transnational economy of domestic service between Indonesia and the UAE. Finding ways to enforce standards of decent work and fair dealing is a longer journey that requires a political space for domestic workers to organize nationally and transnationally for their rights. At the broader level, socializing standards of domestic work as work – paid or unpaid – helps ensure the recognition of the dignity of the person doing such work, whether within the family or cohabitation relationships, or in employment relationships. Such standards are crucial in forming a shared understanding of decency about a form of work perennially essential to human life and society, yet so misrecognized and misplaced in the value frameworks that govern society.

16 Facilitating dispute settlements was not allowed by the UAE government as of 2007. The year 2010 was the first year that the Indonesian embassy hired a local team of lawyers to provide legal aid in fifteen cases, due to a change of policy by the UAE government, authorizing the representation of countries of origin to provide legal aid to migrant workers.

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