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The Precarity of Migrant Domestic Work

In 2011, the International Labour Organization successfully passed Convention 189, also known as the Convention on Decent Work for Domestic Workers. Insisting upon the global recognition of domestic work, this convention sought to establish a standard of employment. Indeed, it led to the enactment of legal reforms for the greater protection of domestic workers in many countries including, for instance, Singapore and Lebanon, both of which have since instituted a mandatory weekly day off (Human Rights Watch 2013). The existence in numerous countries of state-regulated recruitment programs for migrant domestic workers further points to the recognition of domestic work as a legitimate sector in need of public governance and state protection. Domestic workers in these destinations can obtain legal residency through the sponsorship of their employer. They work in countries including Canada, Italy, Denmark, Israel, Lebanon, Singapore, Taiwan, Malaysia, and Gulf Cooperative Council countries such as Saudi Arabia and the United Arab Emirates (UAE).

Domestic workers, arguably the largest group of women migrants today, represent a geographically diverse population that originates from Africa, Southeast Asia, South Asia, Eastern Europe, and Latin America. They include Kenyans and Ethiopians employed in the Middle East, Indonesians in the Middle East and Asia, Nepalese and Indians in the Middle East, Latin Americans in Europe and the United States, and Ukrainians and Moldovians in Western Europe. In this article, we examine the migration and employment conditions of migrant domestic workers from the Philippines because they represent one of the largest of these groups of workers globally. While Filipino domestic workers are located across the globe, we focus our discus-

sion on the Middle East because the vast majority of Filipino migrant workers, more than 60 percent, are employed in this region (Aranda 2017).

This article establishes how the organization of migrant domestic work heightens the precarity of their labor by placing them in a relationship of unequal dependency with employers. Migrant domestic workers embody a state of legal labor-market precarity, that is, working without labor laws to protect their rights. Receiving states do not recognize domestic work as real work, instead viewing it simply as a familial, private activity. Framing domestic work in this way results in workers' limited rights vis-à-vis employers and the failure of sending states to advocate for recognition of their rights. Instead, sending states promote the servility—specifically relative social subordination to employers and exclusion from the labor rights generally granted to other sectors—in ways that help define what precarity means for domestic workers.

This article draws from our field research, specifically our primary interviews with Filipino domestic workers ($n = 85$) and supplementary interviews with government officials, recruitment agency staff, employers, and nongovernmental organization representatives conducted in the Philippines and the UAE in nonconsecutive periods in 2014, 2015, and 2016 as well as from one hundred hours of participant observation conducted in 2016 at predeparture orientation seminars for prospective migrant domestic workers in Manila. As discussed further below, there are a number of basic changes that could be made to improve the conditions under which migrant domestic workers labor, including strengthening labor laws to protect domestic workers' rights, improving employer training regarding workers' rights, and creating worker-oriented pre-departure training to educate and empower workers with respect to their rights.

The Unregulated Labor of Domestic Work

While officially welcoming domestic workers as migrant laborers, most receiving countries do not fully recognize domestic work as labor, that is, as a legitimate matter of public concern that appropriately involves rights and duties designated by the state. In Singapore, for example, domestic workers remain excluded from the Employment Act. In Taiwan, domestic workers are not covered by the Labor Standards Law, and the newly enacted Domestic Workers Protection Act does not offer domestic workers labor protection to domestic workers but only gives them the right to negotiate for their employment conditions. In Israel, domestic workers historically have had the right to a weekly day off, but a 2009 Supreme Court ruling excluded them from

the Work and Rest Hour Law; currently, these workers do not have the right to overtime pay or a day off. In the UAE, domestic workers were excluded from recent reforms in the *kafala* (sponsorship) program that binds a migrant worker to their employer.¹ Only a few countries, including Canada, Jordan, and Malaysia, provide labor protection to domestic workers; yet, as the Canadian scholars Abigail Bakan and Daiva Stasiulus (2003) note, enforcement of protections remains rare. Domestic workers might be authorized as labor migrants but they remain unrecognized as rights-bearing workers. Without labor protection, migrant domestic workers are left susceptible to abuses, including “contract substitution,” that is, the practice of employers reneging on the terms of the contract signed prior to migration; isolation, exacerbated by the lack of a day off, the prohibition of access to the internet or a mobile phone; overwork, underpayment, and nonpayment of wages; and vulnerability to sudden termination without justification.

“Contract substitution” is a problem that commonly plagues migrant domestic workers, as the situation of Filipina migrant domestics in the UAE demonstrates. While one may sign a contract stipulating a salary of 1,500 dirham (US\$408) per month prior to migration to the UAE, one can expect to receive a lesser salary that will range from 700–1000 dirham (US\$190–272) for one’s first contract. Prior to migration, most are actually made aware by their employer that their “real” wage will not meet the minimum wage requirement of US\$400 that is stipulated by the Philippine government. However, many domestic workers agree to the lower wage rate because it is higher than what they would earn in the local economy. Prior to migration, most work in the informal sector as domestic workers, street peddlers, or farmers. Those who work in factories or retail are usually contingent workers who find themselves aged out of the domestic labor market at the age of twenty-three, which ironically is when they become eligible for domestic work abroad. In short, because these workers are generally confined to informal occupations and accustomed to receiving very low wages before migrating, they tend to be acquiescent to UAE employers’ contract substitution.

Another difficulty domestic workers frequently encounter is limited freedom with regard to personal time and communication with others. It is not unusual for domestic workers to not have a day off or access to a mobile phone. In some cases, employers bar domestic workers from talking to other migrant workers when in public. It is common practice for recruitment agencies to confiscate mobile phones from domestic workers upon their arrival in the UAE, which the agencies do by inspecting workers’ belongings prior to

placing them in their employer's household. Unless they manage to smuggle a phone into their employer's household or secretly have someone else (such as a neighbor or, in one case, a garbage collector) make a phone and SIM card available to them, domestic workers have to earn the trust of their employers to gain the ability to communicate with those outside the household, including their own families in the Philippines.² Denied interaction with a network of sympathetic individuals with whom they could compare their work conditions, domestic workers experience profound isolation and, as a result, lack the information necessary to set standards of employment for themselves (Hondagneu-Sotelo 2001).

The absence of regulation in domestic work coupled with workers' isolation results in inconsistent standards of employment across households. Most domestic workers arrive in the UAE stunned by the monstrous size of their employer's home and ill-warned of their daily job responsibilities, which likely include mopping the floors, dusting the furniture, making the beds, doing the laundry and ironing, cooking, and caring for children. While those employed in Emirati households typically share the burden with coworkers, the "all-around" work that they do is still likely to extend to more than sixteen hours per day. Overwork plagues most domestic workers, as the case of Filipina workers in the UAE illustrates. Quitting is notably not a viable option because most workers labor under conditions of indentured servitude, struggling with heavy debt burdens, and remain legally bound to their employers. This leaves domestic workers susceptible to extreme exploitation.

Further demonstrating domestic workers' lack of control over the basic conditions of their labor, and hence further defining precarity, is the power of employers to fire and deport them at will. A handful of the undocumented workers we interviewed in the UAE had run away, opting to flee instead of returning to the Philippines upon the cancellation of their contracts. Because domestic workers are officially dependents of their employer in the UAE, as well as in other Gulf Cooperative Council countries, Singapore, Taiwan, Israel, Denmark, and Hong Kong, among others, employers have the power to force the deportation of domestic workers under their sponsorship even after the completion of their labor contract and deny them the ability to search for a new sponsor locally. Being official dependents of their employers constitutes perhaps the most pernicious sense in which these workers are authorized as labor migrants but not recognized as rights-bearing workers. Legally incorporated as a household dependent and not an independent worker with the ability to participate freely in the labor market, migrant domestic workers must continuously work for their sponsor in order to

maintain their legal residency. Termination of this sponsorship means the end of their legal residency.

Bound to work solely for their sponsor, migrant domestic workers are placed by the receiving state of the UAE in a relationship of subordination to and dependency upon their employers, to whose whims these workers are subjected. This is a position that they share with migrant domestic workers elsewhere (Parreñas 2017). In Taiwan, for instance, domestic workers can only change employers if the state finds their current employer unfit to employ them, which would only be the case if an employer died or declared bankruptcy. In Israel, such workers are only allowed to shift to a different employer three times during the first sixty-three months of their residency. In Denmark, they can only change employers twice during their two-year tenure as an au pair. In Hong Kong, domestic workers are discouraged from changing employers by the two-week rule, which subjects them to deportation if unable to secure a new employer-sponsor within two weeks of their termination. The UAE and Singapore require domestic workers to secure the permission of their employers to change sponsors, and employers can deny workers the opportunity even to search for new sponsors.

State Protection and the Migration of Domestic Workers

To reduce the vulnerability of migrant domestic workers to the widely documented hardships common to the sector, the Philippine state has instituted a robust protectionist program for outgoing migrant workers. Prior to migration, prospective migrant workers must clear premigration requirements at three government offices, including the Philippine Overseas Employment Administration, which registers the outmigration of the worker; the Technical Education and Skills Department Authority, which ensures that the migrant worker meets the basic skills level of their designated job; and, finally, the Overseas Workers Welfare Administration, which oversees their cultural-sensitivity and language training. Outsourcing the management of migration, the Philippine Overseas Employment Administration requires prospective migrant workers to secure their employment via one of approximately two thousand government-registered recruitment agencies, which, in turn, oversees workers' navigation of various government agencies.

The regulation of migration is part of a "migrant infrastructure" (Xiang and Lindquist 2014) that occasionally protects migrants from abusive employ-

ers, but the domestic worker protection program of the Philippines fails overall to counter workers' lack of control in the workplace and instead promotes a culture of servility in domestic work. Encouraging domestic workers to assume a servile attitude toward their employers after arriving in the UAE constitutes still another dimension of these workers' condition of precarity. As a sending state, the Philippines questions neither the nonrecognition of domestic work as legally and politically significant labor nor the relationship of unequal dependency between domestic workers and their employers. Instead, the Philippine worker protection program merely warns workers of these inequalities. This is made clear in the pre-departure orientation seminar. Prior to migration, domestic workers bound for the Middle East must attend three days of this seminar. In this seminar, they learn basic language skills, cultural traditions, and employment standards. Described by participants as a "discouragement seminar," the seminar paints a bleak picture of the labor conditions that await them. Prospective migrant domestic workers are told to expect long hours of work, isolation, limited communication outside their employer's household, and vulnerability to abuse, including rape. They are also warned of their extreme dependency on their employer, as reflected by their inability to quit their job before the end of their two-year contract and the right of their employer to fire them at will. To underscore the difficulties workers will likely encounter, teachers frequently ask participants: "*kaya mo ba?*" meaning, "can you take it?"

Such fatalism sets the main ethical and emotional tone of these seminars, which urge workers to adopt a subservient posture toward their employers and to resign themselves to the futility of seeking recognition for domestic work as rights-deserving labor. As one teacher notes:

If you are a cell phone, you are an open line. Everything depends on your employer—your work, your rest. They are awake at 2 am. You can ask for permission to sleep and they will say no. You can't tell your madam, "it is 10 pm, go to sleep now." [Laughter in the room.] You have no freedom. If you have no day off, you will look out the window and wave at people. Homesickness is often caused by isolation.

Domestic workers thus are told that in the workplace they will enter, they can expect not only the denial of a day off, but also a relationship of servility in which employers can control their most minute actions and behaviors, including when they should be awake and asleep. In this way, the Philippine state helps create the workers' condition of precarity by prodding them to

view their lack of control over basic working conditions as inevitable and incontestable. Thus, these domestic workers' precarity is at once a socially structured employment relation, a personal disposition of servility, and a product of state policy.

Of course, the fact that the state is heavily involved here offers an opportunity to change things politically: in the seminars, teachers could attempt to empower domestic workers. Educators could advise workers to seek ways to control their own labor for themselves and to embrace their expertise as household workers. Teachers could urge workers to determine how they should do their work, manage the pace of their labor, and set the hours of their work. Instead, in perhaps the most extreme encouragement of servility, domestic workers are told to do no more than "pray" they are assigned to a conscientious employer:

Class number one, pray for your employer. Your employer is the key to your success. So pray for your employer. People ask if employers are rapists. Too negative. Positive thoughts. Pray you have a nice employer. OK with work and OK with food. Number two pray that our employer is wealthy because they can afford [the minimum monthly wage of] US\$400. Number three pray your employer is religious. More likely they are good. If your employer is not good, you better study the house and escape routes. [Loud laughter.] Number one prayer, prayer for employer.

In this scenario, employers completely determine the terms of employment of domestic workers; the latter are "dependent" on the former not only economically and by law but also as servants of a divinely ordained master. The educator's chilling comments make it explicit how these terms could extend to abusive situations, as in the references to workers' vulnerability to rape, underpay, overwork, and likely desire to escape.

While the pre-departure orientation seminars naturalize subordination, they also arguably provide a realistic picture of the challenges and difficulties that will likely confront migrant domestic workers in their destination countries. From this vantage point, the exploitative employer really is nothing but a painful reality that they should be made aware of prior to migration. Although other scholars perceive these seminars and the regulation of outmigration as a reflection of the Philippines as a "labor brokering state" (Rodriguez 2010) and part and parcel of the process of the commodification of their citizenry (Guevarra 2010), the sessions arguably also reflect the efforts of the Philippines to maintain a social contract with their migrant workers. The Philippine government faces the conundrum of knowingly deploying a sig-

nificant number of their citizens to highly vulnerable positions of domestic work outside the realm of the state's protective capacities. Banning citizens' labor migration, as Indonesia recently did for migrants headed to the Middle East, is considered not an option because it supposedly violates the constitutional right of citizens to freedom of movement. As such, the Philippine government has primarily responded by closely monitoring and regulating the outmigration of its workers, particularly domestic workers. Yet, the Philippine state does so without demanding political recognition by receiving states of domestic work as labor with grounded rights claims, and this makes the state complicit in domestic workers' precaritization.

Conclusion

In various countries across the globe, domestic work is an authorized category of employment for migrant workers but an unrecognized occupation that remains exempt from labor protection. This is surely the case in the Middle East where large numbers of migrant domestic workers are concentrated. This contradictory perspective on domestic work opens pathways of labor migration but at the cost of their precarity as workers. Domestic workers are made vulnerable by being denied labor protection and gaining legal status only as dependents of employers, resulting in the inconsistency of the application of labor standards across households, the despotic power of employers, and vulnerability to abuse. These abuses include overwork, isolation, violence, and underpayment.

Recognizing the vulnerability of their deployed citizenry, sending states such as the Philippine government aim to institute robust protectionist programs. While they attempt to set standards of employment (for example, the minimum wage), they do little to enforce these standards. We could commend sending states such as the Philippines for instituting programs that warn prospective migrants of their high risk for abuse, but doing so does not absolve these states of culpability for such abuses. In general, sending states fail to question the refusal of receiving states to recognize domestic work as labor that deserves legal rights and public protections. Instead, we see the inculcation of a culture of servility that upholds the despotic power of employers.

It remains difficult to know how best to reduce the precarity of domestic workers. State recognition of domestic work as labor that grounds legitimate rights claims would perhaps lead to the legal incorporation of migrant domestic workers as independent workers who would no longer be bound to a sponsoring employer but instead would be able to participate freely in the

labor market. It would also lead to the enforcement of labor standards, including the right of domestic workers to a day off, access to a mobile phone, and a minimum wage. An immediate challenge, however, is the creation of labor standards for migrant domestic workers across the globe. Perhaps we could focus on training employers to abide by ethical labor standards. One way we could encourage this is through mandatory training classes for employers, as is done, for instance, in Singapore. Yet, our end goal should be the global recognition of domestic work as rights-bearing labor because the continued denial of such recognition can only result in the perpetuated precarity of domestic workers.

Notes

- 1 As of October 2017, the government of the UAE passed a new law protecting domestic work. The law offers some long overdue formal protections, but it leaves the *kafala* system intact for domestic workers, thereby leaving their rights dependent on the whims of their employer (Salama 2017).
- 2 Most employers grant domestic workers permission to speak to their families in the Philippines at least once a month, but some fail to do so.

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