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migrant domestic workers in Singapore**

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DISCOURSES IN NGO ADVOCACY OF LAW AND PUBLIC POLICY FOR MIGRANT DOMESTIC WORKS IN SINGAPORE

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Migrant domestic workers are an important element of the functioning of society in Singapore. Their most significant role is an economic one. They work at home, taking care of children and household chores and allow Singaporean women to enter the workforce. While Singaporean women are important for the country's economy and constitute a substantial proportion of the total workforce, there has not been sufficient institutional reform in Singapore to facilitate the combination of women's entry into the workforce and their household duties. Thus, starting in 1978 the first Foreign Maid Scheme was established in Singapore to allow domestic workers from other Asian countries to come and work in the city-state. Up to the present,, the legal and social status of migrant domestic workers in Singapore remains very low. This is largely due to the fact that migrant domestic workers are women, foreigners and hold low-status jobs (Yeoh et al. 2004).

Non-governmental organisations (NGOs) working as political or social advocacy groups for the benefit of foreign domestic migrant workers are a relatively late phenomenon in Singapore, having primarily emerged after 1990 following the change in the country's leadership and the subsequent change in state-civil relations and the relaxation of state control over the society (Tanaka 2002). The Singapore government sets tight regulations, both in the form of a formal legal framework and informal control mechanisms, to manage non-governmental organizations (NGOs) operating in the city state. This paper will examine the discourses in NGO advocacy of law and public policy for migrant domestic workers in Singapore. It will be argued that the advocacy work of these NGOs takes a subtle and moderate form and, consequently, has had little results. This is partly due to the precarious situation of NGOs in Singapore resulting from the relatively late development of

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a “civil society”. The paper is divided into two parts: it will begin with a discussion of the theoretical framework of NGOs, their legal and social status in Singapore and possible legal and other obstacles to their work. Second, it will discuss how and why NGOs advocate law and public policy in the city-state and examine the response they have received from the state and the public. The paper will discuss two NGOs in detail. The first is the Transient Workers Count Too (TWC2), founded in 2004 (with a forerunner group The Working Group 2 founded in 2003). The key event that sparked off the idea for the foundation of the organisation was the case of Muawanatul Chasanah, a domestic worker who was abused and killed by her employer in 2001. Her abuse was open and recognized within the family and friends, but no one reported it to the authorities (Gee & Ho 2006). The incident revealed how fragile and precarious the status of domestic workers is and how abuse is socially acceptable in Singapore. The second NGO is the Humanitarian Organization for Migration Economics (HOME), founded in 2004.

The need for non-governmental organizations, functioning as complementary institutions or the third sector, is particularly strong in Singapore, where foreign migrant domestic workers get very little legal protection from the state. Singapore is not a signatory to the International Labour Organization’s (ILO) conventions nos. 97 and 143, the two ILO conventions relating directly to the rights of migrant workers. Moreover, domestic workers are excluded from the Singapore Employment Act 2009. The reason for this, according to the Ministry of Manpower (MoM), is that such a law would be difficult to enforce due to the nature of the work and the fact that it is carried out at home, rather than in the public sphere, and because the “habits of the household vary” (MoM 2010a). Lastly, out of all the different groups of migrant workers in Singapore, domestic workers are considered to be the most transient. Their work permits are only for a two-year period and they are tied to one employer at a time. Cancelling the work permit is left to the employer’s discretion (Cheah 2009). The role and position of foreign domestic workers in Singapore is thus one of low legal and social status, with little effective legal protection against abuse and disputes. The need for NGOs advocating law and public policy in Singapore is evident, as migrant domestic workers face a number of difficulties and challenges during the course of their employment. As domestic workers are excluded from the Employment Act of Singapore, they are simply left to the “mercy of contractual law” (Yeoh et al. 2004 : 12), which leaves them in a very vulnerable and precarious situation. It has been recognized that the bargaining power of foreign domestic workers is weak due to a number of reasons, most important probably being the

fact that they are foreigners in a new country, with little or no knowledge of the laws, customs and regulations of the receiving nation. The situation is rather different in Hong Kong, where domestic workers are protected by the law (ibid). The only direct provision in Singapore's law specifically addressing the problems faced by domestic workers is in the Penal Code, which stipulates that the maximum penalty for an employer abusing a domestic worker is 1.5 times that of the normal maximum penalty for the same type of crime. Yet. As Yeoh et al. note, this only protects the worker after the abuse has already taken place and seeking redress is a difficult process for domestic workers. Singaporean law, for example, does not provide sufficient protection for workers in terms of employment, working hours, adequate rest periods and wage levels. The Singapore Ministry of Manpower does, however, provide *guidelines* for employment. These include guidelines on rest, accommodation, medical care and insurance. These guidelines are, however, very vague. For example the guidelines on rest only advise giving the worker adequate rest so that she is more productive (rather than because it can be considered a basic human right). Similarly accommodation, according to the guidelines, should be adequately private for sleeping, but no reference is made to enabling other leisure activities, such as reading, praying or access to a telephone (MoM 2010b). The final key reason for the necessity of NGOs advocating and lobbying for the rights of foreign domestic workers is the fact that they themselves have little or no means of self-representation. They are not organized (and do not have means to organize themselves) and virtually have no collective bargaining power, either towards employers or the state. Moreover, the right to public assembly is limited in Singapore and is only allowed with a permit from the authorities, a permit which is unlikely to be granted (Yeoh et al. 2004).

Although migrant workers have been in Singapore for decades, most NGOs working for their benefit and welfare were founded only after 2000. Hence, NGOs of this type are a relatively recent phenomenon and have had a relatively short period of time to operate and advocate for changes in law and public policy. It is no coincidence that these NGOs emerged in Singapore at this specific time. Prior to the 1990s, the Singaporean government discouraged the development of a "civil society". Only after a change in the country's leadership and subsequent change in policy, was the expansion of the civil society allowed. Prior to this period of relaxation, most NGOs operating in Singapore had been clan associations and self-help groups. But the NGO field changed dramatically after 1990 with appearance of new, outward-reaching societies, including societies such as the Association

for Women for Action and Research (AWARE) and the Nature Society of Singapore (Tanaka 2002). Referring to the similar case of Hong Kong, Amy Sim (2003: 483) has noted how the “context of structural inequality in power between foreign domestic workers, their employers and Hong Kong society has opened up the space for NGO activism”. Similarly, in Singapore these NGOs are a response to the relaxation of the rules of the civil society, but also a response to a clear gap in organized representation and advocacy. Despite this new era for NGOs, government’s control over the NGOs remains stringent.

Both TWC2 and HOME are registered societies under the Societies Act and HOME has acquired a status of Institution of Public Character (IPC). The Societies Act of 1967 (section 4) contains several provisions for the registration of societies and leaves it to the discretion of the Registrar to allow or refuse to register a society. The Minister may dissolve a society at his own discretion if “any registered society is being used for purposes incompatible with the objects and rules of the society” (Societies Act, section 24 1 (b)). Although both TWC2 and HOME are registered under the Act, other societies have faced constraints in the registration process. Tanaka (2002) accounts two cases of politically oriented societies, Roundtable (political society criticizing national politics and policies) and People Like Us (society defending homosexuals’ rights), being controlled under the Act. Roundtable lost its accreditation after one year of registration and People Like Us was refused registration altogether. In addition, “foreign-based NGOs also experienced difficulty acquiring legal status. Oxfam, Plan International and a human rights NGO run by American Lawyers all have seen their applications rejected” (ibid.: 209). Thus clearly some societies have faced challenges in the registration process. It is therefore no surprise that these new NGOs have had to learn to how to operate “under the radar” and how to maintain political neutrality in order to remain registered and fully functional. Because the rules for “survival” for NGOs remain unclear and largely at the discretion of the government, NGOs such as AWARE have had to be “engaged in a constant process of “‘testing the boundaries’ between acceptable and unacceptable behaviour” (Lyons 2000: 71). Moreover, NGOs have had to formulate their constitutions so that they signal clearly that they eschew political activity. AWARE has included in its constitution a clause that prohibits it from engaging in political activity and Lyons makes the point that this clause has come to be added to all constitutions of registered societies in Singapore. While TWC2’s constitution (2006) does not include this clause or any reference to political activity, at the same time it does not make any express reference to advocacy or the promotion of worker’s rights outside the scope of individual workers’

interests. The constitution simply states that the object of the society is “To improve the welfare of transient workers by providing them, and their employers, with services to help them: (i) cope with situations of work-related or personal distress; (ii) develop skills to ensure a harmonious and mutually beneficial employer-employee relationship”. Therefore, according to the constitution, the objects of the society are clearly limited to the provision of services for workers. The constitution also makes it clear that it is not a trade union and that it cannot function as a subsidiary to a foreign organization. In reality, TWC2 does, however, engage in activities that can be characterized as political, or politically motivated. These activities will be discussed in detail later in the paper. While the author of this paper was not able to get a copy of HOME’s constitution, the Annual Report 2009 (HOME 2009a) gives some indication of the society’s objectives and scope of work. According to the report, HOME’s objectives are: 1) To develop research and education on the socio-economics of migration, 2) To provide social integration services for immigrants and emigrants, 3) To provide humanitarian assistance for the effects of “crisis” migration. These objectives are wider in scope than those of TWC2’s, extending to social research and education, but similarly to TWC2, make no reference to political advocacy. Yet, like TWC2, HOME also engages in advocacy work ranging beyond the publicized objectives.

The number of NGOs advocating and working for the welfare of foreign migrant workers in Singapore is relatively low and as argued above, they have been established at a relatively late stage. David C. Korten (1990, cited in Sim 2003: 491), has developed a four-stage analytical tool used to analyze different strategies employed by development NGOs and Sim has used this tool to analyze the work of migrant NGOs in Hong Kong. The tool is divided into four “generations”: 1) relief and welfare, 2) community development, 3) sustainable systems development and 4) people’s movement. The first stage has the shortest time frame, catering for immediate needs, such as lack of food and shelter. Time frame grows generation by generation so that the fourth generation’s time frame is “indefinite future”. Similarly, the scope of the projects grows from individual level to national level. Amy Sim (ibid) observes that different generations can exist within one organisation or a number of organisations at the same time or in other words that they are not mutually exclusive phases. Moreover, she argues that the evolution of different stages does not follow the linear model proposed by Korten, but different strategies can be deployed at different times. In the Singaporean context, the NGOs discussed have followed the lines of Sim’s examples in Hong Kong.

Transient Workers Count Too was initially established as a response to the appalling treatment of Muawanatul Chasanah. From the very beginning, even before having a name or a clear set of objectives, the TWC2 set out to research the issues concerning the problems of domestic workers from a wide scope of angles ranging from legal issues to understanding cultural aspects of “maid abuse”. Moreover, it set out to liaise with all the parties concerned: the workers, employers, employment agencies, government and the embassies of sender countries (Gee & Ho 2006). The early projects were to raise public awareness by providing domestic workers a platform to speak out. But on the other hand, from the outset the TWC2 was careful not to provoke distrust or enrage the employers and alienate them (ibid). Since the founding of the organization, TWC2 has had three large-scale campaigns aimed at changing the working conditions and laws regulating the employment of foreign domestic workers. Firstly, one of the earliest proposals made by TWC2, then still using the name The Working Committee Two (The Working Committee [TWC] had been an initiative started in 1999 to strengthen civil society in Singapore), was a Draft Foreign Domestic Workers Bill / Regulations written in 2003. The Draft Bill covers all areas of employment from recruitment to repatriation, as well as code of conduct of employer, employee and the employment agency. Provisions proposed in the draft bill include a rest day every 15 days, a maximum 16-hour working day with minimum eight hours rest, paid sick leave as well as paid home leave. There are also clauses for the payment of salary on a monthly basis and for the prohibition of unauthorised deductions from the salary. A minimum wage is also established ranging from S\$300–400 depending on worker’s experience and size of the family. In the introduction of the online version of the bill, authors note that the bill was drafted with “what we thought was achievable in the near future, not necessarily what we thought were the conditions that ought to prevail”. Clearly, the writers of the draft were aware of public opinion and discourse vis-à-vis domestic workers rights and status in society, and were trying to avoid provisions in the bill that were either too provocative or unrealistic.

The second initiative of TWC2 was to comment about one of the standard contracts for domestic workers, a contract that was issued by the Association of Employment Agencies (Singapore) and CaseTrust in 2006. While TWC2 welcomed the standard contract, it also criticized the fact that some of the issues the contract dealt with should be written in the law, rather than leaving it to the “mercy of contractual law”. Moreover, TWC2 demanded that where this was not possible, the contracts must be enforceable (TWC2 2010a).

TWC2's third campaign, launched in 2008 together with HOME and Unifem Singapore was "Sundays Off", a name later changed to "Days Off". The campaign was aimed at the general public and appealed to employers to give their workers a day off. The campaign included a poster campaign, a photographic exhibition as well as organizing "block parties" for domestic workers in residential areas. The aim of the block parties, according to TWC2, was that "this might, in a small way, help to persuade employers who did not let their workers go out to rethink their attitudes" (TWC2 2010a). TWC2 also continued demanding that a day off should be written in the law.

All of the campaigns run by TWC2 fall into the second and third generations of strategies in Korten's typology of NGO strategies. They represent initiatives to change the public's perceptions and attitudes towards domestic workers and in that way change the working and living conditions of domestic workers in Singapore. TWC2 also provides direct services to foreign workers, which mostly fall to the first generation category in Korten's typology. These services include free meals, legal advice and counselling and a helpline, but also self-development programmes such as skills-training (TWC2 2010c). TWC2 frequently addresses the government as well, demanding changes to the existing laws and regulations. Recently, TWC2 demanded the National Wages Council, a government department responsible for setting annual wage guidelines, to set a minimum wage of S\$400 for foreign domestic workers (TWC2 2010d). TWC2's advocacy and demands are mostly in line with the recommendations given by Human Rights Watch in their report (2005) on working conditions, wages and changes to laws. However, TWC2 does not demand that the Singapore government sign and ratify ILO and United Nations (UN) conventions and human rights treaties, such as the ILO Migrant Workers Convention no. 143 and UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. While TWC2 does support the extension of migrant workers rights to the level advocated by the ASEAN Committee on Migrant Workers (ACMW) and demands that the Singapore government negotiates these issues at the ASEAN level (Task Force on ASEAN Migrant workers 2009, which TWC2 is part of), TWC2 refrains from extending its advocacy work to the international level. Clearly, the organization aims to change perceptions and attitudes of the general public and the government from within, rather than by external (international) mechanisms. The strategies TWC2 has utilized do not follow the linear model proposed by Korten, but in fact the organization started as an advocacy group (third – fourth generation) and only later extended its functions to the service sector (first – second generation).

HOME aims to help all foreign workers with a broad scope of services. As the name suggests, the Humanitarian Organization for Migration Economics, attempts to incorporate humanitarianism with economic perspectives. HOME's core functions and services are more directed to individuals, foreign workers (not just limited to domestic workers), rather than advocating for change in public policy and law. These services include a helpline, skills-training programmes and crisis relief. HOME helps foreign domestic workers to seek redress for their legal and other problems, including providing shelters for runaways (HOME Annual Report 2009). In advocacy work, the strategy HOME employs is to bring attention to the problems of foreign domestic workers at the national and international level, but also to facilitate domestic workers to help themselves. For example, in December 2008, HOME organized the first National Domestic Workers Assembly sponsored by the ILO. Issues discussed at the assembly included worker's rights and welfare under three themes: dignity of work, dignity of person and dignity of life (ibid). In terms of advocacy it could be argued that the most important function of the assembly was that it gave the domestic workers a platform for meeting and discussion in a neutral environment. As noted above, domestic workers in Singapore do not have means or possibility to organize themselves effectively for collective bargaining.

In terms of core demands vis-à-vis changes to law and public policy, HOME takes a broader standpoint compared to that of TWC2. In addition to being a signatory to the above-mentioned National Statement by Task Force on ASEAN Migrant workers and a co-organizer of the "Day Off" campaign, as well as demanding the extension of the Employment Act to include foreign domestic workers, HOME also demands that Singapore ratify the UN Migrant Workers Convention and also calls upon all "governments and trade unions of the world to accept the demand of domestic workers for an ILO Domestic Worker Convention 2011" (HOME President's Message on Human Rights Day 2009 and President's Message on May Day 2010). Similar to TWC2, HOME deploys more than one of Korten's NGO strategies by providing first-generation relief services as well as reaching out to the wider public in the form of third and fourth generation community and nation-wide civil society building schemes.

Whilst both TWC2 and HOME efforts to change public perception, law and public policy in Singapore are pioneering and visionary, their effects have been limited. The laws remain

unchanged and Singapore has not signed relevant international conventions and agreements relating to the issue. Yet, there is potential for change in Singapore. Yeoh et al. (2004) argue that the government is, and can be, responsive to court proceedings and media coverage on maid abuses and have acted accordingly. The best example of this was when the Penal Code was changed as a response to the increase in the number of complaints and court cases against employers who abused their maids, so that penalties for specific abusive crimes committed by the employer would be increased to 1.5 times the normal penalty. Moreover, according to Yeoh et al. (p. 13) “law may become a catalyst in raising public awareness and generating public discourse, if not in ultimately changing social norms”. In other words, on the one hand public discourse may have the potential to change the laws and on the other hand, the law may be able to change people’s attitudes. Therefore, while the potential for change both from the public’s side and from the government’s side is pronounced, why have TWC2 and HOME not been able to make significant inroads and change Singapore’s laws or public policy? For example, TWC2 reports it has had difficulties in recruiting Resident’s Committees to co-organize “block parties” (2010b). Singaporeans clearly are not ready to get involved in initiatives of this nature. One possible reason for the virtual lack of change in attitudes is that these NGOs have only been in existence for less than ten years and not enough time has passed to allow change to occur.

The employers themselves feel they are mistreated in the face of the law. Employing a foreign domestic worker is not a smooth, easy process in Singapore. Apart from having to participate in a “Employer’s orientation programme”, employers who hire a domestic worker are liable to pay a monthly levy of S\$170–\$265, a security bond of S\$5,000, repatriation costs and medical costs and possible medical insurance (MoM 2010b). Some employers consider these costs to be a heavy burden (for example, *Berita Harian* 13 August 2008). Moreover, because the costs of employment are so high, employers are not keen to raise the wages of their workers. Employers often write letters to the press complaining about issues such as having to pay for the repatriation costs of employees who have stolen from them (*The Straits Times* 15 May 2008), claimed false police reports (*The Straits Times* 12 November 2009) or for having to pay medical costs of employees whom they have only employed for a short time (*The Straits Time* 15 May 2008). It can be argued that there seems to a lack of mutual understanding of the other side’s circumstances and an overwhelming mistrust between employers, employees and the government. Overcoming this obstacle is markedly difficult. One of the core functions of TWC2 and HOME is and has been to try to

bridge the gap between employers and employees and in their campaigns and press releases they have tried to incorporate and understand the views of the employers as well. One of the earliest reports commissioned and published by TWC2 was a survey of the culture of abuse that prevails in Singapore (Singam et al. 2003). The government has no interest in destabilizing the volatile situation because foreign domestic workers are such a crucial component of national economic development, releasing Singaporean women to enter the workforce without the state having to bear the accumulated costs of childcare.

This paper has sought to demonstrate how migrant worker NGOs working in Singapore face many initial institutional and political obstacles. It is evident that these circumstances have led the NGOs to choose a soft approach to the issues at stake. Both TWC2 and HOME try to bring about change to the working and living conditions of foreign domestic workers by attempting to change the attitudes of the general public and the employers. They seek to bring an end to the culture of abuse that prevails in Singapore. While the direct advocacy of law and lobbying for change – for example in the form of letters to national newspapers and government offices – is open and transparent, it has only had a limited effect. In order not to clash with the government, these organizations choose their words carefully. For example, neither organizations makes any reference to the Human Rights Watch Report, probably because it has been so strongly rejected by the Singaporean government (The Straits Times 21 December 2005). Concluding from the analysis, it can be argued that these organizations clearly choose not to test the boundaries of civil society in Singapore. On the other hand, the organizations do not limit their work to the level of political rhetoric, but also work to improve the lives of these workers in the form of direct services and in the case of H.O.M.E, in particular, to facilitate workers to help themselves. This approach is, according to Korten's typology, multidimensional and employs different strategies at different levels. It is an approach that may prove to be effective in the long-term: while providing short-term "crisis relief" and self-help tools such as skills training, NGOs can immediately improve the living standards of some domestic workers without abandoning long-term goals, changes in public opinion and eventually public policy and law. Moreover, these organizations do not consider domestic workers as passive subjects, but rather as active actors. But, given the constraints set by their terms of employment, most crucial being the lack of days off, the domestic workers themselves have limited resources or methods (or simply, time) to be actively engaged in the work of these organizations. The strategy chosen by the NGOs is not a bad one as there clearly is potential for change in Singaporean society.

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