

Hong Kong's invisible quarter million

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Visible/invisible

In New York City, people who work as au pairs or nannies carry out a role in the household similar to domestic helpers in Hong Kong. That is, they care for and educate children while parents are working, live in the home where they work, and share meals with the family. In an evening class on pastry-making in New York, I once met a young woman from Ireland who said she worked as an au pair. She was under 26, on a special one-year visa, and worked five days a week taking care of a family's children. She was free in the evenings and weekends, and so was able to afford the time as well as money to attend the cooking course. In fact, 'au pair' means 'on par' or an equal; they are meant to be treated as a family member and integrated into the family. Thus, they are 'visible'—they have evenings and weekends free, and are able to take classes, enjoy a social life, and develop relationships outside work. The character of a nanny played by Scarlett Johansson in the movie *The Nanny Diaries* reflected the idea that a nanny may not be high-status, but society can still accept her as a protagonist and determiner of her own fate.

In contrast, what is the status of domestic workers in Hong Kong, 'Asia's world city'? The chances of any Hong Kong citizen encountering a domestic worker as a classmate in an evening or weekend course are minuscule. It is true that a domestic worker's job duties extend far beyond just caring for children. Why however, are domestic workers not visible in society, except when working, or congregated in groups on their single weekly rest days? By 'visible', I mean seen as protagonists, as friends of Hong Kong people, as equal and accepted members of Hong Kong society at the community level or at the level of dialogue in the media. Even television dramas depicting the homes of the wealthy, which most likely would have at least one foreign domestic helper, totally exclude them from the script and the screen.

The current system of domestic helper employment is not intended to allow helpers free movement, career development or time for friendships. In fact, for six days a week, a domestic worker will usually have no time of her own, while a significant number of domestic workers do not even have their full, or even any, weekly rest day (despite it being illegal not to provide them a 24-hour rest day). Apart from that, the monthly salary which most domestic workers get is barely enough to sustain one person and her family back home in the Philippines, Indonesia or elsewhere, much less allow her to take any classes. A quarter of a million foreign domestic helpers live among us in Hong Kong, sharing our home spaces and engaging the hearts of our children, yet we do not interact with them as equals or consider their problems as serious problems to be addressed by Hong Kong society. Rather, their existence in Hong Kong is within a system resembling apartheid: legal discrimination against them based on their migrant status, as well as social discrimination relegating them to separate social spheres so their daily struggles are kept invisible and out of social debate.

Although the current system is seemingly stable and fine as far as employers and the Hong Kong government are concerned, reconsideration has been prompted due to the pending minimum wage legislation. The Hong Kong government has decided to implement a minimum hourly wage for the first time in Hong Kong, and it has proposed to exclude all live-in domestic helpers, the majority of whom are foreign domestic workers. The major reasons given are that their working hours are difficult to calculate because of their unique job nature, and that it would cause hardship to the working women who employ them, if the overall monthly wage rises, as it likely would. Another reason is that these domestic workers are deemed to have 'high disposable income', given that they receive food and lodging separately from their monthly wage.

Through their unions, the foreign domestic workers insist that these reasons are not valid, and excluding them from the minimum wage that applies to all other Hong Kong workers would only strengthen and legitimize the existing discrimination and hardship they face. Therefore, they demand inclusion in the new minimum wage law and respect for their labour. Hong Kong trade unions, civil society groups including feminist and human rights groups, and many religious groups have also condemned this exclusion. The proposal to exclude live-in domestic helpers based on such flimsy reasoning reflects that the Hong Kong government and much of the middle class have a strong interest in maintaining their virtual enslavement.

This article will touch on some of the hidden realities of the lives of foreign domestic workers in Hong Kong, as well as how they are systematically exploited due to their low bargaining power. It will also look at the strong interest employers and the government have in maintaining this system. Finally, it will discuss the hidden but real costs to Hong Kong society of maintaining the current barbaric system.

Hungry cooks

It is disconcertingly common for Hong Kong's domestic workers to be underfed. How can this be, given that they are the ones who shop and cook for the household? There are several scenarios explaining this trend. One scenario is that the domestic worker is only given leftovers to eat; it is therefore a matter of chance whether her stomach can be filled. Another scenario is that a portion of the meal is set aside for her at the beginning, but a small one, inadequate to sustain a day's worth of physical labour. Yet another scenario involves the lack of time allowed for eating; the domestic worker must attend to the family while they have their meal, and to the clearing up immediately afterwards. The few minutes between these duties are often not enough to partake of her own meal. Furthermore, there is always the fear of being scolded for slowness.

Regarding the provision of food, employers in Hong Kong have two options. They may either provide their domestic helpers with food at home, or they may pay a minimum monthly allowance of HKD 300. This is far below what is required to sustain an individual with a balanced and nutritious diet; HKD 10 can only buy two bread buns or two bowls of instant noodles cooked at home. Speaking with the managers of domestic helper shelters revealed that it was common for helpers to be provided with neither food, nor a food allowance. They would therefore have to use their salaries to pay for food, which certainly costs more than HKD 300 a month in 2009. Also, the helpers often only have time to purchase food on their single rest day.

Apart from food, other basic human rights of the foreign domestic helpers are also encroached upon in many ways. Underpayment and deprivation of one full rest day are routine occurrences, and are in fact seen to be on the rise. According to a survey of 1,019 Indonesian domestic workers conducted in 2004,¹ 54 per cent were not given a weekly rest day. Statistics from migrant worker unions point to massive overcharging by recruitment agencies, which is illegal; Hong Kong law prescribes that agencies are allowed to charge a maximum amount of 10 per cent of the monthly minimum wage. Other encroachments include employers searching the belongings of domestic workers (to check for theft), employers withholding the house keys from the domestic worker, so that they are either locked in or locked out at all times, and physical and verbal abuse and threats. All of these result in stressful work environments for domestic helpers.

¹ The title of the publication is *An In-Depth Study of Indonesian Labor Migration in Hong Kong*, and is available as a downloadable PDF file from the website of the Asian Migrant Centre: www.asian-migrants.org.

One Filipina domestic worker, Lilibeth Tumaca, shared her story of her short time with one employer (whose dog later bit her and caused serious injury). Her story reflects myriad problems an employer can cause to a worker, who usually attempts to cope with them for the sake of keeping her job.

This employer was really not good. She didn't buy me food. I started employment with them during a holiday. There was nothing in the house to cook and they were out all the time because it was holiday time. I bought bread for myself. The people went on holiday. I was bitten by their dog. But it was still OK. The mattress was so thin, I could feel the floor was cold, there was no bedding even, just the blanket. I worked from 6am to 11pm. There were two dogs, one rabbit, and one child of 7-years. I didn't have my own key, I could not go out.

One day, I think the second day, the family went out, and didn't leave food for me in the house. I could not go out and even buy any food, and when they came back they had not brought any food for me. So another day I asked if I could go to the boarding house nearby to get something, because I left something there – I did that just so I could get a chance to eat some food. Actually I had no money for food, and the boarding house gave me something to eat and some money.

Only one time the family was going to have dinner at home. So that time I went outside for marketing. (That was the only time I could buy food, so I bought bread for myself, because it would be my only food for the day.) After they ate dinner, they left a very little portion of food to save as leftover. I thought it was for me, so I ate it. Then the next morning the female employer asked where is the leftover food from last night. After she asked me, and I said that I ate it, she looked at me with outrage, and said: "You ate it??" So I just kept silent and next time I would never touch their leftover food, even if it stayed in the fridge so long that it got spoiled. They preferred that the food got spoiled rather than let me eat it. I did not want them to get angry. And I didn't want that it would cause my termination.

There are both individual and systemic reasons for such violations of laws and human rights. While the element of individual responsibility cannot be overlooked, it only contributes to ongoing abuses if abuses are seen as purely stemming from the individual. It is both facetious and deceptive to simply hold the view that "there are some good employers and there are some bad employers". It is necessary to look at systemic elements that allow the abuse to persist and prevent the workers from exposing and fighting them. If these systemic factors were to be eliminated, it would significantly deter abuses and make abuses easier to expose and eliminate. There are four particular systemic factors:

1) Huge recruitment agency fees

Foreign domestic workers are required to pay enormous agency fees, for which they enter into huge loans typically amounting to HKD 21,000, or seven months' salary in the case of Indonesian domestic workers, or HKD 12,000, in the case of Filipina domestic workers. These must usually be paid each time the domestic worker signs a new contract. They translate into exorbitant amounts of money in their local currency, and domestic workers will suffer great lengths of overwork and abuse to simply avoid losing their job and being forced to return home with unpaid debts and no certainty of finding a new job again/soon.

2) The 'two-week rule'

The 'two-week rule' is the common expression used for Hong Kong's 'New Conditions of Stay', imposed by decree in 1987. According to this rule, migrant domestic workers cannot apply for a new job within Hong Kong if they break their contract and must leave the country at the end of each contract. Furthermore, they must leave Hong Kong within two weeks after termination, regardless of whether it was the worker or the employer initiating termination.

This pernicious rule, combined with the ease and low cost of employers' termination of domestic workers, adds to workers' job instability and to greater power in the hands of the employers regarding job terms.

3) Negligence of the Hong Kong government in enforcing laws protecting foreign domestic workers

In both the major domestic worker-sending countries of Indonesia and the Philippines, there is evidence that the government and consulates formulate policies placing workers at the mercy and control of recruitment agencies. The Indonesian Consulate in Hong Kong for instance, does not permit a worker to directly engage in a contract with a potential employer; the worker must process the contract through an agency, even if the employer was directly found and not introduced by the agency. The Philippine Consulate disallowed direct hiring between worker and employer since 2003. From the worker's perspective, there is no plausible beneficial reason for this. In fact, the rule profits the agency and the home government.

As already mentioned, the Hong Kong government has a law by which an agency may not charge workers more than 10 per cent of their minimum monthly wage. This law is flagrantly violated however, due to the Hong Kong government's passive enforcement. In fact, the government places blame for overcharging on the domestic workers' governments, whom it claims it cannot influence. By failing to crack down meaningfully, the Hong Kong government contributes to the harmful effect of this huge overcharge. According to the Helpers for Domestic Helpers legal aid centre, even when an agency has pleaded guilty for overcharging, it is not a certainty that its license to practice will be revoked. On the contrary, the process of revoking an agency's license is long and complicated.

4) Difficulties in pursuing legal cases against errant employers or recruitment agencies

In Hong Kong, if a migrant worker wishes to file a legal claim, she must do so while in Hong Kong, not abroad. Since her visa only lasts two weeks after termination, she must apply for a visa extension which costs HKD 160, and may only last two weeks to two months, depending on the discretion of the immigration officer. She is also not allowed to work while waiting for her claim to proceed. Thus, in order to pursue a legal claim, say for unpaid wages, she must pay for her own food and lodging, pay HKD 160 at frequent intervals, and wait indefinitely for her case to reach conclusion. Her family back home will be deprived of income for that period. The law thus seems intended to deter foreign domestic workers from pursuing justice, rather than intended to help them gain justice when they are mistreated.

These four factors are the primary causes allowing abuses to take place and be silently tolerated by the foreign domestic workers in our midst. They significantly reduce the bargaining power of foreign domestic workers--whether to end a contract or file a legal case against employers or agencies--while giving leeway and impunity to employers and agencies. Such an imbalance of power enhances abuse, with employers losing perspective regarding what is reasonable to demand of employees under their charge. As a result, they behave with levels of pettiness and inhumanness unimaginable if they were not behind closed doors.

Hong Kong social movements should aim to eliminate these systemic factors, not only to protect domestic workers, but also to protect employers themselves from the corrosive effect of their excessive power over workers. The public must play a role in reducing the vulnerability of workers who are an important part of our society and economy. Certain factors that contribute to the foreign domestic workers' plight are admittedly beyond the influence of Hong Kong society—such as the poverty and lack of jobs in their home country forcing them to work abroad, or their government policies controlling their work in Hong Kong. This does not mean that Hong Kong society should be complacent or indifferent towards the struggle of these workers.

For a society that places—or seems to place—great value on democracy and equality between people of different races and genders, there is significantly little debate and concern about the widespread abuse and exploitation of the domestic workers, upon whom so many Hong Kong

homes depend. When we hear news stories such as that of the abusive father in Austria, Josef Fritzl, who kept his daughter Elisabeth secretly locked in a basement as a sex slave for years, we are appalled. Apart from the element of incest, we recognize the horror of keeping a person trapped and forced to do something against their will. Forced work should invoke a similar repulsion as forced sex; they often occur together, particularly when the workers are women. What then, are the reasons keeping society mute on the issue of foreign domestic workers, and the unwillingness to extend them equal rights?

First of all, working parents themselves suffer from long working hours. In addition to these, they must make time to go over homework with their children. There is a huge amount of stress and pressure placed on them. In these circumstances, they are presented with a system where one may legally demand 24-hour service, six days a week, from domestic workers who are controlled by agencies, family expectations, and the government, ensuring they work without complaint. This is all for a monthly rate less than a third of the required income for employers hiring foreign domestic workers. From the employers' point of view, it is an excellent market transaction—supply meets demand.

Second is the element of racial discrimination. It is not uncommon to hear of employers who separate the food, clothing, and other belongings of the domestic worker to avoid 'contamination'. The tendency to dehumanize someone from a different culture is exacerbated when the person has a lower economic standard. Foreign domestic workers are paid a very low monthly wage, which if divided by hours worked, would amount to less than HKD 10 an hour. As employer of someone of a different race and economic class, an abusive attitude can easily surface.

Third, most middle class families will opt for a market solution they can afford, rather than join others in raising society's standards. This is seen in their choices regarding education quality, food safety, and also in childcare. For good schools, middle class families may opt for expensive private schools; for safe food, they may opt to buy organic produce. In the same manner, middle class working parents do not seek government-funded childcare—affordable for all families—but prefer to take the option offered by 'the market', which is cheap and virtually unmonitored.

Any such market transaction is 'fair' enough for the buyer, who then focuses simply on getting her maximum monetary worth. Like a diner at a fixed-price hotel buffet who consumes as much food and as many varieties as possible, employers are motivated to extract as much work, of as many types from their workers as possible. As long as the government enforces no rules, employers reason that there being no maximum number of working hours for either employer or domestic worker, and as they themselves work long hours, they are within their rights as consumers to demand work as they see fit.

Fourth, the home is considered the private space of the family. As a result, how they treat their domestic workers is seen as 'their own business'. In the same manner as domestic violence, it is viewed by society as an awkward topic to broach or discuss frankly. Without the abuses being exposed however, they cannot be curtailed or punished.

The above factors have allowed the present system of foreign domestic worker employment to continue for a long time with little change. The two-week rule remains in place and domestic workers continue to get abused and easily terminated, while middle class families have become more dependent on and demanding of their domestic workers. There are many negative effects of this on society as well, including the erosion of labor and women's rights. Through the deepening of gender stereotypes, men become less inclined to take up their share of domestic work for instance, confining it as the natural task of women. Children remain dependent for extraordinarily long periods, unable to wash, feed, or clean up after themselves. Even parents become accustomed to doing no work in feeding and looking after themselves in

a responsible manner. The movement to extend affordable childcare to all families for the purpose of creating truly equal opportunities for women to work takes a huge step backwards. There is no doubt that Hong Kong's system of foreign domestic workers should not continue if society is serious about realizing equal rights for women and all workers regardless of race or nationality. The system's existence makes it that much harder for women and workers to enjoy their rights and limit abuse. These significant costs to Hong Kong society have not been taken into account by decision and policy makers.

What exists now in Hong Kong can be called servitude, forced labour and apartheid. None of these should exist in a free and modern society, particularly when other countries such as Malaysia and Singapore, see Hong Kong as a model of how a system of 'imported' foreign domestic workers can be efficiently maintained. The smooth running of our families should not be founded on the fear and exploitation of another's material need and willingness to sacrifice for their family. While many Hong Kong citizens express disgust at occasional news stories detailing the worst excesses of employer abuse, these should not be merely seen as a few bad apples.

Several foreign domestic worker unions and social groups in Hong Kong have been working for many years to expose the suffering of these workers and demand policies that protect their rights and dignity. A new group working towards this end has appeared recently, the Families for Domestic Workers, which represents families or employers who support foreign domestic workers and unions in their struggle for equality and labour rights. This group hopes that more Hong Kong residents who are themselves employers, particularly those residing in Hong Kong permanently and with some political power, can assist in creating better awareness of the issue in the media and amongst the general public. A key goal is making the lives of foreign domestic workers more visible and less segregated. A website has been set up towards this end, to make public both the stories of foreign domestic workers and of employers: www.opendoor.hk.

This will be an uphill struggle, given society's heavy dependence on the constant, day-long support of domestic workers in the absence of other government support for working families; the lack of working hour limitations, and; employers' reluctance to regard them as equal workers. A few ways to initiate change, as mentioned above, are the removal of the two-week rule, cracking down on the exorbitant and illegal agency fees, and reforming the slow and costly judicial process for domestic workers whose rights have been violated. Additionally, it is necessary to continue efforts to spread awareness about the real lives of domestic workers, and to create platforms for interaction between foreign domestic workers and other Hong Kong people. Some progress has been made in Hong Kong regarding democracy and workers' rights; this should be continued in the realm of foreign domestic workers, particularly by including them in the minimum wage legislation.

Note: Much of the information in this article comes through extensive dialogue and through general information provided by: Bethune House domestic helper shelter, Asian Migrants Coordinating Body, Asia Pacific Mission for Migrants, UNIFIL (Filipino migrant worker union), Indonesian Migrant Workers Union, Asian Migrant Centre, Helpers for Domestic Helpers, Lilibeth Tumaca and the friend and domestic worker of my family, Fely Tabay. Deep thanks to all of them.