



# WORKER, HELPER, AUNTIE, MAID?

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

**SUMMARY** 





View the full report at: http://asiapacific.unwomen.org

This views expressed in this publication are those of the authors and do not necessarily represent the views of Government of Australia, UN Women, International Labour Organization (ILO), the United Nations or any of its affiliated organizations. The boundaries and names shown and the designations used on the maps in this report do not imply official endorsement or acceptance by the United Nations.

For a list of any errors or omissions found subsequent to printing please visit our websites.

ISBN: 978-974-680-407-3

Design: www.alikecreative.com Printing: Scand-Media Corp.,Ltd.

Cover photo: UN Women/Pornvit Visitoran

© 2016 UN Women Printed in Thailand All rights reserved

The study was supported by the Australian Government Department of Foreign Affairs and Trade.



This publication is an extended summary of a detailed research report titled "Worker, helper, auntie, maid? Working conditions and attitudes experienced by migrant domestic workers in Thailand and Malaysia."

The study was conducted in 2015-16. Full findings were published by UN Women and the International Labour Organization in 2016 and can be viewed at: <a href="http://bit.ly/2fZvGCy">http://bit.ly/2fZvGCy</a>

Readers are requested to refer to the main report for comprehensive information on the study context, methodology, data sources, data collected, analysis and findings.

### **ACKNOWLEDGEMENTS**

This extended summary is based on a research study conducted as a collaboration between the Migration Programme of the UN Women, Regional Office for Asia and the Pacific and the International Labour Organization, Regional Office for Asia and the Pacific. It was supported by the Australian Government Department of Foreign Affairs and Trade (DFAT) under the UN Women Project "Preventing the exploitation of women migrant workers in ASEAN".

The fieldwork, analysis and write-up were led by Professor Bridget Anderson of Centre on Migration, Policy and Society (COMPAS) at the University of Oxford. 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, including: 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.

Production of the in-depth study was made possible with support from staff at COMPAS: Dr Ruchi Hajela, Will Allen, Lara Casalotti, Luke de Noronha, Emma Newcombe and Julia Pointer.

Ms Eliza Marks led the research from the programmatic side at the International Labour Organization, with support from Ms Anna Olsen, Ms Meri Åhlberg, and Ms Sabrina Kouba, and technical assistance from Mr Max Tunon, Mr Benjamin Harkins, and Mr Nilim Baruah.

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, provided inputs to the study and support to the process. UN Women colleagues from the Regional Office for Asia and the Pacific, Bangladesh, the Lao People's Democratic Republic, and Sri Lanka also offered their inputs.

Sincere thanks go to friends and relatives who introduced their own 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.

This extended summary was written by Emma Newcombe, COMPAS, University of Oxford, with support and guidance from Professor Bridget Anderson and Ms Ruchika Bahl.

### **LIST OF ACRONYMS**

ASEAN	Association of Southeast Asian Nations					
COMPAS	Centre on Migration, Policy and Society [United Kingdom]					
DLPW	Department of Labour Protection and Welfare [Thailand]					
FDH	foreign domestic helpers					
IDM	Immigration Department of Malaysia					
ILO	International Labour Organization					
IOM	International Organization for Migration					
IRO	Immigration Restriction Ordinance [Malaysia]					
MHIS	Migrant Health Insurance Scheme (MHIS) [Thailand]					
MOU	memorandum of understanding					
MYR	Malaysian Ringgit					
THB	Thai Baht					
<b>UN</b> Wome	united Nations Entity for Gender Equality and the Empowerment of Wom	nen				
FIGURE	S AND TABLES					
Figure 1:	ILO Convention 189 definition of domestic work	8				
Figure 2:	Number of items mentioning migrant workers, by publication, 1999-2014					
Figure 3:	Average working hours by nationality, by country of destination					
Table 1:	Domestic worker and employer research samples, by research site	9				
Table 2:	Employers' answers to question "Do migrants bring crime to Thailand/Malaysia?" by country					

Table 3: Domestic worker's view of their current employers, by country

14



THAILAND AND MALAYSIA?	/
DEFINING DOMESTIC WORK	8
HOW WAS THIS STUDY DONE?	9
CONTEXTUAL OVERVIEW	10
PUBLIC ATTITUDES TO DOMESTIC WORK	11
EMPLOYMENT RELATIONS IN THE HOME	14
MIGRANT DOMESTIC WORKERS' PERSPECTIVES	19
CONCLUSIONS AND RECOMMENDATIONS	23

## WHY STUDY MIGRANT DOMESTIC WORKERS IN THAILAND AND MALAYSIA?

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 given the same respect as paid work outside the home, or "proper" work. Consequently, domestic workers may be 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 constrictive immigration laws, or not included in immigration regimes at all and must reside illegally.

Women dominate the sector, outnumbering men in most regions, and accounting for approximately 80 per cent of domestic workers overall (ILO, 2015). The growth of the care economy, another female-dominated sector, is also expected to see more women move into these jobs. In Asia and the Pacific region, an estimated 7.8 per cent of all women in paid employment are in the domestic work sector (ILO, 2013a). Many of these workers are either rural–urban or cross-border migrants. Malaysia and Thailand were chosen as research sites because they are the main destination countries in the South-East Asian region.

The demand for household services, childcare, and care for the elderly 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 at more than 250,000 (ILO, 2013b), excluding undocumented migrants and those working informally. In Malaysia, the number of domestic workers is estimated to be between 300,000–400,000 (ILO, 2016). Both countries' economies rely heavily on migrant workers.

This study is one of the first to focus on the attitudes and behaviour of employers and service providers towards domestic workers. It has been important 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. The particular vulnerabilities and challenges associated with this sector were recognized by the international community in the ILO Domestic Workers Convention, 2011 (No. 189). However, more still needs to be done to understand underlying factors influencing the employment experiences lived by migrant domestic workers, as well as the links between employment relationships and public attitudes to migrant and domestic workers.

### "People treat you badly when they think that you have no choice."

(Kamlee, a Myanmar domestic worker)

This is an extended summary of an in-depth study that can be found at: <a href="http://bit.ly/2fZvGCy">http://bit.ly/2fZvGCy</a>

As does the full report, this summary begins with an overview of the concept of domestic work, a brief explanation of the methods used and the background to the issues in the region, particularly public attitudes. Then the specifics of employment relations in the home are explained, with a focus on working time and the importance of autonomy, wages, and social security. This is followed by 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. Finally the study offers concrete, evidence-based, gender-responsive policy recommendations.

### **DEFINING DOMESTIC WORK**

The ILO Domestic Workers Convention (No. 189) clearly defines "domestic work" and "domestic worker" as shown in Figure 1.

Domestic work in private households is part of the broader category of reproductive labour, including: the raising of 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.

#### Gender

Domestic work is often associated with natural female dispositions - in taking responsibility for the house, a woman is often seen as acting appropriately for her gender. 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 considered inappropriate. Men might oversee domestic workers and in some instances even train them, but often it is 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)

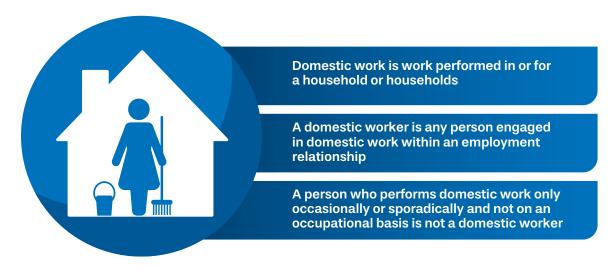
#### **Demand**

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; and ageing populations. But a domestic worker does not create a simple substitute for a housewife, because she is not the mother or the wife. In her performance of her domestic worker duties for the householder she is not reproducing the relation between husband and wife. Even when some of her tasks are the same, her role is different.

#### Skill

Domestic work is generally classed as low-skilled. Non-caring domestic tasks that are sometimes recognized as being specialized, like gardening and

Figure 1: ILO Convention 189 definition of domestic work



chauffeuring, are more likely to be undertaken by men. Some jobs that are deemed low-skilled may demand aptitude for personal relations, organization, and emotional intelligence, among other skills. One employer said he 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, 50s)

So-called low-skilled workers are considered fungible and easily replaceable – it is supposed that anyone can do the work, if only they had the

"In our society men do not want to do work like this."

(Thai female employer)

time. However, this appears to not always be the case for domestic work. Employers are often keen to hold on to a particular worker because they have learned 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.

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 emplyers	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

### **HOW WAS THIS STUDY DONE?**

This study employed a mixed methodology using both quantitative and qualitative data collection tools. Fieldwork was conducted from September 2015 to February 2016, broken down as shown in Table 1.

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.

In addition, four focus group discussions with employers were held, one at each research site. The aim of the focus groups was to explore attitudes toward migrant domestic workers, media impacts, and how to expand good practice. Structured interviews with officials were also conducted in order to get a better understanding of the national political and policy context.

The research hypothesized that in Thailand and Malaysia there is a relationship between public (i.e., media) representation and attitudes towards domestic workers and domestic workers' experience of working and living conditions within that society. Therefore, in addition to the survey, interviews, and focus groups, qualitative and quantitative press analysis was carried out to gauge public attitudes to migrant domestic workers to determine if this relationship is evident.



### CONTEXTUAL OVERVIEW

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, 2015). The study of migration tends to portray 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 nation states, including for Thailand and Malaysia. Focus on cross-border movements has also led to overlooking the relation between internal and international mobilities.

Domestic work performed in the homes of non-relatives is not a new phenomenon either. 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.

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 how 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 legislation as a secondary focus.

While respecting the very different cultures and histories that inform the contrasting legislative frameworks in the two countries, it is possible to draw some interesting lessons by comparing the outcomes of these different approaches.

The rights of women migrant domestic workers, especially in the context of employment, are protected by a range of international human rights instruments. In Asia, this framework includes both international standards and commitments created at regional levels by bodies such as the Association of Southeast Asian Nations (ASEAN). The framework's key protections are the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) including its General Recommendation 26 on Women Migrant Workers (GR No 26), and the ILO Domestic Workers Convention, 2011 (No. 189) with its accompanying Recommendation No. 201

### PUBLIC ATTITUDES TO DOMESTIC WORK

Over the last twenty 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 portraved as house thieves and sex workers on the one hand, and as victims of physical and sexual assault on the other (Chin, 1997). A hostile media discourse framing migration in terms of security threats also permeates Malaysian society and presents migrant domestic workers as a potential threat to the Malaysian general public (Chin 2003). In Thailand, Ali (2015) argues that negative public perceptions toward migrants are influenced by negative messages in the media and news reports, which remain a primary source of information.

Attitudes to issues like migration can vary significantly between different segments of the population, so one must be cautious of claiming insights into homogeneous public attitudes. Moreover, it is important to recognise that the relation between press coverage and public attitudes may go both ways. While it may be tempting to accuse the media of having a negative impact on attitudes towards migrants, press coverage can reflect as much as shape attitudes.

### Press coverage of migrant workers

In order to uncover public attitudes to migrant workers, a qualitative and quantitative analysis of press coverage of migration issues in two English-language newspapers was conducted, the *New Straits Times* in Malaysia and *The Nation* in Thailand).

The publications were analysed to determine how often a selected term appeared in each newspaper or during certain time periods, giving a measure of salience. The frequency of modifiers was also analysed. Such words add detail to objects or people, e.g. "immigrant" can be modified by prefacing it with "illegal", or alternatively with the words "Indonesian", "undocumented", "economic", or "skilled". Analysis of those associations over a large volume of text shows how often certain modifiers are used to describe which words (see Blinder and Allen 2016).

So how often are migrant workers mentioned? Figure 2 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 compared to the *The Nation* (Thailand). Second, the frequency of mentions

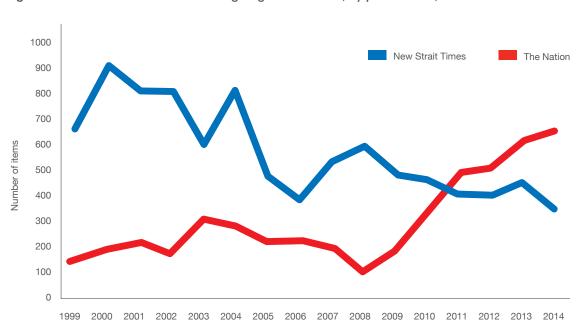


Figure 2: Number of items mentioning migrant workers, by publication, 1999-2014

in *The Nation* was lower at the beginning of the period, but rose over time to take the lead from 2011 onwards, while the number of mentions in the *New Straits Times* fell over the timeframe.

How do the newspapers describe immigrants? Overall, "illegal" was the most common modifier that both publications associated with immigrants, and by quite a large margin compared to the second-most frequent modifiers observed. However, there were interesting differences between the two publications.

In the New Straits Times (Malaysia) there was relatively consistent frequency of the use of "illegal" to describe "immigrants". That modifier was also consistently the most commonly used, with more than 8 out of 10 mentions of "immigrants" prefaced with "illegal" over the period (the lowest rate being 79.7 per cent in 2000). In other words, when a reader of the New Straits Times during this period encountered a mention of an immigrant or immigrants, 80–95 per cent of the descriptions would have included the word "illegal".

The same analysis for The Nation (Thailand) shows a decline of "illegal" as a modifier of "immigrants" over the period – both in terms of normalized frequencies and the share of all modifiers for that word. Over the period, it declined 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 high, even in comparison with, for example, the UK press, which has been shown to present a strong association between migration and criminality (Anderson, 2013). For the period from January 2006 to May 2015, the UK press used "illegal" about 29.5 per cent of the times a specific modifier appeared before "immigrants" or "migrants".

In all the stories selected for qualitative analysis, the voices of migrants themselves are absent. Migrants were cited in only three of the more than 200 reports, and in all instances they were only indirectly quoted. In contrast, police were quoted in 23 cases and other officials in 17. By not including migrants' voices in press coverage, journalists and other media actors heighten the risk of negative or biased representations.

The 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. Employers also expressed concern in the interviews about the potential for their domestic worker to be associated with criminal activity. The relation between press and public attitudes is complex, but 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 positively predisposed towards immigrants, it is important to remember that these publications are not representative of either country's whole media environment. Among other factors, newspapers are only one of many media outlets, and arguably one that is decreasing in scope compared to television, radio, and of course, social media.

### Employers' responses to media representations

Employers were asked whether they associated migrants in general with crime. Overall, 36 out of 105 employers felt that migrants bring crime to their country of destination (Table 2).

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 biased by three of the employers, who pointed out there was no appreciation of what might have been done to the worker.

**Table 2:** 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	
Uknown	1	1	2	
TOTAL	50	55	105	

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 and was sentenced in 2008 to 18 years in prison. Other stories referenced were about physical harm, whether perpetrated by an employer or by a domestic worker. Generally employers in Malaysia felt that the coverage of migration and domestic work was unbiased and accurate, in part because employers' poor treatment of workers received due mention.

The negative images and discourses disseminated in the media and by state officials evidently promote a hostile environment for migrant workers. It is not possible to say whether press coverage is the root cause of these attitudes, or perhaps a consequence of them. But whatever the origins of public hostility and xenophobia to migrant workers, the findings suggest those attitudes cannot be overcome by contact with migrants alone, as all respondents had close

contact with them 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 unseated. In terms of challenging and fine-tuning public perception, there is a need to recognize that these are fuelled by the dominant discourse espoused by journalists, politicians and others. Moreover, 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: who should perform it for whom; how they should behave; and what constitutes appropriate behaviour for employers and workers. Only through questioning 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.

### EMPLOYMENT RELATIONS IN THE HOME

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 employment relations and fictive kin relations:

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

Fictive kin relations are by contrast bound up with affective relations, mutual dependence, and a sense of duty. The fictive kin concept is particularly associated with the employment of live-in workers. It draws on hierarchical relations of status, and the emphasis is not on selling labour power, but on helping. Helping is what the domestic worker is seen as doing 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 in their care.

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 (see Table 3). This indicates that the fictive kin relationship is not necessarily incompatible with good working conditions or respect for workers' rights.

Table 3: Domestic worker's view of their current employers, by country

	Bangkok		Chiang Mai	
	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 emplyer	6	3	1	0.5
Unknown	20	10	16	8
TOTAL	200	100	200	100

Fictive kin relationships can tie a worker to a family even more effectively than immigration status or contract, even though they 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 apparently benevolent employers. For example, despite sick pay being enshrined in various international labour standards, the act of providing it was not regarded by respondents as a minimum employment standard, but as evidence of being a good employer and a nice person. Moreover, being part of the employer's family means that workers own family responsibilities can be overlooked. "Malaysians will not work in the house; they will run back to their own houses," in the words of one Malaysian male employer in his 40s. "The Indonesian workers will stay permanently, as they can't return. They will be around until their contract ends."

A written contract setting out the duties and responsibilities of both parties is indicative of, but not necessary to, a contractual form of relationship. "People should [have written contracts], but they won't care or want to do it, and that goes for both parties," one Thai employer explained. Another Thai employer, a woman over 60, also conceded that employers should offer a written contract, but said "it's too complicated and I'm too lazy." Moreover, recognising rights in theory does not necessarily translate into giving them in practice - just because an employer has signed a contract does not mean that they are abiding by its terms. As Thai employer in his late 20s said in a sheepish tone, "I ticked them but I actually do not give these rights to my workers."

One of the key findings of this research project was 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 part of the family can constitute a source of recognised status and pride for domestic workers. Employers also deploy fictive kin relationships. These are not necessarily an excuse to mistreat the domestic worker, but can also express recognition of the value of their work, particularly its emotional investment.



"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+)

But in practice, employers' attitudes and practices often shift between kin and contract relationships, and this slippage is also evident in government approaches. More attention needs to be paid to this slippage, as the employer effectively has the power to move between the two models according to circumstance, to avoid the obligations of either at any given time, and putting the downside of both contractual and personal obligations on the worker.

#### Trust

Homes are emotive spaces, not just where jobs get done, and these emotions 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 employer in her 40s) – or in terms of reliability and behaviour. For others, total trust was never possible.

Domestic workers also considered gaining their 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... 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 linked to respect for their integrity and them as a person. Like employers, they had varying ideas about what constitutes 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 be able to wash herself; and yet another said that she would consider leaving if she found her employers gossiping about her.

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\$335–420) 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 [domestic staff] 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 excessive 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 said her relationship with the employer was "like family," But did not signify intimacy. "I don't need to be involved with them much," she said, adding was not unhappy and felt well treated, but looked forward to a future when things were different. "I want to have my own house, and be in a situation where I do not have to be a *ke kaa* [servant]."



Figure 3: Average working hours by nationality, by country of destination

### **Working hours**

"They will tell us the time to mop, time to sweep, time to wipe things clean and the time to be completed."

(Linda, an Indonesian domestic worker)

Both Thailand and Malaysia have set maximum working hours at eight hours a day, although this does not apply to domestic workers. In Thailand, equal treatment should respect this, as well as the weekly limit of 48 hours, with a rest 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 pm and 5 am and are not allowed to start a day's work without 11 hours of consecutive rest.

The data shows that in both Thailand and Malaysia domestic workers work more hours than is considered acceptable in other sectors. The average hours found in Malaysia (14.42 per working day) were significantly more than in Thailand (11.89 per working day). The sample was not representative, but the data is in line with the ILO findings that domestic workers in Malaysia work the longest days of the sector in the world (ILO, 2013a). Notably the average hours worked for live-out domestic workers were less.

In both Thailand and Malaysia there is a significant relationship between working hours and nationality (Figure 3), but there is hardly any correlation between legal status and working hours. In Thailand, Thai workers have among the longest hours, whether or not they are carers.

Regulating hours is a particular challenge for domestic workers (ILO, 2014). 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.

Hours spent on stand-by, where the worker must be available for work but may not be called on, may not involve actual labour but should be counted as distinct from time off. This affected the live-in workers in the sample the most, particularly domestic workers employed in Malaysia. One domestic worker interviewee described how she often had to wait up so she was available to open the gate for her employers when they returned from parties.

### "If you stay in, every hour, every minute, the boss controls you."

(Pine, a Cambodian domestic worker)

Employers interviewed regarded stand-by hours as not properly working, but workers were far more ambivalent. Defining stand-by time and breaks can then be very difficult in practice. One of the main difficulties of live-in domestic work is that there never is a real break because as long as domestic

workers are at the workplace they must respond to employers' calls whenever they are made. In other words they are always on stand-by (ILO, 2014). Workers' and employers' different perspectives on availability and lack of work intensity contribute to different approaches about what constitutes working time.

Given the problem with stand-by hours and rest time, being able to leave the house on one's day off has a particular pertinence. It allows the employee to withdraw availability, and spend some time no longer being a domestic worker and leading an autonomous life instead. 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 enforce, logistical dependence on a particular employer.

In Malaysia the Immigration Department asserts that "employers are responsible for the conduct and discipline of the FDH [foreign domestic helper] while she is in Malaysia" (IDM, 2016). These kinds of restrictions run counter to the idea that domestic workers are part of the family, or at least suggest that the ways in which they are included in the family are extremely hierarchical. 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 domestic workers are part of the household not full members of the home.

Employers suggested that fear of crime justified and explained these restrictive measures, and overrode any consideration of the workers' social and emotional needs. "Danger? Yes surely there is possible danger in their friends visiting my house," said one Malaysian employer in his 40s

Employers' impulse to protect the household may be compounded by a more general distrust of workers' autonomy. One Malaysian employer in his 50s said he was horrified when he and his family returned home after a day trip to find that the domestic worker had ordered fast food. "The guy was delivering McDonalds 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). Time off for domestic workers should mean not only being free from domestic work but also the freedom to choose how to spend their time.

#### Money

At first sight the average wages of migrant domestic workers seem in line with other lowwaged workers, particularly considering the provision of food and accommodation. However, closer attention to the data exposes a different 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 effective wages per hour worked, then the pay of domestic workers is significantly below the minimum wage. Third, averaging the pay masks significant discrepancies between different nationalities of worker. In Malaysia these discrepancies are enshrined in the wage legislation imposed on employers.

When it came to social security rights, for example to maternity or sick leave, or pensions, employers particularly in Malaysia - tended to consider these as part of the workers' personal life, and not their responsibility.. The benefits guaranteed by the Malaysian system did not apply in their opinion, because immigration requirements essentially consider workers as temporary. Even if their visas can in principle be renewed, they are considered disposable if they become sick, pregnant, or too old. Moreover, the kinship relations that might act as a safety net for full family members can be withdrawn, legitimated by workers' temporary status. 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.

### MIGRANT DOMESTIC WORKERS' PERSPECTIVES

Migrant domestic workers are often envisioned as a homogeneous group by policy-makers and advocates. They are, however, as varied a population as any, and it is not possible to generalize about their self-perception any more than that of Europeans, or women, or aid workers. But the majority do have in common the need to manage society's perception of them as migrant women and domestic workers.

### Self respect and endurance

Several of the migrant domestic workers interviewed were self-conscious about their lack of education, stating that domestic work is a job that can be done if you are not smart and that society looks down on the poor and illiterate. However, they also demonstrated considerable self-respect and a sense of self-worth, describing themselves as diligent, honest, and hardworking. "I am not praising myself. I am just being straightforward," said Kamlee, a Shan domestic worker from Myanmar working in Thailand. "I am a good person." They showed pride in their role and in doing a good job, even if their employer denigrated them. How they maintained this self-respect varied.

One challenge 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 work as being "like a soldier" in this respect. Many interviewees emphasised the virtue of endurance and patience. "I stayed there for long and I endure," said Keyk, a 28-year-old Karen woman from Myanmar working in Thailand. "I can withstand anything," said Sharon, 32, an Indonesian working in Malaysia. There was 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.



often for a future purpose. Like almost all of the 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 business envisaged - food selling - were often gendered work that did not require any formal education. But in stark contrast to domestic work, the projects were generally autonomous, outside the home, and with control over the workers' own time. The plans often involved a level of investment risk, having the capital to mitigate that was considered important by many women. Such an enterprise would mean "a life with freedom where I don't have to be someone's employee," said Hom, a Shan woman aged 29 working in Thailand. All interviewees except one were future-orientated in their outlook. For mothers there was considerable pride in earning money for their children. Daughters were proud of earning money to support their parents. They had plans, for themselves or for members of their real families.

#### **Emotional relations with employers**

Fictive kinship enables a worker to establish an emotional relationship with the family they work for and with the people that they care for. Kyek was evidently a strong woman with clear ambitions. She looks after two older people and earns THB6,500 (US\$182) 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.

"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."

(Keyk, Shan domestic worker, Thailand)

The delicate balance she described involved her family history, her current status as a single woman, and the personal relationship between her and the employers. She said she felt the nature of the relationship to be unique and not replicable – and that 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 said was happy with the arrangement for now and felt that she had freedom within it. This benefit from kinship-style ties was also experienced by other workers.

Fictive kin relations are often viewed by activists, trade unionists, and other organizations as a veneer to excuse employers' poor treatment of and denial of rights to domestic workers. This overlooks the important fact that domestic workers also deploy the fictive kin model, persistently and consistently. Writing this dynamic off as a false consciousness is insufficient to understanding it.

For domestic workers, the fictive kin concept clearly captures an important element of their relation with the households where they work. It is worth noting that workers themselves stated that the problems with fictive kin relations were not only (and in some cases not even primarily) the denial of their rights as workers, but rather the shortcomings compared to real kin relations, with show greater commitment to long-term emotional and social well-being. Emphasising the formalisation of contractual relations to address the workers' problems could overlook this aspect.

Of course, not all domestic workers or 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 lead to 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 ties as an unwelcome distraction from contract relations means that these 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.

#### Power imbalance

The imbalance of the emotional relationship is as clear as the employment one. Households are also places of irritation and frayed tempers, but the scolding is only authorized in one direction. Several employers admitted that they could sometimes fly off the handle, but in 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," said Lea, 41, a Filipina working in Malaysia. "I won't complain, if I complain they won't let me go out." (Lea, Filipina aged 41 working in Malaysia).

Some domestic workers knew their rightsbut were in practice not 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," said Linda, 23, an Indonesian working in Malaysia. Even outside their role as caregivers for children and the elderly, domestic workers often described doing a considerable amount of invisible emotional management, including dealing with jealousy, anxiety, and bad tempers.

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 patience.

This demonstrates the high value of the affective investment by domestic workers in their job, whether caring for dependents or managing the emotions of the household's adults. As author Viviana Zelizer (1994) suggested, their work may be considered economically worthless but it is emotionally priceless. This value is not captured by the contractual side of the relationship, and could be threatened by an excessive focus on that side. An engagement with the emotional aspect of domestic work therefore is important to safeguard positive elements for both employer and worker.

#### **Organising**

To encourage dialogue between workers and employers, it is important to support the development of organizations that can articulate and represent the needs and interests of domestic workers, including migrants. 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). This difference is explained to some extent by the sampling method in that interviews in Thailand we found via organizations such as HomeNet, but different legislative environments were also a factor. 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. However, what is observable in both countries 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 likely to earn higher wages.

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. 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. This indicates that there is a need for information sharing among employers, and therefore a potential role for existing employers' organizations to spread information about domestic workers' rights and encourage best practice.

### KYEK'S DETERMINED QUEST FOR A BETTER LIFE

One of the most striking interviews was 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 everyone: married, have babies and family. Just that. Human beings were not born to just be that. We should be able to improve for a 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 turned down one suitor. "I wanted 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 a domestic worker, but educating herself, planning to get a degree and become an educator herself. "No one is born literate. Everyone was born to earn knowledge during their life."

### CONCLUSIONS 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, with the wage earner as a focus for institutional reform, the importance of social reproduction work has been forgotten. The labour conditions of domestic work have received inadequate attention, perhaps because the sector does not fit conventional models of employment and contract but it is central to the ways that many societies and economies are organised and should receive equal attention from those seeking to safeguard workers' rights and well-being.

Improving the situation of migrant domestic workers requires attention to both policy and law - and in the field of employment as much as that of immigration - but also changing the culture around domestic work, gender relations, and attitudes to migration. This study 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. And that autonomy 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.

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, 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 licence 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.

#### 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 workplace 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 experience of migrant domestic work 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. To this end, recommendations are structured around three key areas: employment relations; immigration status; and changing culture.

#### **Employment relations**

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

 All Governments should sign and ratify the ILO 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.

- 2. Domestic workers' right to social security and social protection must be acknowledged in law. 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. Specifically, the Thai Government should include domestic workers and migrant domestic workers under Section 33 of the Social Security Act and ensure minimum wage protection for domestic workers. The Malaysian Government should extend the minimum wage to all domestic workers, and enable contributions to and benefits from pensions, maternity pay, and unemployment schemes.
- Existing government-issued employment contracts should be reworked through social dialogue with MDWs, to reflect that contracts must meaningfully protect both employers and domestic workers.
- 4. Governments should develop mechanisms that ensure 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 should be under employment protection structures, not within immigration enforcement.
- 5. Dedicated communication with domestic workers should be explored by civil society, in cooperation with government labour protection departments, perhaps through radio or social media, explaining domestic workers' rights and sharing information about support groups and trade unions.

6. Education and improved orientation programmes should be developed for domestic workers and employers, by civil society, trade unions and governments on how to: calculate working hours; gain freedom of association and movement; inform domestic workers and employers about the function and benefits of employment contracts; and access a trade union- or worker-endorsed model contract and encourage its use among their employees. They should also investigate changing and improving processes such as how to alter employment contracts to better reflect the emotional ties of a worker and employer.

### 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 regularised, if possible and not burdensome.

1. Collaborative international policy should be developed to advocate for improved labour rights and social protections for all domestic workers. Governments of countries of origin should work together with major destination countries to protect all domestic workers regardless of nationality, rather than relying solely on MOUs to enable rights protection. These can improve labour protections for some migrant domestic workers, but 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. 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 ILO Convention No. 189.

- Employment protection and immigration enforcement issues should be treated separately by governments to enable domestic workers to make complaints about labour rights violations without fear of removal.
- Simplified processes of redress should be developed by governments to enable migrant domestic workers to change their employers in cases of abuse or exploitation.
- 4. Official networking meetings for migrant domestic workers could be hosted by consulates of the relevant countries of origin for advice and support.

### 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.

1. A coordinated and evidence-based publicity campaign on the social and economic value of domestic work, their rights of domestic workers, and on the positive contributions of migrant workers, should be run by Governments, civil society, trade unions and other stakeholders to educate the public, particularly young people. Also consider depicting abuses of domestic workers' rights in a way to make their frequency alarming rather than mundane.

- 2. Develop or revise style/good practice guides regarding terminology, reflecting different voices. Civil society and media should work together to develop a better understanding of the issues. This might include attention to the terms used for "migrant" and "domestic worker", and "undocumented" or "irregular" rather than "illegal" in reference to immigration status. Journalists should ensure that voices of migrant workers are equitably included in media coverage related to labour migration to ensure that migrant workers are seen as individuals, rather than a mass, and to challenge negative stereotypes and perceptions.
- 3. National and multinational organising of domestic workers, including citizen domestic workers, should be facilitated by civil society and trade unions, to increase the voice and agency of domestic and migrant workers. Civil society, governments, and other stakeholders should support the development of domestic workers' ambitions and education, including through language and financial literacy training.
- 4. Employers of domestic workers should be encouraged to organise either independently or under the banner of existing employers' federations. These organizations could be used in wage-setting negotiations, and to support and share information on best practice, including on domestic workers' rights. 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.

### **BIBLIOGRAPHY**

Ali, A. 2015. Public attitudes to migrant workers: Attitude formation in Thailand and roles of campaigns in the way forward.

Anderson, B. 2013. *Us and them?: The dangerous politics of immigration controls* (Oxford, Oxford University Press).

Blinder, S.; Allen, W. 2016. "Constructing immigrants: Portrayals of migrant groups in British national newspapers, 2010–2012", in *International Migration Review*, Vol. 50, No.1, pp. 3–40.

Chin, C. 1997. "Walls of silence and late twentieth century representations of the foreign female domestic worker: The case of Filipina and Indonesian female servants in Malaysia", in *International Migration Review*, Vol. 31, No. 2, pp. 353–385.

—. 2003. "Visible bodies, invisible work: State practices toward migrant women domestic workers in Malaysia", in *Asian and Pacific Migration Journal*, Vol. 12, No. 1–2 pp. 49–73.

Immigration Department of Malaysia (IDM). 2016. Foreign Domestic Helper (FDH) Guidance

International Labour Organization (ILO). 2013a. *Domestic workers across the world:* Global and regional statistics and the extent of legal protection (Geneva, ILO).

- . 2013b. *Thailand: new Ministerial Regulation offers better protection of domestic workers' rights*, Developments in Law and Practice 2013 factsheet (Geneva, ILO).
- —. 2014. Working around the clock?: A manual for trainers to help live-in domestic workers count their working time (Geneva, ILO).
- 2015. ILO global estimates on migrant workers Results and methodology:
  Special focus on migrant domestic workers (Geneva, ILO).
- 2016. Review of labour migration policy in Malaysia (Bangkok, ILO).

Wimmer, A.; Glick-Schiller, N. 2002. "Methodological nationalism and beyond: Nation-state building, migration and the social sciences", in *Global Networks*, pp. 301–334.

Zelizer, V. 1997. *Pricing the priceless child: The changing social value of children* (New York, Princeton University Press).

#### **UN WOMEN**

UN Women is the UN organization dedicated to gender equality and the empowerment of women. A global champion for women and girls, UN Women was established to accelerate progress on meeting their needs worldwide. UN Women supports UN Member States as they set global standards for achieving gender equality, and works with governments and civil society to design laws, policies, programmes and services needed to implement these standards. It stands behind women's equal participation in all aspects of life, focusing on five priority areas: increasing women's leadership and participation; ending violence against women; engaging women in all aspects of peace and security processes; enhancing women's economic empowerment; and making gender equality central to national development planning and budgeting. UN Women also coordinates and promotes the UN system's work in advancing gender equality.



UN Women Regional Office for Asia and the Pacific 5/B UN Building, Rajadamnern Nok Avenue Bangkok 10200, Thailand

**(** +662 288 2093

**=** +662 280 6030

Info.th@unwomen.org

http://asiapacific.unwomen.org

@unwomenasia

@unwomenasia