Managing labour migration: The case of the Filipino and Indonesian domestic helper market in Hong Kong

Emilyzen Ignacio and Yesenia Mejia

Regional Office for Asia and the Pacific
March 2009
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Abstract

This paper examines and compares the various institutional arrangements for regulating migration that have been developed in Indonesia and the Philippines, referring to them generally as “migration infrastructure”. The study sought to determine whether these have any impact on the relative conditions of employment of Filipino and Indonesian domestic workers in Hong Kong.

About the authors

At the time of the writing of this report, Ms. Emilyzen Ignacio and Ms. Yesenia Mejia were graduate students in the Masters of Public Policy Program of Harvard University’s John F. Kennedy School of Government, which they have since completed. Previously, they have had various experiences working for non-government organizations and private firms dealing with migrants.

The responsibility for opinions expressed in this working paper rests solely with the author or authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them, or of any products, processes or geographical designations.
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ACKNOWLEDGEMENTS

This paper was written in partial fulfillment of the requirements in the Master in Public Policy Program at the Harvard University John F. Kennedy School of Government. We would like to extend our deepest gratitude to our client, Mr. Manolo Abella of the ILO/EU Asian Programme on the Governance of Labour Migration. Without his generous support and that of the ILO, this project would not have been possible. It is our hope that this report will be of use to the ILO and their continued efforts to provide decent work for all, particularly migrant workers.

We would also like to thank the Ash Institute of Harvard University whose generous funding allowed us to travel to Hong Kong to interview the subjects of this study – Filipino and Indonesian foreign domestic helpers – enhancing our understanding and hopefully that of our readers on this growing governance dilemma.

We also acknowledge and thank the following people for their contributions to this project:

To our faculty advisory committee—Professors Jacqueline Bhabha, Mary Ruggie and Julie Wilson—we remain grateful for your encouragement, guidance and support. We would also like to acknowledge Professor Martha Chen whose networks in international migration made our client engagement possible.

To our networks in Hong Kong—our field work in Hong Kong went smoothly thanks to the help of the numerous NGOs and CSOs we met on the ground. In particular, infinite thanks to: Cynthia Abdon-Tellez, Ario Adityo, Ade “Ipang” Ahmad, Dolores Balladares, “Gi” Estrada, Eni Lestari, and Mia Sumiati who provided us a window into the often overlooked hardships female foreign domestic helpers face; facilitated the administration of our survey; and linked us to a wider network of migrant organizations.

To our survey translators—Ludi Mahadi, David Ng, Ray Parsioan and Ahmad Shariff—your translations allowed us to include dozens of first hand accounts of Indonesian foreign domestic helpers into our findings, giving life to their struggles. To our personal support networks—your encouragement, love, and understanding proved invaluable. Notable thanks to Roy Cervantes whose patience, ability to make pivot tables fun and fresh feedback should not go unmentioned. To our families—we thank you for providing constant mental nourishment and your migrant experiences that inspired us to undertake this research.
Our final thanks go to the countless female foreign domestic helpers who courageously shared their stories (and only day off) with us in hopes that other migrants will not have to experience their struggles. This is dedicated to you.

SALAMAT PO. TERIMA KASIH. THANK YOU.
EXECUTIVE SUMMARY

Over the past two decades, gross labour emigration rose at an annual rate of 6 per cent for the Asian region as a whole. This would make the growth of labour migration over two times faster on average than the growth of the labour force of the origin countries¹.

While labor migration has demonstrated numerous benefits—such as the economic development of sending and receiving states—it also carries hefty costs to those who cross borders for employment. Migrant workers are vulnerable to economic shocks, exploitation and human rights abuses, to name a few. In response to these dynamics, a variety of state and private sector institutions have emerged, forming migration infrastructures (or systems) that facilitate the movement and welfare protection of transnational workers. Examples include government regulatory departments, recruitment agencies, and state supported mechanisms for redress, etc.

Different policies within sending and receiving countries conflict making it difficult for all parties involved to enjoy the full benefits of international labor. To effectively address this transnational issue, multi-state collaboration is necessary to develop transnational solutions. As the primary United Nations’ (UN) specialized agency for the protection of the labor rights of migrant workers, the International Labour Organization (ILO) is in a prime position to facilitate these efforts. In this spirit, the ILO has commissioned this policy analysis exercise (PAE) to examine:

- How designated case study governments are managing the temporary migration and employment contracts of low-skilled workers; and
- How labor migration infrastructures influence the protection of overseas workers from pre-departure to employment abroad.

Answering these questions should provide insight into whether higher migration infrastructures—in the sending and receiving state—lead to better protection of overseas workers.

1.1 Methodology

The methodology for research includes a literature and law review; the development and administration of a survey tool administered to foreign domestic helpers (FDHs) in Hong Kong, as well as informational interviews with key government officials and civil society organization (CSO) service providers in the country of destination. Data from the 162 observations collected were analyzed to understand whether differences between two sending country migration infrastructures could lead to observable variations in the protection and welfare of their overseas workers in one designated migrant-receiving state.

Limitations

The use of snowball sampling, which includes disproportionate representation of migrants in shelters, inhibits the use of broad generalizations about the impact of migration infrastructures. Additionally, future studies should control for variables that also influence migrant workers’ welfare, such as education, income prior to migration, language skills, prior experience with labor migration, etc.

1.2 Framework

Traditional frameworks for addressing labor migration issues, such as the UN Convention on the Protection of the Rights of All Migrant Workers and their Families have placed all responsibility for the protection of migrant worker rights on sending and receiving states. Today, however, the role of the state in facilitating migration for employment (from recruitment to placement abroad) has lessened amidst the private sector’s increasing hand in steering this profit-driven market. Consequently, a new framework is needed to understand how states can balance the various stakeholders’ (state, employment agencies and migrants) economic interests with the protection of migrant rights.

The framework below was employed in this report and justifies the case study states selected. These were classified into typologies, based on their migration infrastructures:

<table>
<thead>
<tr>
<th>Type of State</th>
<th>Type of Migration Infrastructure</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Country of Origin</td>
</tr>
<tr>
<td>Indonesia</td>
<td>X</td>
</tr>
<tr>
<td>Philippines</td>
<td>X</td>
</tr>
<tr>
<td>Hong Kong</td>
<td></td>
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</table>
A state with a higher migration infrastructure imposes more fees upon labor migration stakeholders and provides greater access to social protection services for migrant workers relative to a state with lower migration infrastructure.

### 1.3 Findings

Analysis of our survey findings suggests that the range of problems and exploitation Filipino and Indonesian domestic helpers face are the same. However, important differences arise in the magnitude at which violations are reported across these populations. Over all, Filipino maids detailed violations with less frequency than their Indonesian counterparts. This variation in outcomes indicates that the interplay of higher migration infrastructures in both sending (the Philippines) and receiving (Hong Kong) states leads to better welfare among migrant workers.

Trends from the PAE-FDH survey support the initial hypothesis and are highlighted below:

**Pre-departure: required interactions with migration infrastructures**

- **Pre-departure costs differ across populations.** At least 74 percent (n=82) of surveyed Indonesian FDHs did not indicate any pre-departure payments, but noted that their fees came in the form of salary deductions once in Hong Kong (i.e. monthly payment of HK$ 3,000 for first seven months). In general, migration costs for Filipino FDHs surveyed were up-front – incurred and settled in pre-departure stages. Fees were paid to various government agencies and private institutions in the Philippines for services that include training, skills certification, medical examination, document processing and mandatory insurance.

- **Filipino FDHs tend to be more aware of Hong Kong laws.** Surveyed Filipino FDHs reported greater awareness than Indonesians of their human rights as well as relevant Hong Kong labor and immigration laws. Twenty-three (n=80) Filipinos certified the government informed them of these rights prior to departing for Hong Kong. By contrast, only one (n=82) Indonesian credited their government for prior exposure to Hong Kong laws.

Pre-departure findings suggest that the Filipino FDHs surveyed are required to pay more fees for migration services than their Indonesian counterparts prior to departing for Hong Kong.
Employment conditions abroad
The following findings were based on an analysis of FDHs in the survey whose current or last contract is/was their first employment contract in Hong Kong (max n=54). Whether this was their first experience working abroad was not captured by the survey. Below are the top working condition infringements:

- **Most surveyed FDHs indicated overcharging by private employment agencies.** All Indonesians surveyed experienced paying agency fees beyond the limit set by Hong Kong (i.e. maximum of 10% of first month’s earnings). Only a few Filipinos experienced overcharging (i.e. paying any placement fees) according to Philippine laws.

- **Job insecurity is a major concern across both populations.** The prevalence of early terminations was identified as a top FDH concern by government officials, NGO service providers, and migrants interviewed. Fifty six percent (n=55) of the contracts were prematurely terminated. Indonesians surveyed were terminated early at greater rates than Filipinos (67 percent, n=30 versus 44 percent, n=25 respectively).

- **Indonesian FDHs reported greater rates of contract and human rights violations.** Violations include performing duties not specified in the original contract, denied rest days and/or statutory holidays, physical and verbal abuse, as well as passport withholding by employers or agencies.

1.4 Recommendations

Much like globalization, migration has been globally recognized as advantageous for both sending and receiving economies. However, unlike the transfer of technology or capital, the movement of people for employment is vastly complex, requiring careful management and attention. Through its tripartite structure (employers, employees and governments), the International Labour Organization can serve a critical role in enhancing migration management and strengthening the protection of migrant workers’ rights by reemphasizing the need for transnational cooperation and resolve to this cross-border quandary. Based on the initial findings, it is recommended that the ILO spearhead the following initiatives:

- **Support systems for assessing and acting upon primary sources of FDH job insecurity.** Specifically, collect data not only on the frequency but reasoning behind early terminations. If insufficient training is cited by the employer as the reason behind firing, for example, after a pre-determined number of identical grievances, careful review of the training center/camp should be prompted. Instituting such mechanisms can provide great insight into employee satisfaction and the actual effectiveness of current migration support systems while bringing accountability to this expanding trade.
➢ **Conduct a strategic review on the role of private recruitment agencies on the FDH market.** Regulation of the private sector on the FDH market has been loosely upheld by the Philippine, Indonesian and Hong Kong governments. Focus should be shifted towards understanding the impact these agencies have had, and continue to have, on migrant worker rights and welfare.

➢ **Push for regional agreements to tackle enforcement gaps.** Currently, no formal bilateral or regional accords have been signed between the sending and receiving states studied. As a result, persistent loopholes or counterproductive measures persist, threatening the safety and security of this vulnerable group. In order to achieve the two previous objectives, shared conceptions of employment and migration standards in the form of regional (or bilateral agreements) should be sought.

➢ **Continue to perfect and expand data collection which measures the impact of migration infrastructures on the welfare of overseas migrants.** Little remains known about the effect labor migration policies and systems have on overseas workers –especially those in low-status sectors such as domestic work. Collecting reliable data is a tremendous challenge but an important feat. This should include the compiling of baseline statistics detailed in this analysis, worker perceptions and satisfaction of state provided services, etc.
RESEARCH AIM

Every year, millions of migrant workers (and their families) cross national borders in search of decent work and human security. Economic migrants comprise the world’s fastest growing group of migrants. In 2000, economically active migrants were estimated at 81 million – or around 90 percent of all international migrants. Nearly half of these migrants are women, now mostly migrating independently.

Globalization has bolstered such movements creating powerful “push” and “pull” factors. Lack of opportunities for full employment and decent work in many developing countries has pushed countless men and women to look beyond their borders for a living. Simultaneously, other countries experience shortages of workers in various sectors of their economies creating a demand for labor from abroad. Other factors for migration include demographic changes, socio-economic and political tensions, and widening wage gaps within and between developed and developing countries.

Labor migration can be beneficial for those countries that send as well as receive migrant workers. It can facilitate economic development and growth in both countries of origin and destination. Labor migration has revitalized workforces, promoted entrepreneurship, and supported pension schemes in receiving countries. In developing regions where migrants come from, transnational communities have benefited from remittance flows, transfer of investments, and the exchange of technology and critical skills.

Yet the migration process also poses serious challenges. Migration is a costly process and migrants are especially vulnerable to economic shocks and crises in receiving states. Moreover, reports of exploitation and human rights abuses from countries of destination highlight the need for more effective regulation of the migrant labor market, especially among low-skilled, low-status sectors such as domestic work.

At the multilateral level, labor migration management efforts have not kept pace with the migration phenomenon. During the 2006 High-Level Dialogue of the United Nations (UN) General Assembly, member states and partner UN agencies convened–for the first time–to solely discuss global migration, highlighting migration

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2 UNFPA.
management as a top concern. More than ten years following its passage, the UN Convention on the Protection of the Rights of All Migrant Workers and their Families entered force in 2003 representing a major step towards improving the lives of this vast and mobile population. To date, only 37 countries have ratified the Convention–none of them major receiving states.

Nevertheless, countries of origin and destination have reached little consensus on how best to manage migration and mitigate the hefty costs of mobility assumed by transnational workers. Governments remain constrained by the lack of data and evaluation studies; coordination gaps between varying systems for employment and human rights protection; ambiguous institutional mandates; and the relatively little reporting by human rights organizations and the media.

While a variety of state and private sector structures have emerged to manage migration, little is known about the efficacy of these migration infrastructures (or systems) or the impact the varying types have on the journeys and experiences of migrants working abroad. Thus, as this “trade” expands, the challenge of how to effectively manage labor migration will become more complex and important.

Do higher migration infrastructures – in both sending and receiving states – lead to greater protection of overseas workers?

This policy analysis exercise (PAE) has been commissioned by the ILO Regional Office for Asia and the Pacific to provide a fresh perspective on a growing governance policy concern: How effective are current labor migration infrastructures at ensuring the welfare of migrants for employment?

In an effort to advance the study of labor migration management, this report compares states with different migration infrastructure and the experiences of their migrant workers while in the host country. Specifically, this paper analyzes the Filipino and Indonesian foreign domestic helper market in Hong Kong. Of particular interest is whether the combination of high migration infrastructures from sending and receiving states makes for safer journeys and working conditions abroad. This study aims to

5 Throughout this paper the terms domestic helper, domestic worker and maids are used interchangeably.
reframe the migration management debate into a transnational one requiring transnational cooperation and solutions endorsed by governments, private sector intermediaries as well as migrant workers and their advocates.
To understand the impact of migration infrastructures on the protection of migrant workers, this policy analysis exercise (PAE⁶) focused on the experiences of foreign domestic helpers from two case sending countries with different grades of labor migration infrastructures—the Philippines and Indonesia—working in a neutral destination country, Hong Kong. Hong Kong was selected as the migrant receiving state at the recommendation of our client and given its strong labor laws and accessible state migration infrastructures. As the largest, most active migrant populations in Hong Kong, the Philippines and Indonesia serve as the contrasting sending state systems.

The methodology employed includes a review of international and national migrant labor laws as well as dominant literature and media reports. The main tool for analysis involved the creation of the Policy Analysis Exercise-Foreign Domestic Helper Survey (subsequently referred to as PAE-FDH Survey) which was administered to 162 Filipino and Indonesian domestic workers over an 18-day field visit in Hong Kong. During this time, informational interviews with government officials and various representatives from local civil society organizations (CSOs) dedicated to the migrant cause were carried out.

3.1 Survey questionnaire

The survey questionnaire was developed to capture the level of engagement between the transnational worker (in this case, Filipino and Indonesian FDHs) and specified migration infrastructures, from pre-departure to employment overseas. During the administration of the PAE-FDH Survey, researchers were primarily concerned with sample size and quality of surveys completed. FDH interviews were attained with the assistance of several migrant CSOs in Hong Kong. For quality control, whenever possible the PAE-FDH survey was administered on a one-on-one basis by researchers. A Bahasa version of the survey was made available to Indonesian FDHs uncomfortable or unfamiliar with the English language. To increase the sample size and spread of migrant experiences captured, the survey was administered in group settings at frequented public spaces as well as shelters throughout Hong Kong. Group surveys

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⁶ This PAE was a four month project carried out for academic credit and under the supervision of faculty as part of the Master in Public Policy Program at the John F. Kennedy School of Government at Harvard University.
were often completed with an Indonesian migrant advocate interpreting, facilitating and fielding questions about the survey.

### 3.2 Informational interviews

Snowball sampling was also used to obtain informational interviews with government stakeholders in Hong Kong, including interviews at the Hong Kong Labor Department (LD), the Philippine Overseas Labor Office (POLO), and the Consulate General of the Republic of Indonesia. Likewise, interviews with migrant worker service providers and CSOs were obtained through snowball sampling and Internet research.

### 3.3 Limitations

Reliance on snowball sampling and the desire to increase the sample size by conducting migrant interviews on non-typical, weekend rest days, resulted in a disproportionate amount (27 percent, n=162) of surveys conducted in shelters. Migrants temporarily residing in shelters have had problems with their employers, and as a result, their experiences may differ significantly from those currently employed. Nevertheless, their stories and experiences provide valuable information about critical work conditions in Hong Kong. Other sources of bias include: selection, non-response, and response biases.

*Selection bias:* Because most of the survey participants were introduced to the authors by NGO and union leaders, a large subset of migrants that are not affiliated or involved with organizations are not included in the sampling.

*Non-response bias:* Some surveys were completed by the migrants themselves and had some blank responses. Without follow-up from the research team, these non-responses could potentially be excluding valuable information for analysis.

*Response bias:* The use of interpreters for group surveys, particularly NGO service providers or union leaders, may have influenced migrant responses, especially when the migrants were receiving services. Pressure from peers, especially in group settings and acknowledgment of the research team’s organizational affiliations may have also affected participant responses.
Box 1: Origins of the foreign domestic helper market in Hong Kong

In 1974, the Hong Kong Special Administrative Region opened legal immigration channels for domestic workers from other Asian economies. Prior to this point, only unskilled workers from China had been granted entry. According to Hong Kong Labour Department officials interviewed, this change in policy towards foreign domestic workers was prompted by pressure from the growing number of Western expatriates in the colony earning high salaries and enjoying affluent lives. Simultaneously, fewer and fewer local women were willing to take low-paying, low-status work. As the economy grew, so did the demand for domestic workers by the local population, particularly among working couples who could not find child care. The Hong Kong Government (HKG) responded to this development by regulation. This would serve to protect local workers from cheap overseas competition as well as protect foreign workers from exploitation. The law has been regularly reviewed and tightened as the market has evolved.

Note: Domestic helpers in Hong Kong are overwhelmingly non-Chinese in origin and female. These women live in their employer’s residence and perform various duties, such as cooking, cleaning and child-minding.

4.1 Hong Kong’s foreign domestic helper market today

Hong Kong remains a major receiving country for migrant workers, particularly women from Southeast Asia who work as foreign domestic helpers (FDHs). In a city of approximately 7 million, nearly 9 percent of all households employ foreign live-in maids. The latest census and immigration records reveal that domestic workers account for almost two-thirds of the city’s 370,000 non-Chinese population.

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The demand for live-in maids has grown alongside the city’s booming economy. From 2002 to 2007, the number of FDHs in Hong Kong steadily rose from 232,800 to 245,500. Historically, Filipinos have comprised the largest stock of foreign domestic helpers in Hong Kong. Since the Asian financial crisis of the late 1990s, however, Filipinos have seen their dominance reduced by the growing number of Indonesian domestic workers (see Table 1).

Table 1: Population Trends of Foreign Domestic Helpers in Hong Kong

<table>
<thead>
<tr>
<th>Year</th>
<th>The Philippines</th>
<th>Indonesia</th>
<th>Thailand</th>
<th>Others</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>148,400</td>
<td>78,100</td>
<td>6,700</td>
<td>3,900</td>
<td>237,100</td>
</tr>
<tr>
<td>2003</td>
<td>126,600</td>
<td>81,000</td>
<td>5,500</td>
<td>3,800</td>
<td>216,900</td>
</tr>
<tr>
<td>2004</td>
<td>119,700</td>
<td>90,000</td>
<td>4,900</td>
<td>3,800</td>
<td>218,400</td>
</tr>
<tr>
<td>2005</td>
<td>118,000</td>
<td>96,900</td>
<td>4,500</td>
<td>3,800</td>
<td>223,200</td>
</tr>
<tr>
<td>2006</td>
<td>120,800</td>
<td>104,100</td>
<td>4,300</td>
<td>3,600</td>
<td>232,800</td>
</tr>
<tr>
<td>2007</td>
<td>123,500</td>
<td>114,400</td>
<td>4,100</td>
<td>3,500</td>
<td>245,500</td>
</tr>
</tbody>
</table>

Source: Hong Kong Labor Department

This recent turn in FDH trends reflects both a growing preference for Indonesian maids and the creation of stiff competition within Hong Kong’s domestic helper market. Indonesian domestic workers tend to be young (in their 20s), poorly educated and uninformed about their legal rights. By contrast, their Filipino counterparts are typically older, better educated (many are college graduates), informed of their rights, and proficient in English. However, many Chinese employers are now favoring Indonesian maids who speak Cantonese, are more docile (the Indonesian migrant movement is still nascent in Hong Kong), and more willing to work without the statutory weekly 24-hour rest day.

Many Indonesians work for salaries below Hong Kong’s minimum allowable wage (MAW). A 2007 report sponsored by Oxfam-Hong Kong revealed that 22 percent of all Indonesian domestic workers in the country were underpaid—or remunerated below the 2006 statutory MAW of HK$ 3,400 per month—down from 56 percent in 2003. While the prevalence of underpayment among Indonesian maids has improved, there is growing concern by migrants and their advocates that current market conditions will...
lead to a “race to the bottom”\textsuperscript{12.} Both sets of overseas workers come from populous countries facing high unemployment and vast poverty. As is the case with most low-skilled migrant workers, FDHs in Hong Kong possess little to no bargaining power to improve their situations or demand fair and full wages.

4.2 Government policy towards foreign domestic helpers in Hong Kong

4.2.1 Migrant receiving country policy: Hong Kong

As one of the few destinations where migrant workers enjoy full and equal statutory labor rights and benefits as local workers, Hong Kong is a high migration infrastructure state.\textsuperscript{13} Current policy requires that all employers enter into a standard employment contract with their FDH. The contract sets out key employment terms such as wage level (which cannot fall below the MAW presently at HK$ 3,480 per month), free food and accommodation, free medical treatment and return passage.

In accordance with the standards set forth in ILO Convention 97,\textsuperscript{14} Hong Kong also offers FDHs free and full access to a range of services provided by the Labor Department (LD), including consultation and conciliation services for labor disputes with employers and a 24-hour enquiry hotline service. Likewise, FDHs may seek redress through the legal system. They may be granted legal aid if they meet the eligibility criteria, which are applicable to both local and migrant workers.

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\textsuperscript{12} “Race to the bottom” is a theoretical phenomenon that occurs when competition between nations or states (in this case, over the FDH labor market) leads to the progressive dismantling of regulatory standards.

\textsuperscript{13} For explanation on high migration infrastructure state, refer to “Frameworks” section of PAE.

\textsuperscript{14} Ratified in 1951, Hong Kong is one of 46 nations to have signed onto to ILO Convention 97. For further explanation on C-97, refer to “Frameworks” chapter.
4.2.2 Migrant sending country policy: The Philippines

The labor migration of Filipino nationals is heavily regulated by the Philippine government through three major institutions. The first institution is the Philippine Overseas Employment Administration (POEA), which regulates the overseas recruitment and employment industry. The second institution is the Overseas Workers Welfare Administration (OWWA), the lead agency that seeks to promote the well-being and welfare of member migrants and their families.15 Finally, there are labor attachés sanctioned at embassies, consulates, and satellite Philippine Overseas Labor Offices (POLOs) abroad to provide assistance to migrants in host countries.16 Additional government agencies may directly or indirectly contribute to the migration process for Filipinos (refer to diagram on next page). To fund these agencies and services, the Philippine government charges fees to migrants, their employers, and recruitment agencies, as well as develops partnerships with the private sector and NGOs.

Most of the services provided by POEA are also provided by the Philippine labor attaché in the host country. For example, the POLO of Hong Kong (housed in the

Philippine Consulate), provides agency accreditation, job verification, contract processing for Filipinos with new employers or renewals of contract, training and seminars. A key feature of the Hong Kong POLO office is its assistance to Filipino workers with employment and labor-related disputes. Welfare services to Filipinos include counseling, a 24-hour shelter, and conciliation. An OFW may file a complaint against their agency or employer, interview with the Labor Officer and return for a conciliation meeting with the concerned party. If an amicable settlement is arrived at by the complainant and the employer or agency, then the settlement agreement is signed by all parties and executed. Examples of amicable settlements include workers claiming unpaid wages and obtaining a plane ticket to the Philippines. However, when conciliation has failed, the POLO-HK office will endorse the complaint and forward it to POEA for appropriate action.

### 4.2.3 Migrant sending country policy: I

The Indonesian government has been slower than the Philippines and other migrant-sending countries to develop effective policies and programs to protect their overseas workers. This is evident from the lack of a comprehensive tracking system and the absence of a dedicated agency responsible for the welfare of Indonesian workers in the host country. The Indonesian Consulate General in Hong Kong, for instance, provides basic information and assistance to Indonesian workers, but its role is limited.

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17 PAE FDH Survey
workers. The Ministry of Manpower and Transmigration in partnership with the recently established National Board for Placement and Protection of Indonesian Overseas Workers (BNP2TKI) have recognized the welfare of migrant workers as a major concern, setting standards of employment (including insurance, mandatory training, fee limitations). Still, the government continues to struggle to enforce these—especially in the overseas domestic helper market. This is partly because the recruitment and placement of Indonesian domestic workers is controlled by private recruitment agencies (PJTKI) and their local associates in Hong Kong (Brokers/Calos), loosely regulated by Jakarta (refer to diagram on next page).19

Under the Migrant Worker Placement and Protection Law, the Indonesian government is obligated to "provide protection to Indonesian Workers during the course of their employment in foreign countries according to laws and regulations as well as international laws and conventions."20 Accordingly, the Ministry of Manpower has recently started placing Labor Attachés in some Indonesian embassies abroad. In Hong Kong, the Consulate General of Indonesia provides a range of legal services, counseling and cultural activities. Recently, the consulate instituted a “Welcome Program”—about a 3 hour program at the Consulate - created to welcome new FDH arrivals, inform them of activities at the Consulate and the services available, and to remind them of their connection and civic duty to Indonesia. The government does not provide in-country training (although this is currently under consideration).

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19 For a detailed explanation of the policies and programs during the pre-departure stage, please refer to Annex II.
20 Article 78.
4.3 Restrictions on FDHs in Hong Kong

Hong Kong Government regulations are also protective of the employer and the domestic labor market. As such, FDHs cannot take up part-time or unauthorized work. In the event that their contract is prematurely terminated (currently the contract is for two years), FDHs can only remain in Hong Kong until the limit of their stay or for two weeks, whichever is shorter. Under exceptional circumstances, the Director of Immigration may allow the change of employer to occur before the contract expires and without requiring the domestic helper to return to their home country first.

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21 Hong Kong’s “Two-week Rule” applies when the employment contract of an FDH is prematurely terminated. The rule was introduced in 1987 to guard against ‘job-hopping’ and illegal employment of migrant workers after dismissal.
Box 2: What is “decent work”?

Introduced by the International Labour Organization (ILO), “decent work means productive work in which rights are protected, which generates an adequate income, with adequate social protection. It also means sufficient work, in the sense that all should have full access to income-earning opportunities. It marks the high road to economic and social development, a road in which employment, income and social protection can be achieved without compromising workers' rights and social standards.” The ILO works to promote decent work through its work on employment, social protection, standards and fundamental principles and rights at work and social dialogue.

FOUR PILLARS OF DECENT WORK

Job Creation Rights at Work Social Protection Social Dialogue

Source: Decent Work, Report of Mr. Juan Somavia, ILO Director-General, 87th session of the International Labour Conference, 1999.

Frameworks provide general principles and guidelines for approaching widespread, complex problems as labor migration management. They are a powerful tool in the promotion and protection of migrant worker rights for they provide a set of standards against which the treatment of migrant workers (and their families) can be measured. For the purposes of this policy analysis exercise, the report findings will be mainly
analyzed through rights-based frameworks centered on the International Labour Organization’s principle of “decent work” (see Box 2).

5.1 International frameworks and standards: a human rights focus

Currently, there are no international instruments solely dedicated to the protection of domestic workers. There exists, however, several international legal apparatus that (directly and indirectly) apply to domestic work. The following section highlights three international instruments (or frameworks) applicable to foreign domestic helpers (FDHs) in Hong Kong and commonly employed by policy experts and practitioners working on managing labor mobility.

5.1.1 ILO Migration for Employment Convention, No. 97 (C97)²⁴

C97 (1949) covers the entire labor migration process—from pre-departure to return. It lays out the conditions governing the “orderly” recruitment of migrant workers. C97 underscores “the principle of equal treatment with national workers regarding working conditions, trade union membership and enjoyment of the benefits of collective bargaining, accommodation, social security, employment taxes and legal proceedings relating to matters outlined in the convention.” Hong Kong ratified C97 in 1951. To date, neither the Philippines nor Indonesia have ratified this convention.

5.1.2 ILO Migrant Workers Convention, No. 143 (C143)

C143 (1975) is broader in scope than C97. It was adopted at a time when abuses of migrant workers were drawing the attention of the international community. C143 imposes an obligation onto states "to respect the basic human rights of all migrant workers," confirming its applicability to foreign domestic workers. The Philippines ratified C143 in 2006. Indonesia and Hong Kong have yet to follow suit.

²² Additional non-ILO international instruments relating to domestic workers: the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

²³ Note: all three international instruments provided the foundation for the 2006 ILO Multilateral Framework on Labour Migration – a non-binding framework negotiated across the ILO’s tripartite structure. This is the latest globally accepted framework for addressing the labor migration management problem.

²⁴ The ILO has two legally-binding international instruments relevant to migrant workers. These are C97 and C143.

5.1.3 UN Convention on the Protection of the Rights of All Migrant Workers and their Families (CMW)

Adopted in 1990, the CMW entered force in 2003 as the first legally binding international instrument to incorporate the full range of human rights – civil and political rights as well as economic, social and cultural rights – for all migrant workers. The Convention was ratified by the Philippines in 1995. Indonesia and Hong Kong (nor any other major receiving state) has yet to sign on.

### Key Elements of the Migrant Workers’ Convention

- Bridges a gap in protection due to the situation of vulnerability in which migrant workers and members of their families frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they may encounter arising from their presence in the State of employment.

- Migrant Workers are viewed as more than laborers or economic entities.

- Provides, for the first time, an international definition of the migrant worker, categories of migrant workers, and members of their families.

- Minimum universal human rights standards are guaranteed for all migrant workers, both documented and undocumented.

- Further rights are extended to documented migrant workers and members of their families, notably in the equality of treatment with nationals of states and in employment in a number of legal, political, economic, social and cultural areas.

- The Convention promotes inter-state collaboration to prevent and eliminate the exploitation of all migrant workers and members of their families, and sanctions for violence against migrant workers or members of their families in an irregular situation.

- The Convention is a tool to encourage States to harmonize their legislation with recognized international standards.

5.2 A changing context; a need for a new framework

While the aforementioned international instruments are comprehensive in nature, the labor migration phenomenon today is far more complex and pervasive than when these frameworks were first proposed. As observed in Hong Kong’s FDH market, the role of the state in recruiting migrant labor has decreased, whereas the importance of private agents and intermediaries has increased substantially. Moreover, as discussed in Women in Motion, migration for employment has become progressively feminized with transnational female laborers saturating sectors such as domestic work –areas epitomized by a strong bond of subordination between employer and employee and requiring particular consideration. Furthermore, there has been an increase in the short-term nature of labor migration and heightening of irregular (or undocumented/clandestine) migration. Given this changing context, states are now trying more than ever to strike a balance between facilitating labor migration and protecting transnational workers within their migration infrastructure.

5.3 Policy analysis framework

This report defines migration infrastructure as a system of institutions that facilitate the migration and the welfare protection of transnational workers. Institutions can be commercial or public and include bilateral agreements, multilateral conventions, government agencies that regulate recruitment and/or provide group insurance, private employment agencies, skills testing or training centers, medical testing facilities, travel centers, money transfer agencies, conciliation and mediation services for migrant-employer or migrant-employment agency grievances, etc.

In order for states to further develop and manage a migration infrastructure, they are obliged to collect fees from the various stakeholders (i.e. recruitment agencies, employers and migrant workers) thereby promoting a shared responsibility for the protection of this vulnerable and mobile population. The varying capacities, constraints and policy priorities among different states have resulted in a range of migration infrastructures.

5.3.1 Typology of migration infrastructures

An underlying assumption of this policy analysis is that exacting fees from stakeholders allows states to support institutions that protect migrant workers. Accordingly, this paper classifies a state as having a high migration infrastructure when the government collects various fees from stakeholders and provides greater access to social protection services for migrant workers relative to a state with a lower migration infrastructure.

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26 Nana Oishi, 2005. The feminization of migration simply refers to a migration phenomenon which has seen the rise of women independently migrating for work.
Whether these protection measures are utilized or effective, however, must be measured separately.

The cross-border movement of transnational workers involves at least two states — the country of origin and the destination country. Combining the possible types of migration infrastructure for the sending and receiving countries examined in this study results in the matrix included below. The Philippines, with its government imposed fees on migrants, employers and recruitment agencies, and numerous institutions dedicated to migrant welfare, is classified as a high migration infrastructure state. In contrast, Indonesia is considered a low migration infrastructure state because of its more recent and less developed migration policy program. Hong Kong collects many fees from stakeholders (i.e. employers are required to cover cost of air ticket, health insurance, and the Employee’s Retraining levy\textsuperscript{27}) as well as provides various mechanisms to address migrant rights while in-country.\textsuperscript{28}

It is important to note that the simplified framework is only valuable when comparing two sending countries in the same destination country and market. In particular, this study focuses on Hong Kong and the foreign domestic helper market. This policy analysis utilizes the framework below to classify states according to the type of migration infrastructure in order to begin answering whether higher migration infrastructures improve the welfare of overseas workers.

<table>
<thead>
<tr>
<th>Type of Migration Infrastructure</th>
<th>Type of State</th>
<th>Country of Origin</th>
<th>Destination Country</th>
<th>Low</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indonesia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Philippines</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hong Kong</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\textsuperscript{27} In October 2003, under the Employees Retraining Ordinance, the Hong Kong government imposed a monthly Employee’s Retraining levy of HK$ 400 for hiring foreign domestic helpers when the economy was in a recession.

\textsuperscript{28} For explanation on migration infrastructures of each state, refer to “Background” section, Annex I and II of PAE.
The findings compiled in this section were obtained through fieldwork conducted in Hong Kong in January 2008 - specifically through the administration of the PAE-FDH Survey (referred to as the Survey) completed by 162 Filipino and Indonesian domestic helpers. The survey was designed to capture the economic cost of migration for employment; the qualitative differences in employment violations and vulnerabilities experienced across both FDH groups; and the awareness and utility of the various migration systems (from pre-departure to working abroad) made available to overseas workers by their sending governments in Hong Kong. The organization of the findings and analysis follows the structure of the original survey. Subject to further research, the findings suggest that higher migration infrastructures supported by both sending and receiving states improves the welfare of the migrant worker.

6.1 Foreign domestic helper demographics

Sex and nationality: Though male foreign domestic helpers exist in Hong Kong, the PAE-FDH Survey only captured the experience of female workers (who comprise the major share of the sector). Similarly, while most FDHs are of multiple Asian nationalities, the Survey focused solely on Hong Kong’s largest populations: Filipinos and Indonesians.

Age: Age was considered an important baseline variable, reflective of maturity and possible stronger knowledge base and awareness of the migration process. The age spread for surveyed FDHs ran from early 20s to early 50s. Filipino FDHs were observed to span a wider age range than Indonesian FDHs surveyed, from 23 to 53 years old and 21 to 42 years old, respectively (see Chart 1). Approximately 44 percent (n=64) of the Indonesians were 25 years old or younger, and over two-thirds were under the age of 30. The comparatively younger population of Indonesians surveyed may reflect the country’s younger demographics as well as its more recent entry into Hong Kong’s FDH market. Conversely, the relatively older Filipino population captured may be indicative of their migration for employment tradition and subsequent deeper understanding of Hong Kong regulations and support services.
Educational attainment: FDH educational attainments were considered determinants in the migrant worker’s experience. Overall, Filipinos surveyed displayed higher educational levels than their Indonesian counterparts (see Chart 2). While half of Filipino respondents had at least a college degree (n=72), none of the Indonesians surveyed completed college or postgraduate studies. Approximately 55 percent (n=69) of the Indonesian FDHs did not complete high school compared to only one Filipino respondent. In short, having higher levels of schooling seems to be associated with keener awareness and understanding for Hong Kong labor and immigration rights as well as basic human rights. This in turn appears to have positive outcomes on Filipino working experiences abroad.
Arrival dates: Trends in the year respondents first arrived in Hong Kong were captured under the working assumption that FDHs are more vulnerable and likely to encounter employment problems during their first contract in-country. The data obtained suggest that Filipinos have been working in-country longer than Indonesians. Fourteen (14) Filipino respondents reported themselves to have arrived in Hong Kong prior to 1995 – in contrast to one Indonesian. Notably, over 75 percent of Indonesians surveyed arrived within the past five years (see Chart 3). This may be a reflection of both the increased demand for Indonesian maids in Hong Kong as well as a selection bias in sampling - shelters were targeted during the administering of this survey in addition to locations frequented by FDHs on their rest days.

6.2 Pre-departure: Required interactions with migration infrastructures

Recruitment and placement: All Indonesian FDHs surveyed secured their employment in Hong Kong through a private recruitment agency. This is in line with current Indonesian legislation which prohibits direct hiring. By contrast, 28 percent (n=74) of Filipinos directly applied or were referred to their employers. Filipinos’ continued enjoyment of the direct hire process may reflect their well-established labor migration networks.

While the survey did not capture sources of direct hire or referrals, two Filipino respondents noted that their mother or sister recommended them for work in Hong Kong –one of which now shares an employer (and room) with her mother. Another
benefit of direct hires is the reduced cost of mobility for the FDH. Direct hires pay fewer fees than those who rely on recruitment agency placement services. Though the Survey attempted to measure the multiple pre-departure costs paid by targeted Filipino FDHs, inconsistencies in reporting and absent contextual data impeded this analysis from determining (at statistically significant levels) the qualitative differences between direct hires and agency placements.

Table 2: Prevalent fees incurred by FDHs en route to Hong Kong

<table>
<thead>
<tr>
<th>Fee Type</th>
<th>Filipinos</th>
<th>Indonesians</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recruitment Agencies</td>
<td>54</td>
<td>15</td>
</tr>
<tr>
<td>Air tickets (no payment)</td>
<td>59</td>
<td>18</td>
</tr>
<tr>
<td>Training</td>
<td>37</td>
<td>4</td>
</tr>
<tr>
<td>Medical</td>
<td>44</td>
<td>6</td>
</tr>
</tbody>
</table>

Note: No sample size is provided because question allowed for multiple responses.

Source: PAE-FDH Survey

Economic Fees: The PAE-FDH attempted to use economic fees as a proxy for migration infrastructure, assuming a state where migrants consistently paid more types of fees (i.e. placement, medical, training, insurance, etc.) had high migration infrastructure. Counting the types of fees associated with overseas employment can capture aspects of the migration infrastructure excluded from merely counting the number of regulations in a country. However, quantifying the total economic costs migrants paid prior to departure proved to be an ineffective unit of analysis, especially when the data relied on migrants’ memories. Moreover, the survey did not collect data on interest rates or the time period of repayment for loans used to pay the fees, making the data collected only the lower bound for the total economic costs paid by migrants. Even if data is collected at the time migrants paid or by using official receipts and loan contracts, exchange rates vary daily, making it difficult to convert fees into comparable units across countries. (see Appendix VI for a comprehensive discussion of alternate indicators)

Fee types: In accordance with Hong Kong laws, 59 Filipinos and 18 Indonesians did not pay for air transport to Hong Kong (see Table 2). At least 74 percent (n=82) of surveyed Indonesian FDHs did not indicate any pre-departure payments, but rather noted that their fees came in the form of seven month salary deductions once in the destination country. In general, migration costs for Filipino FDHs surveyed were up-front –incurred and settled in pre-departure stages. These fees reportedly covered placement fees to recruitment agencies, training, and medical examination fees.

In 2006 and 2007, surveyed Filipino FDHs paid training fees ranging from Php 1,500 to Php 18,000 and medical examination fees ranging from Php 500 to Php 5,500. The wide range in training fees seems to comply with POEA regulations which defer pricing to the market. This was further supported through interviews with a Filipino
FDH and community organizer who affirmed, “Agencies set their own prices,” ranging from “Php 5,000 to Php 20,000.” Similarly, these high training fees may be capturing payment for multiple trainings required of Filipina FDHs, including an assessment and skills certification. The survey, however, does not gather any information that may explain the payment variations in medical examinations.

Further recommended analysis includes the impact of the Philippine Household Service Worker reform package, which states that no placement fees shall be paid by Filipino FDHs after December 2006 and March 2007 for re-hires. The administrative legislation also states that Filipino FDHs must obtain skills certification. Therefore, it would be worthy to assess trends in placement fees, training, and skills assessments before and after the implementation of the law.

*Signed contracts*: An overwhelming majority of FDHs surveyed stated to have signed a contract prior to arriving in Hong Kong, 92 percent of Filipinos (n=75) and 94 percent of Indonesians (n=80). Only six Filipinos and five Indonesians claimed that they did not sign a contract prior to arriving in Hong Kong. In an interview, a Filipino FDH revealed, “[my] sister signed the contract in Hong Kong and sent it to the Philippines.” An Indonesian FDH stated she “never signed a contract,” but the recruitment agency had “explained [its] details” prior to departing for Hong Kong. Of those that signed contracts, seven Filipinos and nine Indonesians noted that the contract did not provide details regarding their employment conditions and responsibilities.

### 6.3 Awareness

<table>
<thead>
<tr>
<th>Legal Awareness</th>
<th>Filipinos</th>
<th>Indonesians</th>
</tr>
</thead>
<tbody>
<tr>
<td>HK Labor Laws</td>
<td>38</td>
<td>18</td>
</tr>
<tr>
<td>HK Immigration Laws</td>
<td>33</td>
<td>14</td>
</tr>
<tr>
<td>Human Rights</td>
<td>27</td>
<td>14</td>
</tr>
<tr>
<td>Aware of all three</td>
<td>22</td>
<td>10</td>
</tr>
<tr>
<td>Aware of none</td>
<td>19</td>
<td>41</td>
</tr>
</tbody>
</table>

Note: No sample size is provided because question allowed for multiple responses.

Source: PAE-FDH Survey

*Awareness of rights*: There are numerous laws in Hong Kong stated to protect as well as restrict the activities of FDHs. Assessing FDHs’ awareness of these laws can provide insight into the strength of labor migration infrastructures.

According to the Survey, Filipino FDHs reported greater awareness than Indonesians of at least one of the three categories of relevant labor migration laws -Hong Kong labor regulations, Hong Kong immigration legislations and international human rights law.
(see Table 3). Forty one (41) Indonesian FDHs were not aware of any of these legal resources prior to arriving in Hong Kong.

**Source of legal information:** When asked how they were made aware of these laws, surveyed FDHs responded in the following way: One Indonesian FDH claimed the government was responsible for her awareness compared to 23 Filipinos. This figure for Filipinos is lower than expected considering their requirement to attend a Pre-Departure Orientation Seminar (PDOS) prior to arriving in Hong Kong. One Filipina respondent revealed “[PDOS emphasized] remittance procedures [rather] than any Hong Kong laws.” Most Indonesians, on the other hand, credited their employment agency for informing them of at least one of these laws.

### 6.4 Training centers

Getting a sense of the domestic helpers’ experience at training centers in their home countries can provide insight into the efficacy (and intent) of such migration management tools. FDH experiences at training centers can influence the worker’s experience in the country of employment. As expressed by one Filipino and one Indonesian respondent, some training centers have excused their poor treatment and services by explaining such incidences as part of the FDH “conditioning” for work life in Hong Kong.

**Frequency of reported violations:** Of those surveyed, 57 percent (n=75) of Filipinos and 99 percent (n=82) of Indonesians confirmed attending training prior to departing for Hong Kong. The frequency of abuse and/or exploitation cited at the training centers are depicted in Table 4.

<table>
<thead>
<tr>
<th>Type of Abuse</th>
<th>Filipinos</th>
<th>Indonesians</th>
</tr>
</thead>
<tbody>
<tr>
<td>Verbal Abuse</td>
<td>3</td>
<td>49</td>
</tr>
<tr>
<td>Physical Abuse</td>
<td>2</td>
<td>16</td>
</tr>
<tr>
<td>Sexual Harassment</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Rape</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Insufficient food</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Insufficient rest/sleep</td>
<td>3</td>
<td>1</td>
</tr>
</tbody>
</table>

Note: No sample size is provided because question allowed for multiple responses.

Source: PAE-FDH Survey

Relatively more Indonesians experienced any type of abuse when compared to Filipino respondents (see Table 4). This may or may not be correlated with the experiences of Indonesians in Hong Kong. Not enough data is available to test such a correlation.
6.5 Main employment concerns

The Survey aimed to compare employment conditions and experiences across the first and current FDH contracts in order to test whether (and to what extent) work situations changed over multiple employment experiences. However, several factors preclude such an analysis. For one, insufficient data was collected to control for potentially influential factors on the FDH’s experience, including: whether the FDH obtained employment via direct hiring or was placed by a recruitment agency; whether the employer and/or recruitment agency remained constant over multiple contracts; the national origin and socio-economic status of the employer(s); the number of contracts held (if more than two); and whether contracts were completed or prematurely terminated. Furthermore, limiting analysis of employment conditions to contracts within the last two years allowed for insight on current policies and regulations, rather than capturing the effects of policies no longer in practice.

For these reasons, the analyses of employment conditions surveyed were restricted to respondents whose current contract is their first contract in Hong Kong – hereafter these will be referred to as the Subgroup. Included in the Subgroup are FDHs that were terminated during their first contract but have yet to enter a second contract. The maximum number of FDHs in this category is 57 (note: the total number of respondents will change per question due to non-responses).

Overcharging: Current Hong Kong law sets the maximum placement fee recruitment agencies may charge FDHs at ten percent of their first month’s salary. Based on the Minimum Allowable Wage (MAW) over the past two years, the legal salary deduction was HK$ 340 in 2006 and HK$ 348 in 2007. Within the Subgroup, 36 FDHs (8 Filipinos and 28 Indonesians) paid a fee while they were employed in Hong Kong. All of the Indonesians paid fees beyond the legal amount, ranging from HK$ 1,532 for six months to HK$ 3,000 for seven months. In contrast, no Filipino was overcharged according to Hong Kong law.

Recalling agency fees paid by Filipinos prior to arriving in Hong Kong, 3 of the Filipino FDHs surveyed were overcharged according to POEA regulations (see Appendix I). Employment agencies may argue that the amount charged in the Philippines only covered the cost of documentation, which is legal according to Philippine law. Without data from official receipts, these assertions cannot be verified. It is interesting to note the method of payment for agency fees varies across the two populations, reflecting their different migration infrastructures. Filipinos surveyed noted to have relied on an intermediary to transfer payments to the employment agencies back home. As one Filipino explained, she deposited her salary into her local bank account, which the agency could access to withdraw fees. Another Filipino FDH stated frequent use of the local 7-Eleven convenient store to remit agency fees back to Manila. Indonesian respondents, however, covered placement fees through salary deductions.
In sum, both populations surveyed experienced overcharging by recruitment agencies during their stay in Hong Kong. Indonesians were observed to be persistently and more overcharged.

*Job insecurity:* The prevalence of early terminations—reflective of the high job insecurity associated with domestic work—was acknowledged as a top FDH concern by government officials and NGO service providers interviewed. Within the specified Subgroup surveyed, 56 percent (n=55) of the contracts were terminated prematurely (44 percent (n=25) of the Filipinos and 67 percent (n=30) of the Indonesians were dismissed prematurely). These rates, however, cannot be used to form generalizations about the prevalence of early terminations across the entire FDH market in Hong Kong given sampling biases described above.

FDHs provided several reasons for early termination, including leaving a physically and/or verbally abusive employment situation, disputes with employers over salary deductions, withholding of FDH personal documents (particularly employer possession of FDH passport), and repeated criticism over FDHs’ quality of work.

Limited analysis has been done to understand the magnitude and factors contributing to job insecurity. One possible factor described in interviews with service providers and FDHs is the “Buy One, Try Three Policy” instituted by employment agencies. This policy grants potential employers to pay service fees one time, but try up to three FDHs within a “promotional” period. This scheme benefits private agencies and their clientele at the expense of the FDH who despite termination must pay placements fees. Despite numerous attempts, no Hong Kong-based employment agencies solicited agreed to participate in this study regardless of anonymity status. Further analysis of the private sector impact and state regulation should be pursued.

### 6.6 Contract violations

Contract violations in this analysis refer to any infringements on the Hong Kong standard employment contract, which should be signed by both the employer and employed FDH. The contract sets minimum labor standards of payment, rest days and other benefits guaranteed to the FDH while also protecting their human rights. Both surveyed FDH populations experience contract violations, but the violations were observed to be greatest among Indonesian FDHs surveyed.

*Underpayment:* To determine if an FDH was underpaid, the amount that was deducted from their salary for placement fees was added to the amount they received in wages after the salary deduction. If the total amount was less than the applicable Hong Kong MAW, then the FDH is considered to be underpaid. For example:
Survey Subgroup results observed 13 FDHs, all Indonesian, to be underpaid. Their salaries ranged from HK$ 1,600 to HK$ 3,140. One Indonesian FDH noted that she was paid the MAW until the obligated salary deductions were completed, after which she received only HK$ 1,800 a month.

Rest days: According to Hong Kong labor laws, FDHs are required to have one 24-hour rest day within a 7 day (week) period. Only four Filipino FDHs and one Indonesian FDH remarked that they either received their rest day or were granted an alternative rest day by their employer should they be asked to work on their regularly scheduled day off (Hong Kong law permits such arrangements). In contrast, 89 percent (n=46) of FDHs in the survey Subgroup did not receive a full 24-hour rest day (see Chart 4). These respondents were divided into three categories: FDHs that worked 5 or more hours during their rest day without any compensation, FDHs that worked less than 5 hours without compensation, and FDHs that worked any amount of hours during their rest day with pay.

<table>
<thead>
<tr>
<th>Hours worked and compensation on rest days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of FDHs</td>
</tr>
<tr>
<td>0</td>
</tr>
<tr>
<td>5</td>
</tr>
<tr>
<td>10</td>
</tr>
<tr>
<td>15</td>
</tr>
<tr>
<td>20</td>
</tr>
<tr>
<td>25</td>
</tr>
</tbody>
</table>

Note: n=46; 19 Filipinos and 27 Indonesians

Source: PAE-FDH Survey
Respondents that worked more than 5 hours worked between 5 to 23 hours, or an average of 14.4 hours (n=24) without pay or an alternative rest day. Indonesian FDH respondents make up a majority of those in this category. Filipino FDHs reported in greater numbers to work less than 5 hours during their rest day without pay than their Indonesian counterparts. In interviews, two Filipino FDHs confirmed that they worked a few hours before leaving their employers home and upon their return on their day off explaining, “why not do it now when we’ll have to do it tomorrow?” Filipino and Indonesian FDH respondents who were paid for work during their rest day were generally compensated HK$ 100 to HK$ 200 for work spanning 2 to 16 hours. Although compensated FDHs expressed a great willingness to work for extra pay, Hong Kong labor legislation prohibits such arrangements. Notably, survey response trends revealed a lack of incentives to uphold such laws for FDHs fear early termination should they refuse to work on their statutory days off.

Other violations: Other forms of violations cited by FDH respondents included carrying out work not specified in the original standard employment contract. Moreover, some of FDHs reported experiencing physical and verbal abuse, which eventually led to a contract termination. Table 5 summarizes the frequency of violations experienced by Subgroup members who only had one contract in Hong Kong.

Table 5: Trends in contract violations

<table>
<thead>
<tr>
<th>Violation Type</th>
<th>Filipinos</th>
<th>Indonesians</th>
</tr>
</thead>
<tbody>
<tr>
<td>Working two households</td>
<td>3</td>
<td>11</td>
</tr>
<tr>
<td>Working at employer's business</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Verbal Abuse</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>Physical Abuse</td>
<td>1</td>
<td>7</td>
</tr>
</tbody>
</table>

Note: No sample size is provided because question allowed for multiple responses.

Source: PAE-FDH Survey

6.7 Food, health and accommodations

Eating arrangements: The majority of FDHs surveyed confirmed that their meals are covered by their employers in accordance with local labor provisions. However, 21 respondents (or around 14 percent) reported to pay out-of-pocket for meals, their employer deducts the cost of food from their salary, or they supplement employer rations (see Table 6). Of the 133 that reported employers provide free meals, 33 percent said they were unsatisfied with their current eating arrangements citing insufficient food (83 percent) as the basis. Other reasons include dissatisfaction with employer food selection. As one Indonesian domestic helper retold, “my employer forced me to eat pork –but I don’t eat pork,” alluding to cultural and religious insensitivities by employers (Indonesian FDHs are predominantly of Muslim faith).
Table 6: FDH eating arrangements

<table>
<thead>
<tr>
<th>Meal Source</th>
<th>Filipinos</th>
<th>Indonesians</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>FDH provides own meals</td>
<td>5</td>
<td>7</td>
<td>12</td>
</tr>
<tr>
<td>Employer provides free meals</td>
<td>69</td>
<td>64</td>
<td>133</td>
</tr>
<tr>
<td>Combination*</td>
<td>3</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>Employer deducts from salary</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total number of respondents</strong></td>
<td><strong>78</strong></td>
<td><strong>76</strong></td>
<td><strong>154</strong></td>
</tr>
</tbody>
</table>

*Combination implies FDH supplement meals provided by employer.

Source: PAE-FDH Survey

Medical treatment: In Hong Kong, it is compulsory for employers to take out insurance on behalf of their domestic helpers. In addition, employers are responsible for their helper’s medical treatment. According to FDHs surveyed, only 8 out of the 85 respondents (3 Filipinos and 8 Indonesians) paid for their medical treatment out-of-pocket (see Chart 5).

Accommodations: To minimize disputes, the current standard employment contract includes a section entitled “Schedule of Accommodation and Domestic Duties” (See Appendix III). This section specifies that the employer should provide accommodations which offer “reasonable” privacy, citing examples of unsuitable
arrangements such as sharing a room with an adult of the opposite sex. Table 7 illustrates the accommodations the surveyed FDHs live under:

Table 7: FDH accommodations

<table>
<thead>
<tr>
<th>Sleeping arrangement</th>
<th>Filipinos</th>
<th>Indonesians</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Own room</td>
<td>9</td>
<td>10</td>
<td>19</td>
</tr>
<tr>
<td>Share room with child</td>
<td>13</td>
<td>12</td>
<td>25</td>
</tr>
<tr>
<td>Share room with other FDH</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Share room with employer</td>
<td>0</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Other</td>
<td>2</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td><strong>Total number of respondents</strong></td>
<td><strong>25</strong></td>
<td><strong>31</strong></td>
<td><strong>56</strong></td>
</tr>
</tbody>
</table>

Source: PAE-FDH Survey

6.8 Migrant rights

*Wage receipt:* As presented in Chart 6, most FDHs reported to always receive their full monthly wage (127 of the 162 surveyed). Notably, Indonesian domestic helpers cited with greater frequency, a time when they did not receive their full monthly earnings from their employer (14 Indonesians to 8 Filipinos). According to the director of a migrant worker legal aid center interviewed, often these women are made to sign false wage receipts. Less frequently, employers will directly deposit the salary into the helper’s bank account later to withdraw the full amount using the worker’s own bank card—a clever, albeit illegal, maneuver.

![Chart 6: Trends in Wage Receipt](image-url)

Note: n=149; 75 Filipinos and 74 Indonesians

Source: PAE-FDH Survey
Passport possession: It is in direct violation of Hong Kong law—as well as international law—to withhold an individual’s personal identification papers or documents. Thirty six (36) percent (n=162) of all domestic helpers surveyed reported that they were not in possession of their passport (or held a copy of their documents). Notably, 51 (n=82) Indonesian maids surveyed relinquished their passports to either their employer or their employment agency—by contrast 7 Filipinos noted their employer held their passport (see Chart 7).

![Chart 7: Passport Possession](source: PAE-FDH Survey)

Note: n=151; 77 Filipinos and 74 Indonesians

6.9 State and social networks

In order to understand whether state migration infrastructure are succeeding—or misaligned—it is important to first observe whether they are being accessed: What perceptions do users of these services hold? Are FDHs aware of services available? While the administered survey was not able to accurately capture this information, it is useful to note the primary “go-to” resources for FDHs in Hong Kong. Filipinos surveyed overwhelmingly chose their country consulate as their primary resource in the instance of any employment violation (20 Filipinos, n=47 in contrast to 7 Indonesians, n=55). By contrast, most Indonesian helpers said they would first consult with their employment agency (12 Indonesians, n=55) or a shelter (12 Indonesians, n=55) should they face problems with their employer/contract (see Chart 8).
Chart 8

Primary Resources for FDH Under Distress

- Other
- Friend
- Shelter
- Church-based organization
- NGO
- Employment Agency
- HK Immigration Dept.
- HK Labour Dept.
- Country of origin consulate

Number of FDHs

Source: PAE-FDH Survey
Due to globalization and the changing FDH market in Hong Kong, the need for effective migration infrastructures is now greater than ever. As highlighted in the previous section, FDHs are facing sizeable and rising costs—from financing their migration for employment to serious human rights and contract violations. The following initiatives should be undertaken in a proactive stance to improve migration management that prioritizes migrant worker welfare.

7.1 Addressing top FDH concerns in Hong Kong

Filipino and Indonesian FDHs interviewed highlighted overcharging, denied rest days, and early termination as top employment concerns. While Hong Kong labor laws protect against all three infringements, present systematic loopholes and ambiguity regarding enforcement jurisdictions have left FDHs especially vulnerable. As documented in this and previous reports, these migrant workers carry hefty financial debt from their migration and lack job security. This reality coupled by the increased labor supply has transformed the FDH labor market in Hong Kong into a growing competitive industry. Moreover, heavy dependency on private recruitment firms for livelihoods has many FDHs silently paying excessive agency fees. As a result, many desperate and often uninformed FDHs have become less willing to report violations or access reconciliation services offered by both sending and receiving states. In an effort to begin addressing these three identified employment concerns, the following initiatives should be supported:

- **Call for enhanced tracking system of early terminations.** Sending and receiving states track the rate and type of employment violations; however, presently qualitative data regarding the reasons behind premature termination are not captured by any government entity. By capturing this information, states can begin to understand the sources of job insecurity and weaknesses of current migration infrastructures. For example, if an employer cites poor training as the reason behind termination, greater attention can be drawn to the quality of preparatory services states are providing in pre-departure stages.
Conduct a strategic review on the role of private recruitment agencies on the FDH market. Regulation of the private sector on the FDH market has been loosely upheld by the Philippine, Indonesian and Hong Kong governments. This is in part because the placement of FDHs has become increasingly reliant on the private sector (an important source of employment for labor excess states like the Philippines and Indonesia). Focus should be shifted towards understanding the impact these agencies have had, and continue to have, on migrant worker rights and welfare. In particular, greater attention should be placed on FDH claims of overcharging and states should be impelled to prosecute abusive agencies.29

Push for regional agreements to tackle enforcement gaps. While cooperation and partnerships exists among the sending states studied and Hong Kong, no formal bilateral or regional accords have been signed. Thus, sending and receiving states continue to operate in loose silos raising new migration infrastructures that overlook present loopholes and enforcement gaps, replicate efforts, or are counterproductive in managing migration. By creating shared conceptions of employment and migration standards, states can work cooperatively and transnationally to improve migrant worker protection.

7.2 Further hypothesis testing

The report attempted to test the hypothesis that higher migration infrastructures in the sending and receiving states lead to greater protection of migrants’ welfare. Understanding this relationship, along with the how (i.e. the efficacy of the migration infrastructures) can add to the body of literature shedding light on the complex management of labor migration. Furthermore, studies that continue to test this hypothesis can stimulate transnational discussions and subsequently, the formulation of transnational policies. Based on field work and consultations with migration experts, the initial research provided in this report should be expanded in line with the following:

Continue collecting data on the following variables:

- High/low migration infrastructure state (independent variable);
- Contract violations of migrants (dependent variable); and,
- Age, highest education level, socioeconomic status, language skills and other variables that may affect contract violations, but should be controlled to isolate the effect of migration infrastructures.

29 In Hong Kong agencies cannot charge more than ten percent of an FDH’s first month’s salary. However, proving agency overcharging is difficult as it becomes the word of the FDH against the accredited firm. Moreover, fines and penalties are insignificant compared to the potential earnings these agencies make off the FDHs.
The initial findings suggest a correlation between the level of migration infrastructure found in the sending and receiving states and the frequency of contract violations among migrant workers. However, varying characteristics among the two populations studied in this report, such as age and level of education, could also explain the differences observed in the migrants’ welfare. By continuing to collect additional data, the impact of migration infrastructures on the welfare of migrants, as measured by the frequency of contract violations, can be isolated.

- **Measure migrant workers’ satisfaction of services provided by states.** While measuring the frequency of contract violations shed insight on the impact of migration infrastructures, it is insufficient to understand their efficacy. While preventing, or even addressing contract violations, state services could negatively and inadvertently affect the welfare of migrants. Personal experiences or stories from others have led to some migrants’ preference of services from non-governmental organizations or the host state, over their home countries’ services. The survey we conducted attempted to capture the migrant workers’ perception of the services they received from their home and host country while in Hong Kong. Unfortunately, the limited survey data could not be adequately analyzed to support any initial findings. With additional resources, the efficacy of migration infrastructure and state services can be better measured.

- **Use separate methods to collect data for the variables.** This report used a household survey to measure all of the above variables, leading to various challenges in data analysis. For example, the survey asked migrants to list the amount they paid on numerous pre-departure expenses such as passports, training or medical fees. The varying arrival dates among the migrants, variable exchange rates, and uncertainty among the migrants, made their quantitative responses incomparable. In addition, significant analysis could not be conducted with the data collected on migrants’ perception of state services. First, there was no data to serve as a benchmark for the average migrants’ expectations of their home country’s services. Based on culture and history, Indonesian migrants’ standard expectation of their country’s services may be markedly different from a Filipino migrants’ standard expectation of services from the Philippine government. Second, selectivity bias could impact the analysis of the data, with victims of contract violations having very different expectations than migrants who never sought services from their home or host countries.

For a list of potential variables in further hypothesis testing, please see Appendix VI.
## ACRONYMS

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CMW</td>
<td>UN Convention on the Protection of the Rights of All Migrant Workers and their Families</td>
</tr>
<tr>
<td>CSO</td>
<td>Civil-society Organization</td>
</tr>
<tr>
<td>C97</td>
<td>ILO Migration for Employment Convention, No. 97</td>
</tr>
<tr>
<td>C143</td>
<td>ILO Migrant Workers Convention, No. 143</td>
</tr>
<tr>
<td>FDH</td>
<td>Foreign Domestic Helper</td>
</tr>
<tr>
<td>HKG</td>
<td>Hong Kong Government</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
</tr>
<tr>
<td>LD</td>
<td>Hong Kong Labour Department</td>
</tr>
<tr>
<td>MAW</td>
<td>Minimum Allowable Wage</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-governmental Organization</td>
</tr>
<tr>
<td>PAE</td>
<td>Policy Analysis Exercise</td>
</tr>
<tr>
<td>PAE-FDH Survey</td>
<td>Policy Analysis Exercise–Foreign Domestic Helper Survey</td>
</tr>
<tr>
<td>PDOS</td>
<td>Pre-Departure Orientation Seminar</td>
</tr>
<tr>
<td>POEA</td>
<td>Philippines Overseas Employment Agency</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
</tbody>
</table>
GLOSSARY

Domestic worker (or maid): In Hong Kong these are commonly referred to as domestic helpers. Typically work reserved for women, domestic workers perform services dealing with the household. The work carried out is on behalf of the direct employer (the name of the person which appears on the Performa employment contract); the domestic worker is directly under the employer’s authority and their workplace is confined to the private home. (Adapted from Ramirez-Machado)

Cost(s) of migration: Costs may be economic (i.e. fees associated with recruitment, placement, training and travel, etc.), social (i.e. psychological, the impact of migration on families/communities left behind, etc.), and/or violations of human rights (i.e. freedom of movement, freedom to choose employers, free association, protection from bodily harm, etc). For the purposes of this analysis, ‘costs’ will only be considered from the migrant’s perspective.

Early (or premature) termination: Like most low-skilled jobs, FDHs are vulnerable to early or premature termination. In Hong Kong, a helper is considered to be prematurely terminated if she/he is fired (or requested to be terminated) before their two year contract is completed.

Framework: a basic conceptual structure used to solve or address complex issues. In the case of labor migration and the international community, frameworks employed tend to be conceptual, legal, and sometimes non-binding.

Migrant for employment (or migrant worker): According to ILO Convention No. 097, the “term migrant for employment means a person who migrates from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant for employment.”

Migration infrastructure: An institution that facilitates migration and the transfer of migrants’ savings to their home countries. Intuitions can be commercial or public and include bilateral agreements, government agencies that regulate recruitment or provide group insurance, private employment agencies, skills testing or training centers, travel centers, money transfer agencies, etc.

Overcharging: Condition where a foreign domestic helper pays employment agency a placement fee in excess of ten percent of her first month’s salary - as set forth by Hong Kong’s Employment Ordinance.
Underpayment: Foreign domestic helpers are considered to be underpaid if salary received is below the statutory minimum allowable wage highlighted in the standard employment contract. As of 2007, the minimum allowable wage in Hong Kong is HK$ 3,480 per month.
REFERENCES


Cholewinski, R. 2005. Protecting Migrant Workers in a Globalized Economy in Migration Information Source. Available at: http://www.migrationinformation.org/Feature/display.cfm?id=293


Waddington, C. 2003. *International migration policies in Asia: Synthesis of ILO and other literature on policies to manage the recruitment and protection of migrants, and facilitate remittances and their investment*, in Proceedings from Regional Conference on Migration, Development and Pro-Poor Policy Choices in Asia held in Dhaka, Bangladesh, 22-24 June 2003.


ANNEX I.

PHILIPPINE MIGRATION INFRASTRUCTURE

GOVERNMENT POLICY
The labor migration of Filipino nationals is heavily regulated by the Philippine government through three major elements. The first element is the Philippine Overseas Employment Agency (POEA), which regulates the overseas recruitment and employment industry. The second element is the Overseas Workers Welfare Administration (OWWA), the lead agency that seeks to promote the well-being and welfare of member Overseas Filipino Workers (OFWs) and their families. Finally, there are labor attaches sanctioned at embassies, consulates, and satellite Philippine Overseas Labor Offices (POLOs) abroad to provide assistance to migrants in host countries.

Additional government agencies may directly or indirectly contribute to the migration process for Filipinos. For instance, the Department of Health accredits the medical clinics where OFWs obtain medical certifications and the Technical Education and Skills Development Authority (TESDA) also accredit assessment centers and provide migrants with necessary skills certificates.

PRE-DEPARTURE
Prior to January 15, 2008, Filipinos could legally obtain overseas employment in one of two ways—direct hire (also called name hire) or through a licensed private recruitment agency. The POEA Memorandum Circular No. 4 (MC NO. 4), Series of 2007, however, limits the use of direct hiring for a class of exempt foreign employers and those that obtain the prior approval of the Philippine Secretary of Labor. Because the Filipino migrants surveyed for this PAE attained their employment prior to MC NO. 4, it is noteworthy to further elaborate upon the direct hire and recruitment agency processes for OFWs.

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Direct (Name) Hire

A Filipino worker who is able to secure an overseas employment opportunity without the assistance or participation of any agency is considered a direct or name hire. Typically, the prospective employee has been referred and directly contacted by a foreign employer or the employee directly applied to the company. In such a case, the Filipino worker must still have documents processed at POEA and meet other requirements such as medical examinations, training, assessments, and attending pre-departure seminars (see Table). These requirements ensure that the Filipino workers’ contracts meet proper labor standards, the worker meets minimum skills and health standards for deployed OFWs, and the Filipino is minimally insured for health and welfare issues encountered while abroad. Most of these standards have been set by POEA based on a combination of standards in the Philippines, the host country, bilateral agreements, and/or international conventions. Once the documents and requirements have been completed, verified and any associated fees paid, the Filipino will receive an e-Receipt. The receipt will serve as an Exit Clearance document at the airport prior to departure and will exempt the Filipino from paying the travel tax and airport terminal fee. Additionally, the Filipino will obtain an OFW ID card (E-card).

Licensed Private Recruitment Agency

Filipino migrants may choose to find employment and complete all necessary documentation through a licensed private recruitment agency. As confirmed by an interview with the POLO in Hong Kong, the recruitment agencies in the Philippines must have a recruitment agency counterpart in the host country. A licensed agency may legally charge overseas applicants a placement fee that is equivalent to the worker’s contracted one month’s salary. According to POEA’s 2006 Household Service Workers (HSW) Protection and Welfare Enhancement Reform Package, however, recruitment agencies are prohibited from collecting a placement fee from a domestic worker, whether prior to their departure or in the host country via salary deductions.

34 Workabroad: Overseas Jobs for the Filipinos. “POEA Guidelines.”


36 Philippine Overseas Employment Agency. “Registration of Name Hire (Household Workers).”


While domestic workers are now exempt from paying placement fees, recruitment agencies may still exact charges for processing documentation for overseas employment. Fees may be paid for processing the following documents: passport, police clearance, authentication of contract, birth certificate, medical certificates from exams, trade tests (skills assessments), and OWWA membership. Filipino migrants must only pay the actual cost of obtaining the document (i.e. government fees) as indicated in official receipts.
Minimum requirements and fees for Filipino Household Service Workers

<table>
<thead>
<tr>
<th><strong>POEA Document Processing</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• work visa or work permit</td>
<td></td>
</tr>
<tr>
<td>• employment <em>contract verification or authentication</em> by the Philippine Embassy or Philippine Consulate in the destination country</td>
<td>US$100 or peso equivalent</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Passport Fees</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Regular 14 day processing</td>
<td>Php 500.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Mandatory Insurance</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• OWWA membership</td>
<td>Php 1,275.00</td>
</tr>
<tr>
<td>• OWWA Medicare</td>
<td>Php 900.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Medical Examination</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Undergo medical examination(s) at a Department of Health-accredited medical clinic</td>
<td>Varies Php 500 – Php 1,500 among FDHs in the PAE FDH Survey</td>
</tr>
<tr>
<td>• Medical examination requirements vary across destination countries</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Training / Seminars</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Skills training not required but mandatory after failing the TESDA assessment three times</td>
<td>Training centers determine rate (based on market). Prevailing training fee ranges from P 10,000.00 – 15,000.00 for 216 hours of training</td>
</tr>
<tr>
<td>• Attend <em>Pre-departure Orientation Seminar (PDOS)</em> and receive a certificate of attendance</td>
<td>Provided by OWWA for free</td>
</tr>
<tr>
<td>• Attend OWWA Language and Culture Orientation</td>
<td>Provided by OWWA for free</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Skills Assessment</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Complete an assessment at an accredited TESDA assessment center</td>
<td>Php 1,000.00</td>
</tr>
<tr>
<td>• Obtain an <em>HSW NC2 Certificate</em> from TESDA demonstrating possession of core skills competencies: house cleaning, laundry and ironing, preparation of hot and cold meals, provision of hot and cold food and beverage services</td>
<td></td>
</tr>
</tbody>
</table>

Sources include documents from the POEA, OWWA, TESDA websites and the PAE FDH survey.
ANNEX II.

INDONESIAN MIGRATION INFRASTRUCTURES

"The main point is that all the problems of Indonesian Workers, since the process of recruitment until returning home, all the directions of the government policies are purposed to make the placement service and protection to Indonesian Workers better in the future."
~ Minister of Manpower and Transmigration,

GOVERNMENT POLICY

Most policies have been directed at unskilled labor emigration – outflows of high-skilled labor have been marginal in Indonesian contrary to patterns displayed by other developing countries. Indonesian government has been slower than the Philippines and other migrant-sending countries to develop effective policies and programs to protect their overseas workers – a point of high criticism by migrant workers, their advocates, and international observers and experts39.

In recent years, however, such attitudes are changing with government exercising greater action over this loosely regulated sector. In fact, Indonesian president Susilo Bambang Yudhoyono has named migrants "foreign exchange heroes," and publicly recognized that the recruitment process winds up overcharging migrants and encouraging illegal migration40. For example, in 2006, the government of Indonesia established a directorate to improve the welfare of migrant workers - the National Board for Placement and Protection of Indonesian Overseas Workers (BNP2TKI). On other occasions, the Indonesian government has suspended the deployment of overseas workers to certain countries calling for the increase of their nationals’ protection abroad.

Below is a brief overview of the Indonesian migration infrastructure – both programs and policies directed at the preparation and deployment of FDHs as well as measures in place in Hong Kong.

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40 Ministry of Manpower and Transmigration, Republic of Indonesia.
PRE-DEPARTURE
The Ministry of Manpower and Transmigration was traditionally the government agency charged with regulating matters concerning FDH. At present the Ministry coordinates the daily efforts of, the newly established BNP2TKI which is now responsible for the welfare of all Indonesian citizens’ welfare while working overseas.

FDH recruitment
In Indonesia, the recruitment and placement of overseas domestic workers is undertaken by private agencies called Perusahaan Jasa Tenaga Kerja Indonesia (PJTKI). At present, the role of the government in the pre-departure stage has been limited mostly to monitoring these agencies through a licensing scheme known as Surat Izin Pelaksana Penempatan (SIPPTKI).

Currently, the BNP2TKI is working with various line-ministries to integrate technology in the form of an online international job board to expedite the process of overseas job placing while also granting greater control over employment decisions to the migrant worker. These include: the Ministry of Home Affairs, the Ministry of Manpower and Transmigration, the Ministry of Justice and Human Rights, the Ministry of Foreign Affairs, the Ministry of Transportation, the State Ministry for State-Owned Enterprises, and the Ministry of Health that will be coordinated by the Coordinating Minister for Economic Affairs.

Training centers
It is mandatory under the Migrant Worker Placement and Protection Law for all such workers to undertake job and language training. The training is usually carried out by recruitment and placement agencies or affiliated companies. Trainees are generally not permitted to leave the premises, are exposed to a number of health hazards, and may be held at camps after training ends until a placement can be found.

Fees
Government intervention on the recruitment and deployment process of FDHs in Indonesia has been limited to few decrees and is not vastly regulated as observed in the case of the Philippines. Thus, the cost of migration to transnational workers has been subject to much debate. The Migrant Placement and Protection Law of Indonesia states that recruitment fees placed by private agencies should only reflect costs associated with processing identity documents and psychological tests, job training and competency certification41. Essentially, this law follows ILO standards which state that the fee from which the private agency gains should not come from the migrant worker and must be borne by another party (i.e. the overseas employer). What remain ambiguous are the standard rates FDHs are ultimately required to pay.

---

41 Article 76.
Insurance

The Migrant Worker Placement and Protection Law oblige agencies to insure all migrant workers that they place overseas\textsuperscript{42}. There is a decree by the Minister of Manpower and Transmigration further specifying that insurance must cover migrant workers leading up to their departure, during their employment abroad and between the time they complete their employment and return to their home towns in Indonesia\textsuperscript{43}.

\begin{itemize}
\item \textsuperscript{42} Article 68.
\item \textsuperscript{43} Decree of the Minister of Manpower and Transmigration KEP-157/MEN/2003 on Insurance for Indonesian Migrant Workers.
\end{itemize}
ANNEX III.

EMPLOYMENT CONTRACT
(For A Domestic Helper recruited from abroad)

This contract is made between

("the Employer", holder of Hong Kong Identity Card/Passport No.* ..............................................................) and

("the Helper") on ........................................ and has the following terms:

1. The Helper's place of origin for the purpose of this contract is ..............................................................

2. (A)† The Helper shall be employed by the Employer as a domestic helper for a period of two years commencing on .............................................................., which is the date following the expiry of D.H. Contract No. ........................................ for employment with the same employer.

(B)† The Helper shall be employed by the Employer as a domestic helper for a period of two years commencing on ................................., which is the date following the expiry of D.H. Contract No. ........................................ for employment with the same employer.

(C)† The Helper shall be employed by the Employer as a domestic helper for a period of two years commencing on the date on which the Director of Immigration grants the Helper permission to remain in Hong Kong to begin employment under this contract.

3. The Helper shall work and reside in the Employer's residence at ..............................................................

4. (a) The Helper shall only perform domestic duties as per the attached Schedule of Accommodation and Domestic Duties for the Employer.

(b) The Helper shall not be required to work for any other employer. The Employer and the Helper hereby acknowledge that Clause 4 (a) will form part of the conditions of stay to be imposed on the Helper by the Immigration Department upon the Helper's admission to work in Hong Kong under this contract. A breach of any of the said conditions of stay will render the Helper and/or any aider and abettor liable to criminal prosecution.

(c) The Employer shall pay the Helper wages of HK$ ........................................ per month. The amount of wages shall not be less than the minimum allowable wage announced by the Government of the Hong Kong Special Administrative Region and prevailing at the date of this contract. An employer who fails to pay the wages due under this employment contract shall be liable to criminal prosecution.

(d) The Employer shall provide the Helper with suitable and furnished accommodation as per the attached Schedule of Accommodation and Domestic Duties and food free of charge. If no food is provided, a food allowance of HK$ ................. a month shall be paid to the Helper.

(e) The Employer shall provide a receipt for payment of wages and food allowance and the Helper shall acknowledge receipt of the amount under his/her* signature.

5. The Helper shall be entitled to all rest days, statutory holidays, and paid annual leave as specified in the Employment Ordinance, Chapter 57.

6. The Employer shall provide the Helper with free passage from his/her* place of origin to Hong Kong and on termination or expiry of this contract, free return passage to his/her* place of origin.

7. (a) The Employer shall provide the Helper with free passage from his/her* place of origin to Hong Kong and on termination or expiry of this contract, free return passage to his/her* place of origin.

(b) The Employer shall provide the Helper with free passage from his/her* place of origin to Hong Kong and on termination or expiry of this contract, free return passage to his/her* place of origin.

8. The Employer shall be responsible for the following fees and expenses (if any) for the departure of the Helper from his/her place of origin and entry into Hong Kong:

(i) medical examination fees;
(ii) authentication fees by the relevant Consulate;
(iii) visa fee;
(iv) insurance fee;
(v) administration fee or fee such as the Philippines Overseas Employment Administration fee, or other fees of similar nature imposed by the relevant government authorities; and
(vi) others: ..............................................................

In the event that the Employer has paid the above costs or fees, the Employer shall fully reimburse the Helper forthwith the amount so paid by the Helper upon demand and production of the corresponding receipts or documentary evidence of payment.

* Delete where inappropriate.
† Use either Clause 2A, 2B or 2C whichever is appropriate.
9. (a) In the event that the Helper is ill or suffers personal injury during the period of employment specified in Clause 2, except for the period during which the Helper leaves Hong Kong of his/her* own volition and for his/her* own personal purposes, the Employer shall provide free medical treatment to the Helper. Free medical treatment includes medical consultation, maintenance in hospital and emergency dental treatment. The Helper shall accept medical treatment provided by any registered medical practitioner.

(b) If the Helper suffers injury by accident or occupational disease arising out of and in the course of employment, the Employer shall make payment of compensation in accordance with the Employees’ Compensation Ordinance, Chapter 282.

(c) In the event of a medical practitioner certifying that the Helper is unfit for further service, the Employer may subject to the statutory provisions of the relevant Ordinances terminate the employment and shall immediately take steps to repatriate the Helper to his/her* place of origin in accordance with Clause 7.

10. Either party may terminate this contract by giving one month’s notice in writing or one month’s wages in lieu of notice.

11. Notwithstanding Clause 10, either party may in writing terminate this contract without notice or payment in lieu in the circumstances permitted by the Employment Ordinance, Chapter 57.

12. In the event of termination of this contract, both the Employer and the Helper shall give the Director of Immigration notice in writing within seven days of the date of termination. A copy of the other party’s written acknowledgement of the termination shall also be forwarded to the Director of Immigration.

13. Should both parties agree to enter into new contract upon expiry of the existing contract, the Helper shall, before any such further period commences and at the expense of the Employer, return to his/her* place of origin for a paid/unpaid* vacation of not less than seven days, unless prior approval for extension of stay in Hong Kong is given by the Director of Immigration.

14. In the event of the death of the Helper, the Employer shall pay the cost of transporting the Helper’s remains and personal property from Hong Kong to his/her* place of origin.

15. Save for the following variations, any variation or addition to the terms of this contract (including the annexed Schedule of Accommodation and Domestic Duties) during its duration shall be void unless made with the prior consent of the Commissioner for Labour in Hong Kong:

(a) a variation of the period of employment stated in Clause 2 through an extension of the said period of not more than one month by mutual agreement and with prior approval obtained from the Director of Immigration;

(b) a variation of the Employer’s residential address stated in Clause 3 upon notification in writing being given to the Director of Immigration, provided that the Helper shall continue to work and reside in the Employer’s new residential address;

(c) a variation in the Schedule of Accommodation and Domestic Duties made in such manner as prescribed under item 6 of the Schedule of Accommodation and Domestic Duties; and

(d) a variation of item 4 of the Schedule of Accommodation and Domestic Duties in respect of driving of a motor vehicle, whether or not the vehicle belongs to the Employer, by the helper by mutual agreement in the form of an Addendum to the Schedule and with permission in writing given by the Director of Immigration for the Helper to perform the driving duties.

16. The above terms do not preclude the Helper from other entitlements under the Employment Ordinance, Chapter 57, the Employees’ Compensation Ordinance, Chapter 282 and any other relevant Ordinances.

17. The Parties hereby declare that the Helper has been medically examined as to his/her fitness for employment as a domestic helper and his/her medical certificate has been produced for inspection by the Employer.

Signed by the Employer

(Signature of Employer)

in the presence of

(Name of Witness)

(Signature of Witness)

Signed by the Helper

(Signature of Helper)

in the presence of

(Name of Witness)

(Signature of Witness)

* Delete where inappropriate.
SCHEDULE OF ACCOMMODATION AND DOMESTIC DUTIES

1. Both the Employer and the Helper should sign to acknowledge that they have read and agreed to the contents of this Schedule, and to confirm their consent for the Immigration Department and other relevant government authorities to collect and use the information contained in this Schedule in accordance with the provisions of the Personal Data (Privacy) Ordinance.

2. Employer's residence and number of persons to be served
   A. Approximate size of flat/house .......... square feet/square metres*
   B. State below the number of persons in the household to be served on a regular basis:
      .......... adult .......... minors (aged between 5 to 18) .......... minors (aged below 5) .......... expecting babies.
      .......... persons in the household requiring constant care or attention (excluding infants).
      (Note: Number of Helpers currently employed by the Employer to serve the household .............)

3. Accommodation and facilities to be provided to the Helper
   A. Accommodation to the Helper
      While the average flat size in Hong Kong is relatively small and the availability of separate servant room is not common, the Employer should provide the Helper suitable accommodation and with reasonable privacy. Examples of unsuitable accommodation are: the Helper having to sleep on made-do beds in the corridor with little privacy and sharing a room with an adult/teenager of the opposite sex.

      [ ] Yes. Estimated size of the servant room ....................... square feet/square metres*
      [ ] No. Sleeping arrangement for the Helper:
         [ ] Share a room with .......... child/children aged ..........
         [ ] Separate partitioned area of .......... square feet/square metres*
         [ ] Others. Please describe ..............................................

   B. Facilities to be provided to the Helper:
      (Note: Application for entry visa will normally not be approved if the essential facilities from item (a) to (f) are not provided free.)

      (a) Light and water supply [ ] Yes [ ] No
      (b) Toilet and bathing facilities [ ] Yes [ ] No
      (c) Bed [ ] Yes [ ] No
      (d) Blankets or quilt [ ] Yes [ ] No
      (e) Pillows [ ] Yes [ ] No
      (f) Wardrobe [ ] Yes [ ] No
      (g) Refrigerator [ ] Yes [ ] No
      (h) Desk [ ] Yes [ ] No
      (i) Other facilities (Please specify) ...........................................
4. The Helper should only perform domestic duties at the Employer's residence. Domestic duties to be performed by the Helper under this contract exclude driving of a motor vehicle of any description for whatever purposes, whether or not the vehicle belongs to the Employer.

5. Domestic duties include the duties listed below.

   Major portion of domestic duties:—
   1. Household chores
   2. Cooking
   3. Looking after aged persons in the household (constant care or attention is required/not required*)
   4. Baby-sitting
   5. Child-minding
   6. Others (please specify)

6. The Employer shall inform the Helper and the Director of Immigration of any substantial changes in item 2, 3 and 5 by serving a copy of the Revised Schedule of Accommodation and Domestic Duties (ID 407G) signed by both the Employer and the Helper to the Director of Immigration for record.

<table>
<thead>
<tr>
<th>Employer's name and signature</th>
<th>Date</th>
<th>Helper's name and signature</th>
<th>Date</th>
</tr>
</thead>
</table>

* delete where inappropriate

☐ tick as appropriate
ANNEX IV.

PAE-FDH SURVEY

ENGLISH VERSION: Questionnaire: Foreign Domestic Helpers in Hong Kong

Date of Interview: 01/____/2008
Location of work in Hong Kong: _______________
Location of Interviews: ______________________
Contact telephone: __________________________

This questionnaire is designed to gather details about your employment conditions and related living experience in Hong Kong. Please answer the questions as accurately as possible and to the best of your knowledge. Your information will be kept strictly confidential and will be used to help Harvard University researchers and international policy makers assess current social protection measures in country. Thank you kindly for your time and attention.

Please complete each question and check box where indicated.

<table>
<thead>
<tr>
<th>Personal Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country:</td>
</tr>
<tr>
<td>Sex:  Female  Male</td>
</tr>
<tr>
<td>Age:</td>
</tr>
<tr>
<td>Marital Status:  Never married  Married  Divorced/Widowed</td>
</tr>
<tr>
<td>Do you have children?</td>
</tr>
<tr>
<td>Yes. Ages?  No</td>
</tr>
<tr>
<td>Highest level of education:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Pre-departure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. How did you get your job?</td>
</tr>
<tr>
<td>Direct/Name Hire  Recruiting Agency:  Government office:  Other (Please specify):</td>
</tr>
</tbody>
</table>
2. Who did you pay in your home country prior to arriving in Hong Kong? 
Please check all that apply and provide amount (specify currency).
- Recruitment/Employment agency/PJTKI: __________
- Brokers/PL/Calo: __________
- Government agency: __________
- Travel documents (i.e. visa/passport): __________
- Air ticket: __________
- Training: __________
- Medical testing (total): __________
- Mandatory insurance: __________
- Other (Please specify):

3. Did you sign a contract at home before leaving for Hong Kong?
- Yes
- No. Who made arrangement? (Go to Question 5)

4. Did the contract give details of working hours, responsibilities, wage, rest day, etc.?
- No (Signed blank contract)
- Yes. What were they?
  - Wage: _______
  - Rest days per month: _______
  - Statutory holidays
  - Annual Leave
  - Other (Please specify):

5. Prior to leaving your home country for Hong Kong, were you explained any of the following? 
Please check all that apply.
- Hong Kong labor laws for migrants
- Hong Kong immigration laws
- Your human rights

Who explained these to you? Please check all that apply.
- Government
- Recruitment Agency
- Friend/Family
- Other (Please specify):

6. Did you stay at a training camp before coming to Hong Kong?
- Yes
- No (Go to Question 8)
7. Were there any cases of abuse or exploitation that you experienced or were aware of during your stay at the training camp? Please check all that apply.
   - None
   - Verbal abuse
   - Physical abuse
   - Sexual harassment
   - Rape
   - Other (Please specify):

---

### Employment Situation (1st CONTRACT ONLY)

8. When did you **first** come to Hong Kong?  
   - Month: __________  
   - Year: _________

9. Did you have to pay any money upon arrival?  
   - Yes. For what?  
   - No *(Go to Question 11)*

10. How much did you pay upon arrival?  
    - HKD/Month: __________  
    - # Months: ______

   How did you pay?  
   - Salary deduction
   - Employer paid
   - Other (Please specify):

11. How much money do you receive each month (in HKD)?

12. Did your employer reimburse you for costs of documentation?  
   - Yes. How much?  
   - No

13. Where do you sleep?  
   - Do you share a room?  
     - Yes. With whom?  
     - No

14. Average hours worked per day:

15. Are you allowed the following? Check all that apply.  
   - One rest day per week
   - All statutory holidays
   - Annual leave

16. If you work on your rest day, are you paid? How much (in HKD)?  
   - How many hours do you work on your rest day?
17. What are your daily work activities? Check all that apply.
- □ Cooking
- □ Market/shopping
- □ Cleaning the house
- □ Wash/Dry clothes
- □ Taking care of children (how many? _____; age(s): _____)
- □ Taking care of sick/disabled/elderly (how many? _____)
- □ Other (Please specify):

18. Do you do anything not included in your original contract?
- □ Yes. Explain:
- □ No

19. Have you ever had problems with your first employer in Hong Kong?
- □ Yes. Explain:
- □ No

*If this is your first contract in Hong Kong, skip next section. Go to page 4, Food and Health Section.*

### Employment Situation (CURRENT – NOT 1ST CONTRACT)

<table>
<thead>
<tr>
<th>20.</th>
<th>How much money do you receive each month (in HKD)?</th>
</tr>
</thead>
<tbody>
<tr>
<td>21.</td>
<td>Did your employer reimburse you for costs of documentation/contract renewal?</td>
</tr>
<tr>
<td>- □ Yes. How much?</td>
<td></td>
</tr>
<tr>
<td>- □ No</td>
<td></td>
</tr>
<tr>
<td>22.</td>
<td>Where do you sleep?</td>
</tr>
<tr>
<td></td>
<td>Do you share a room?</td>
</tr>
<tr>
<td>- □ Yes. With whom?</td>
<td></td>
</tr>
<tr>
<td>- □ No</td>
<td></td>
</tr>
<tr>
<td>23.</td>
<td>Average hours worked per day:</td>
</tr>
<tr>
<td>24.</td>
<td>Are you allowed the following? Check all that apply</td>
</tr>
<tr>
<td>- □ One rest day per week</td>
<td></td>
</tr>
<tr>
<td>- □ All statutory holidays</td>
<td></td>
</tr>
<tr>
<td>- □ Annual leave</td>
<td></td>
</tr>
<tr>
<td>25.</td>
<td>If you work on your rest day, are you paid? How much (in HKD)?</td>
</tr>
<tr>
<td></td>
<td>How many hours do you work on your rest day?</td>
</tr>
</tbody>
</table>
26. What are your daily work activities? Check all that apply.
   - Cooking
   - Market/shopping
   - Cleaning the house
   - Wash/Dry clothes
   - Taking care of children (how many? ; age(s): )
   - Taking care of sick/disabled/elderly (how many?)
   - Other (Please specify):

27. Do you do anything not included in your original contract?
   - Yes. Explain:
   - No

28. Have you ever had problems with your current employer in Hong Kong?
   - Yes. Explain:
   - No

Food & Health

29. Eating arrangement:
   Who provides your food?
   - Self
   - Employer provides free food
   - Employer deducts from salary

   Are you satisfied with your eating arrangements?
   - Yes
   - No. Explain:

30. Have you been ill since coming to Hong Kong?
   - Yes. What happened? Who paid?
   - No

31. Are you comfortable talking to your employer about illness?
   - Yes
   - No. Why?
### Migrants Rights

32. Has there been a time when you **did not** receive your wage?
   - Yes. Why?
   - No

33. Who holds your passport and/or residency papers?
   - Self
   - Employer
   - Agency
   - Other (Please specify):

### State & Social Networks

34. If there are violations of your employment contract, who do you go to first?
   - Your country consulate
   - HK Labor Department
   - HK Immigration
   - Employment Agency
   - Non-governmental organization (NGO)
   - Church-based organization
   - Shelter
   - Friend
   - Other (Please specify):

35. How has your country consulate addressed your employment concerns? Check all that apply.
   - Never been
   - Contract renewed
   - Contract violation addressed
   - Contract violation denied
   - Contract violation referred to other office (Please specify):
   - Other (Please specify):

36. How has the Hong Kong Labor Department and/or Immigration office addressed your employment concerns? Check all that apply.
   - Never been
   - Contract violation addressed
   - Contract violation denied
   - Contract violation referred to other office (Please specify):
   - Other (Please specify):
37. **Do you receive support/services from the following (check all that apply):**
   - [ ] Non-governmental organization (NGO)
   - [ ] Church-based organization
   - [ ] Shelter
   - [ ] Other:

38. **Is there anything else you would like to tell us about your stay in Hong Kong?**
ANNEX V.

BAHASA INDONESIAN VERSION:
Questionnaire: Overseas Foreign Workers in Hong Kong

Tanggal wawancara: __/__/2008
Lokasi Kerja di Hong Kong: _________________
Lokasi Wawancara: ________________________
Nomor Telepon: ____________________________

Data Personal
Negara: ____________________________
Sex:    ☐ Wanita    ☐ Laki-laki
Umur: ____________________________
Status:    ☐ Belum menikah    ☐ Menikah    ☐ Cerai/Duda/Janda

Apakah anda memiliki anak?
☐ Ya. Umur?
☐ Tidak

Pendidikan Terakhir:

Pra-keberangkatan
1. Bagaimana anda mendapatkan pekerjaan anda?
   ☐ Mencari majikan sendiri/kontrak mandiri
   ☐ Agency: __________________
   ☐ Kantor Pemerintah: _________________
   ☐ Lainnya (Jelaskan):
2. Apa saja jenis biaya yang harus anda bayarkan sebelum berangkat ke Hong Kong?
Berilah tanda pada seluruh jawaban yang tepat dan sebutkan besaran biayanya (cantumkan jenis mata uangnya).

<table>
<thead>
<tr>
<th>Biaya</th>
<th>Besaran</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agen perekrutan/PJTKI</td>
<td>__________</td>
</tr>
<tr>
<td>Calo</td>
<td>__________</td>
</tr>
<tr>
<td>Pemerintah</td>
<td>__________</td>
</tr>
<tr>
<td>Dokumen Perjalanan (i.e. visa/passport)</td>
<td>__________</td>
</tr>
<tr>
<td>Tiket Pesawat</td>
<td>__________</td>
</tr>
<tr>
<td>Pelatihan</td>
<td>__________</td>
</tr>
<tr>
<td>Tes Kesehatan (total)</td>
<td>__________</td>
</tr>
<tr>
<td>Asuransi yang wajib</td>
<td>__________</td>
</tr>
<tr>
<td>Lain-lain (sebutkan):</td>
<td></td>
</tr>
</tbody>
</table>

3. Apakah anda menandatangani kontrak sebelum anda berangkat ke Hong Kong?

- Yes
- Tidak. Siapa yang Mengurus? **(Langsung ke pertanyaan No. 5)**

4. Apakah didalam kontrak disebutkan tentang jam kerja, tanggung jawab, gaji, libur, dsb?

- Tidak (saya menandatangani kontrak kosong)
- Ya. Apa saja ketentuannya?
  - Gaji: __________
  - Hak libur setiap bulannya: __________
  - Libur Nasional
  - Cuti Tahunan
  - Lainnya (sebutkan): |

5. Sebelum meninggalkan negara anda untuk ke Hong Kong, apakah anda dijelaskan tentang hal-hal dibawah ini? Berilah tanda pada seluruh jawaban yang tepat.

- Hukum tentang Migran di Hong Kong
- Hukum immigrasi Hong Kong
- Hak-hak asasi anda

Siapa yang menjelaskan hal tersebut kepada anda? Berilah tanda pada seluruh jawaban yang tepat.

- Pemerintah
- Agency
- Teman/Saudara
- lainnya (sebutkan): |

6. Apakah anda tinggal di penampungan sebelum berangkat ke Hong Kong?

- Ya
- Tidak **(Langsung ke pertanyaan no. 8)**
   - Tidak
   - Kata-kata kasar
   - Kekerasan Fisik
   - Pelecehan Seksual
   - Pemerkosaan
   - Lainnya (Sebutkan):

8. Situasi Pekerjaan (1ST KONTRAK SAJA)

   8. Kapan pertama kali anda ke Hong Kong? Bulan: _______ Tahun: _______

   9. Apakah anda harus membayar sejumlah uang ketika tiba di Hong Kong?
      - Ya. Untuk apa?
      - Tidak (Langsung Ke pertanyaan No. 11)

    Bagaimana cara anda membayar?
    - Potongan gaji
    - Dibayar majikan
    - Lainnya (jelaskan):

11.  Berapa banyak uang yang anda dapatkan perbulannya (HKD)?

12. Apakah majikan anda mengganti uang ongkos pengurusan dokumen?
    - Ya. Berapa?
    - Tidak

13. Dimana anda tidur?
    Apakah anda tidak tidur sendiri dikamar?
    - Yes. Dengan siapa?
    - Tidak

14. Berapa jam rata-rata waktu kerja anda perhari?:

15. Apakah anda mendapatkan hal-hal dibawah ini? Berikan tanda pada seluruh jawaban yang tepat.
    - Satu kali libur setiap minggunya
    - Seluruh libur nasional
    - Cuti tahunan

16. Apabila anda bekerja di hari libur, apakah anda di gaji? berapa(HKD)?
    Berapa jam anda bekerja ketika hari libur?
17. Apa aktivitas kerja harian anda? Berikan tanda pada seluruh jawaban yang tepat.
- Masak
- Belanja
- Membersihkan rumah
- Mencuci/mengeringkan pakaian
- Menjaga anak (berapa? ; umur: )
- Mengurus orang sakit/cacat/orang tua jompo (berapa?)
- Lainnya (Sebutkan):

18. Apakah anda juga mengerjakan pekerjaan yang tidak diatur dalam kontrak?
- Ya. jelaskan:
- Tidak

19. Apakah anda pernah mendapatkan masalah dengan majikan pertama anda di Hong Kong?
- Ya. Jelaskan:
- Tidak

Apabila sekarang adalah kontrak pertama anda, lewatkan pertanyaan bagian ini. Langsung ke halaman 4, bagian makanan dan kesehatan

<table>
<thead>
<tr>
<th>Situasi Pekerjaan (SEKARANG – BUKAN KONTRAK PERTAMA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>20. Berapa banyak uang yang anda terima setiap bulannya (HKD)?</td>
</tr>
</tbody>
</table>
| 21. Apakah majikan anda mengganti biaya pengurusan dokumen/pengurusan kontrak baru?
- Ya. Berapa?
- Tidak |
| 22. Dimana anda tidur?
- Apakah anda tidak tinggal sendiri dikamar?
- Ya. Dengan siapa?
- Tidak |
| 23. Berapa jam rata-rata waktu kerja anda perhari: |
- Libur mingguan
- Libur nasional
- Cuti tahunan |
| 25. Apabila anda bekerja pada hari libur, apakah anda dibayar? Berapa (HKD)?
- Berapa jam anda bekerja pada hari libur? |
  □ Masak
  □ Belanja
  □ Membersihkan rumah
  □ Mencuci/Mengerlingkan pakaian
  □ Merawat anak (berapa?_____; umur:____)
  □ Merawat orang sakit/orang cacat/orang jompo (berapa?____)
  □ lainnya (sebutkan):

27. Apakah anda juga mengerjakan pekerjaan yang tidak tercantum didalam kontrak?
  □ Ya. Jelaskan:
  □ Tidak

28. Apakah anda pernah mengalami masalah dengan majikan anda sekarang di Hong Kong?
  □ Ya. Jelaskan:
  □ Tidak

<table>
<thead>
<tr>
<th>Makanan &amp; Kesehatan</th>
</tr>
</thead>
<tbody>
<tr>
<td>29. Pengaturan makan:</td>
</tr>
<tr>
<td>Siapa yang memberikan makanan untuk anda?</td>
</tr>
<tr>
<td>□ Sendiri</td>
</tr>
<tr>
<td>□ Majikan memberikan makan secara gratis</td>
</tr>
<tr>
<td>□ Majikan dengan memotong gaji</td>
</tr>
<tr>
<td>Apakah anda puas dengan makanan yang diberikan?</td>
</tr>
<tr>
<td>□ Ya</td>
</tr>
<tr>
<td>□ Tidak. Jelaskan:</td>
</tr>
<tr>
<td>30. Apakah anda pernah jatuh sakit selama di Hong Kong?</td>
</tr>
<tr>
<td>□ Ya. Kenapa? Siapa yang membayar?</td>
</tr>
<tr>
<td>□ Tidak</td>
</tr>
<tr>
<td>31. Apakah anda merasa nyaman memberitahukan kondisi anda bila anda sakit kepada majikan?</td>
</tr>
<tr>
<td>□ Ya</td>
</tr>
<tr>
<td>□ Tidak. Kenapa?</td>
</tr>
</tbody>
</table>
### Hak-Hak sebagai Buruh Migran

32. Apakah anda pernah **tidak** menerima gaji anda?
   - [ ] Ya. kenapa?
   - [ ] Tidak

33. Siapa yang memegang paspor anda?
   - [ ] Sendiri
   - [ ] Majikan
   - [ ] Agency
   - [ ] Lainnya (sebutkan):

### Negara & Hubungan Sosial

34. Apabila ada pelanggaran terhadap kontrak kerja anda, siapa yang anda hubungi pertama kali untuk meminta bantuan?
   - [ ] Konsulat negera anda
   - [ ] Departemen perburuhan HK/HK Labor Department
   - [ ] Imigrasi HK
   - [ ] Agency
   - [ ] Lembaga Swadaya Masyarakat (LSM)
   - [ ] Organisasi Gereja
   - [ ] Penampungan/Shelter
   - [ ] teman
   - [ ] lainnya (sebutkan):

   - [ ] Tidak pernah
   - [ ] Kontrak diperbaharui
   - [ ] Mengurus pelanggaran kontrak
   - [ ] Tidak mengurus pelanggaran kontrak
   - [ ] Pelanggaran kontrak di serahkan ke kantor lain (sebutkan):
   - [ ] lainnya (sebutkan):

36. Bagaimana Dept Perburuhan atau imigrasi Hong Kong mengurus persoalan pekerjaan anda? Berikan tanda pada seluruh jawaban yang tepat.
   - [ ] Tidak Pernah
   - [ ] Mengurus Pelanggaran kontrak
   - [ ] Tidak Mengurus pelanggaran kontrak
   - [ ] Pelanggaran kontrak diserahkan ke kantor lain (sebutkan):
   - [ ] Lainnya (sebutkan):
37. Apakah anda menerima pelayanan/banuan dari lembaga di bawah ini (berikan tanda pada seluruh jawaban yang tepat):
   - Lembaga Swadaya Masyarakat (LSM)
   - Organisasi gereja
   - Penampungan/Shelter
   - lainnya

38. Apakah ada hal lain yang ingin anda ceritakan tentang kondisi anda selama tinggal di Hong Kong?
ANNEX VI.

CONTINUED RECOMMENDATIONS FOR HYPOTHESIS TESTING

The following are possible quantifiable measures and methods of data collection for each of the suggested variables in the PAE recommendations.

**Independent Variable: High / Low migration infrastructure**

The ILO should use continuous variables to measure whether a state has low or high migration infrastructure. The variable should be one that can be measured in both the sending and receiving country. For example, wages would not be a sufficient indicator because they are only relevant in the receiving country. Depending on the variable used, the median value of the variable’s range should determine which states fall in the high or low range of migration infrastructure. Please see the sample chart and typology generated using a generic variable below.

![Sample Chart](chart.png)

The following variables can be used to measure the level of infrastructure in a state. None of the variables alone, however, can shed sufficient insight on the efficacy of the infrastructure. For example, countries with higher migration infrastructure may have many laws that put migrants at risk of exploitation. Data collection for the most desirable variables in future studies does not require using a household survey.

*Number of legislations:* The ILO can easily research the number of laws relating to migrants in each country. Further analysis should be conducted to determine the impact of each legislation, whether the legislations hurt or help migrant workers.
Local press: Research can be conducted by looking into the local press of each country and counting the number of stories about state policies affecting migrant workers. When comparing countries, the same time period should be used for each country. The assumption behind the variable is that the more press releases or news stories in a country, the more attentive the state is to migration issues, translating into higher migration infrastructure. For instance, the POEA posts press releases on the Internet every time it changes its administrative policies and it is considered a high migration infrastructure state. However, this variable is limited in that freedom of press varies across countries. A country with an equivalent amount of legislation could be mistakenly classified as a state with lower migration infrastructure by virtue of having less press. Furthermore, counting the number of press stories without taking into account their positive or negative connotations may inhibit researchers from understanding the impact of the states’ migration infrastructure.

Legal cases for migrants: Future research could look at the number of legal cases in each country involving migrant workers. For example, to measure whether Hong Kong is a receiving state with high migration infrastructure, the ILO could look at the number of labor department cases in a certain time period. This variable, however, would have an identification problem. The number of legal cases involving migrant workers could be a sign that the government is more attentive to migrant welfare, or an indication that the government is not doing enough to protect migrant workers.

Dependent variable: Contract violations
Using a household survey for migrant workers and reviewing copies of the participants’ contracts, the ILO can collect data on the frequency of contract violations. Administrative data can be used to confirm contract violations, but a household survey is ideal for gathering panel data (i.e. the same set of migrants with none, one or multiple contract violations over the same time period). With panel data, statistical methods can be used to control for variables that may affect contract violations, other than migration infrastructure. Secondly, using a household survey would avoid the selectivity bias that may occur if only administrative data from the sending or receiving country are used to measure contract violations. Not all migrant workers with contract violations will seek help from their country consulates or the labor and immigration department of the host country. To make the data comparable across various countries, the frequency of contract violations should be converted into indicator ratios such as contract violations / 1000 migrants / year.

There are two types of contract violations the ILO should measure. The first are economic violations, where employers violate terms in their contract such as wages, rest days, sick days and annual leave. The second type of contract violation are human rights violations that may be explicitly stated in the contract or implied by virtue of the receiving country signing various international conventions on the rights of migrants. For instance, the Hong Kong standard employment contract includes stipulations on appropriate private accommodations for the foreign domestic helper as well as food
arrangements. Moreover, it is against international law to withhold someone’s identification documents regardless of their status in the country.

Challenges to measuring contract violations include accounting for contracts that have been forged or switched without the migrant workers’ knowledge. The ILO could group survey participants in such a situation into another category for further analysis such as measuring the frequency of trafficking or unauthorized employment agreements. Another challenge in future studies is measuring violations to verbal agreements. For example, while migrant workers in Hong Kong must sign a standard employment contract prior to working, the migrant worker could verbally agree to accept a lower wage from their employer once in Hong Kong.

**Dependent variable: Satisfaction of Services**

To analyze data on migrant workers’ satisfaction of government services received, the ILO should first collect data to create benchmarks for migrant workers’ expectations of government services provided by the sending and receiving country. A series of hypothetical situations, or vignettes, should be posed to random samples of migrant workers from the countries in question. The vignettes should focus on different forms of contract violations and possible government responses to the violations. Then the participants should rank their satisfaction of the hypothetical result on a scale, i.e. 1 for very satisfied to 5 for very dissatisfied. Using the aggregate data, benchmarks can be created for the expectation of various government services. In turn, the benchmarks can be compared to survey and interview data of migrant workers’ perception of their personal experiences with government agencies.

**Control variables**

The ILO should use household surveys that collect data on the migrant workers’ age, language(s) spoken, highest level of education, and experience working abroad (number of years and countries worked in). Being older, having more experience abroad and completion of more education can impact a migrant worker’s ability to avoid frequent contract violation, whereas others may be more vulnerable. In addition, the ILO should collect data on the migrant workers’ level of income prior to the overseas contract. This data would serve as a proxy for the migrant workers’ need for a job—the greater the need for stable income, the more vulnerable the migrant is to contract violations.

Cultural factors and social networks are additional variables that should be considered in future studies on the efficacy of migration infrastructures. During interviews, the Muslim faith and a disposition to accept incidents as just part of one’s luck was a recurring theme among Indonesian FDHs. As such, Indonesian migrants were more likely to accept deviations from the standard employment contracts. In contrast, a long history of organizing and mobilizations surfaced in the interviews as hypotheses for why Filipino FDHs had lower frequencies of contract violations. Both populations of migrants displayed an ability to organize unions, create support groups, and partner
with NGOs and CSOs. Therefore, the number of organizations and associations migrant workers are involved in should also be tracked for analysis.
This paper examines and compares the various institutional arrangements for regulating migration that have been developed in Indonesia and the Philippines, referring to them generally as “migration infrastructure”. The study sought to determine whether these have any impact on the relative conditions of employment of Filipino and Indonesian domestic workers in Hong Kong.

This is part of the series of papers being published by the Asian Regional Programme on Governance of Labour Migration, ILO Regional Office for Asia and the Pacific.