

# We want productive workers, not fertile women: The expediency of employing Southeast Asian caregivers in Taiwan

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**Abstract:** *The lives of Southeast Asian caregivers in Taiwan are regulated by a number of laws and policy measures that preclude them from naturalisation, deprive them of a family life, restrict their residency, mobility and employment, and, in the past, have suspended their fertility. They are thus excluded from Taiwanese society and alienated as temporary, supplementary and disposable outsiders in line with broad public opinion. ‘Bringing the state back in’ to its analysis, this article argues that this legislation is not only market-driven but socio-politically expedient in that it sanctions the continued employment of foreign caregivers as productive workers rather than as fertile women, while simultaneously casting them as the undesirable other. Taiwan thus becomes a ‘migration state’ with an open economy but a closed national community. Drawing on key government sources as well as longitudinal social surveys, the article demonstrates how this state-anchored expediency enjoys consistent public endorsement. In focusing on how and why Southeast Asian caregivers’ fertility was suspended, it introduces a much-needed gender perspective to our understanding of how migrant women become ‘disenfranchised class’ in the hostile guest worker system.*

**Keywords:** *caregiver, fertility, guest workers system, nation-building, socio-political expediency*

## Introduction

In August 2014 I met Ratu (pseudonym), an Indonesian caregiver in Taipei who was a newlywed taking up a contract in Taiwan. Perhaps because my baby son was with me, she said, ‘I really want to become a mother, but I was given an injection before I came to Taiwan. They said this would prevent me from getting pregnant. *Do you know how long it will remain effective?*’ Sweating in the overwhelming summer heat, her anxieties spoke to the chilling horror of involuntary contraception of unknown duration. Unaware of this practice, I asked her under what kind of circumstances this injection was administered but could not get further information from her. Astounded by this profound inhumanity, I set off to find answers. In the course of my research, it became clear that the interests of migrant women and their families, brokers, employers and sending and receiving states are all critically involved. This practice is situated within the guest worker system in Taiwan and

brings with it a host of entangled issues of sexuality, gendered morality, recruitment fees, remittance and nation-building.

Once praised for performing an economic ‘miracle’ thanks partly to its demographic dividend, Taiwan, like Singapore and Hong Kong, is now an aged society that depends heavily on Southeast Asian caregivers like Ratu to sustain the preferred practice of home-based care. Employing foreign caregivers retains the family as a care unit and ensures its productive and reproductive output. Ironically, however, for foreign caregivers recruited by the guest worker system in Taiwan, this home-based employment not only strips them of a family life and naturalisation but also places their fertility under the surveillance of the host state. Their freedom to give birth was formerly prevented by the now-defunct policy of pregnancy screening, which ensured that foreign caregivers are recruited as women of productive care labour rather than women of reproductive capacity. Legislation in place in Taiwan concerning naturalisation, residency, employment, mobility

and fertility further enforces these restrictions on the lives of Southeast Asian caregivers.

This paper argues that this legislation is not only market-driven but also socio-politically expedient since it continues the practice of employing foreign caregivers as cheap labour through the state's control over their wages yet reifies their perceived social undesirability by excluding them from the national community and denying them rights and protections enjoyed by the rest of society. This legislation not only responds to but is endorsed by condescending social attitudes towards migrants in general and foreign caregivers in particular who are thus alienated as temporary, supplementary and disposable outsiders. The expediency of employing Southeast Asian caregivers allows Taiwan to become a 'migration state' (Hollifield, 2004) that boasts an open economy but maintains a closed national community.

By focusing on the host state's legislation, the study makes significant contributions to scholarship on how migrant women from the Global South are used as an exploited workforce. While scholars, practitioners and policymakers are called upon to *holistically* recognise their labour and human rights as women, workers, carers and citizens, the guest worker system in fact adopts an opposite, hostile approach that suppresses their labour and human rights and suspends their fertility. Foregrounding their care labour underlines the 'intimacy' between production and reproduction in the capitalist economy (Truong, 1996). In Taiwan family is a socio-economic unit where such intimacy is strengthened, ironically, by separating foreign caregivers' production from their reproduction. Aligned with the efforts to 'bring the state back in' (Brettell and Hollifield, 2000), the study brings the host state of Taiwan into the feminisation of migration (Oishi, 2005; Cortes, 2015) and situates pregnancy screening as a socio-politically expedient policy tool. It thus offers a much-needed gender perspective on how immigration legislation can serve a host state's interest in nation-building.

## Research context and methodology

Addressing the conjuncture of economic cheapness and social undesirability, the study seeks to answer one fundamental question: What are the policy tools that make it economically and

socio-politically expedient to employ foreign caregivers? Addressing this question means taking account of both state interests and societal attitudes, and understanding how they are intertwined. Taking a top-down approach, the study identifies four major laws concerning naturalisation, residency, employment, mobility and fertility that regulate the lives of foreign caregivers, and analyses parliamentary debates, government policy briefings, press releases and migrant handbooks. It also examines longitudinal social survey results in order to understand how the host society perceives Southeast Asian migrants.

The investigation generates critical findings about how the guest worker system operates in Taiwan. First, as more local women enter salaried employment outside of the home and become unable to provide home-based care, Southeast Asian caregivers are employed as a 'cheap' substitute. Their perceived cheapness makes them *factually desired* by the host economy. Second, deemed the *undesirable other*, foreign caregivers are ineligible for naturalisation and their inclusion into the host society is withheld. This exclusion is the core of expediency, which is further enhanced by depriving them family reunion, spatial and occupational mobility and labour rights protection. Third, their fertility was previously suspended by regular pregnancy screening, the recent cancellation of which does not diminish the effect of expediency since all other policy tools outlined above remain intact and continue to safeguard their exclusion from the host national community. Finally, when focused on migrant workers, the government's commitment to human rights protection does not enjoy sufficient public support. Before discussing these findings, let us first unpack this concept of socio-political expediency, paying specific attention to how the state engages the entangled identities of migrant women caregivers.

## Entangled identities: Workers, carers and women

The increasing number of women in East Asia independently migrating for overseas employment, rather than being men's dependents, has been characterised as the 'feminisation' of migration (Oishi, 2005; Cortes, 2015). It is

argued that migrant women's migration experiences must be *holistically* understood through their entangled identities as workers, carers and human beings (Piper and Roces, 2004). When the focus is on migrant women's identity as workers, their aspirations for a better life is high on the research agenda. Such motivations are explained by 'push and pull' factors, which are attributed to the development disparity and wage gap between home and host economies (Ratha *et al.*, 2016). Although migrant workers' overseas wages are higher than those at home, they are nevertheless lower than those of the domestic workforce of the host economy. This wage differentiation can be explained by the dual labour market theory in that migrant workers are employed abroad in a more advanced economy 'primarily because of their vulnerability rather than their skills' (Wilson and Portes, 1980: 300). However, this wage differentiation also makes migrant workers *appear* cheap, and this perceived cheapness lies at the heart of the societal discrimination they face. Thus, it is necessary to go beyond the economic realm and explore how socio-political implications stem from this perceived cheapness and how these implications inform the host state's legislation.

Migrant workers' low(er) wages are collated with the image of victim when their working conditions are under the spotlight. This worker-cum-victim identity is integral to a neoliberalist economy in which they do dirty, difficult and demeaning work (Aguiar and Herod, 2006) and receives wages that are paltry by local standards. Since migrant women suffer intersectional discrimination because of their gender, class and ethnicity (Liu, 2000; Loveband, 2004; Tierney, 2007, 2011; Lan, 2008; Wuo, 2010; Lin and Bélanger, 2012), they are seen as the *undesirable other* (Cheng, 2018). Their working conditions constituted by such discrimination could amount to 'legal servitude' (Lan, 2006). Worker identity is also related to remittance, since remittance is a major source for betterment and national development (De Haas, 2005; Eversole and Shaw, 2010; Ratha *et al.*, 2016; Platt, 2018). Signified by their remittances, migrant women are their families' carers, whose selflessness is the means for achieving a better life for their parents, siblings or children (Silvey, 2006; Rahman and Fee, 2009; Nguyen and Purnamasari, 2011).

Fundamental to migrant women's identities is their reproductive capacity. Contextualised with regards to migrant women's sexuality, intimacy, marriage, sex work (Constable, 1997, 2009, 2014; Sim, 2009), their reproduction, as a research topic, does not seem as prominent as that of victimhood or remittance. Reproduction is also less visible in research on the guest worker system. Arguably, this is related to methodological sexism that stresses migrant women as selfless carers bound by gendered morality (Dumitru, 2014). Indeed, in home countries, such as Indonesia, migrant women's sexuality is an issue of morality, whereas for recruitment agencies, their fertility represents a threat to profitability (Chang, 2018; Lindquist, 2018; Platt, 2018). In host economies, such as in Hong Kong (Paul and Neo, 2018) and in Taiwan (see below) where migrant women's maternity is *nominally* under statutory protection, whether and how this protection is enforced testifies to the degree of inclusion or exclusion of the host state and society (Constable, 2014). Pregnancy could determine migrant women's life trajectory (Ullah, 2010), thus they may self-discipline their sexuality due to their gendered sense of morality (Sim, 2009). Whether or not migrant women defend their rights is contingent on their internalisation of the power relationship between them and their employers (Paul and Neo, 2018), who view the disciplining of their sexuality necessary to ensuring their productivity (Constable, 1997).

As reviewed above, migrant women's self-identities as workers, victims, carers and human beings are deeply entangled. However, in a self/other spectrum, how they enact their self-identity is also contingent on how the host state interacts with their identities. Since migration straddles the policy areas of employment and border control, and migration irregularity entails criminality, their perceived cheapness intersects with the host state's political interest in preserving national identity, administering resource distribution and maintaining socio-political stability. The fact that their naturalisation, residency, employment, mobility and fertility are meticulously controlled by the host state suggests that it has a vested interest in engaging their identities as productive workers rather than fertile women. Responding to their perceived undesirability, it deems them a liability to wage

stability, law and order, public finances and public health. Due to their potential to give birth (particularly to mixed children fathered by local men), they are also considered a threat to the cohesion of national identity.

In this light, it is necessary to 'bring the state back in' (Brettell and Hollifield, 2000) to understand how the host state gauges foreign caregivers' liability and regulates their human and labour rights accordingly. I argue that their perceived undesirability and derived liability are the socio-political costs that the host state strives to minimise while enjoying the economic benefit of their cheap care labour. Yet the core of the state's endeavours is to ensure their exclusion and prevent them from settling into the host society, and the legislative package in place serves this socio-political expediency by rendering migrant women productive workers rather than fertile women.

So what kind of policy tools are in place in Taiwan to achieve this end? Since fertility control was formerly a major tool, it is necessary to compare migrant women with Southeast Asian wives, who are the main progenitors of mixed children in Taiwan. While both groups are discriminated against and mark the boundary of national community (Yuval-Davis, 1997; Lan, 2008), the bodies and fertility of migrant wives, who are *reluctantly* included into the national community, are further politicised. In the past, justified by eugenic interests, their motherhood was under the pressure of assimilation (Cheng, 2013), but lately, it has been utilised by the state as a transnational asset in deepening socio-economic relationships with Southeast Asian countries (Cheng *et al.*, 2019). What foreign caregivers and migrant wives share is that their fertility is intertwined with Taiwan's nation-building.

The rest of the article will deal in turn with how the host economy benefits from Southeast Asian caregivers' cheap care labour. It will move on to the policy tools used to both secure this benefit and exclude these women, the rationale for (and cancellation of) pregnancy screening. Finally, it will show how, in a new era in which the state, at least officially, appears to be moving towards enhancing human rights protections, the Taiwanese public appears not to be following the script.

## Desired cheap care labour

In April 2018 Taiwan became an aged society with 14.05% of the population reaching the age of 65 or older (Ministry of Interior (MoI), 2018). An earlier estimate suggested that by 2025, the proportion of elderly citizens will increase to 20%, making Taiwan a 'super aged' society (National Development Council (NDC), 2014). Unsurprisingly, then, the need for care has soared, as was partly illustrated by another estimate that 261 190 citizens suffered dementia as of 2016 (Control Yuan, 2017a).

In Taiwan caring for the young, sick and elderly is traditionally considered a home-based moral duty performed by women. Surveys conducted in the past three decades show that home-based care was not only widely practised but also officially endorsed by the Population Policy Guidelines (NDC, n.d.). Before the importation of Southeast Asian caregivers was legalised in 1992, cross-generation cohabitation was the norm in terms of caring for the elderly (Chu, 2014: 20). Likewise, caring for children by parents at home was also preferred by respondents (particularly women) in a survey conducted in August 1991 (Yi, 1998: 82). Even when both parents worked, home-based care remained a preferred option, particularly among women (Yi, 1998: 82). Related to this preference was the lack of the provision of institutional care (Yi, 1998: 83).

Ideals aside, women's rising labour participation has made home-based care increasingly unavailable. Their input to the family finances and national economy has made home-based care less cost-effective. Therefore, relieving women of their care duties and enabling their continuation in employment was presented as the major appeal of importing foreign caregivers to the local care industry in the early 1990s (LY, 1991a: 119; 1992a: 41–42, 45, 53). Thus the recruitment of foreign caregivers is framed as a *privately* funded home-based care that contributes to social well-being. This framing is reflected by their official designation: foreign caregivers are officially labelled as 'Social Welfare Foreign Labourers'. As of the end of 2017, there were 248 209 foreign caregivers (including 191 048 Indonesians, 31 178 Filipinos, 16 514 Vietnamese and 531 Thais), with a marginal number of male workers (MoI, 2018).

The large number of people in need of long-term care indicates that there is a growing caregiving market, the human resources for which can be sourced locally or externally. The government asserts that with the gradual establishment of a publicly funded long-term care system, the care industry should refrain from relying on foreign recruitment and use foreign caregivers as one of the supply sources. It hopes that the demand for home-based care can be met by local caregivers, who are most likely middle-aged women re-entering the labour market (Control Yuan, 2013). One bonus of supporting local caregivers is that it boosts the re-employment of middle-aged women. After all, protecting local workers' employment and treating foreign labour as a *disposable supplement*, rather than a replacement, is a guiding principle stipulated by the Employment Services Act, as stressed by the MoL (MoL, 2017).

Nevertheless, seen as dirty, difficult, demeaning and cognitively associated with the undesirability of Southeast Asian migrants, caregiving as a profession has been shunned by the local workforce. Since 2003, when the government started providing funding for caregiving training, a total of 110 263 local caregivers have been officially licensed. Nevertheless, as of 2015, the total number of local caregivers active in the market only amounted to 35 286 (Control Yuan, 2017a: 27). In 2017 alone, it was estimated that between 31 509 and 39 195 caregivers were needed to provide long-term care. However, the market supplied only 26 214 local caregivers (Control Yuan, 2017a: 27).

With this shortage, Southeast Asian caregivers become attractive thanks to their cheapness. This is guaranteed by the government, since their wage is officially capped at a level lower than the statutory minimum wage. Thus, for their employers, they are 60–70% cheaper than their local counterparts (Wang *et al.*, 2018). For the public sector, their cheapness is reinstated by the savings incurred to public finances, since employers who opt for hiring local caregivers are entitled to government funding for up to 12 months which subsidises approximately a quarter of the cost of hiring local caregivers (MoL, 2010). Their cheapness is essential to local women's uninterrupted labour participation and the subsequent retention of their wages. The savings to private and public

finances, as well as the bonus of local women's wage retention, sustains the preferred home-based care model and the stability of family life.

Thus 'cheap' foreign caregivers' labour, a result of government intervention, is *factually desired* by the host economy. Their recruitment reinforces the conceptualisation of women as the carer and the family as the unit for care, thus binding the inseparable relationship between production and reproduction. However, this economic cheapness runs in tandem with the perceived socio-political costs of accommodating foreign women at the prime age of fertility who are seen as the undesirable *other*. The state contains such costs with a package of legislation that regulates their naturalisation, residency, employment, mobility and fertility, and perpetuates them as temporary, disposable and excluded outsiders.

### The undesirable other

As proposed above, this paper conceptualises the legislation that ensures the cheapness of Southeast Asian caregivers and their exclusion due to their undesirability as socio-political expediency. The package of legislation to this effect includes: (1) the Nationality Act, which stipulates naturalisation eligibility, (2) the Immigration Act, which administers their contract-bound residency, (3) the Employment Services Act, which oversees their employment and, their pregnancy up until 2015, and (4) the Labour Standards Act, which regulates their labour rights.

From the outset, an indispensable policy tool is the outright ineligibility of migrant workers for permanent residency and naturalisation, as respectively stipulated by the Immigration Act and Nationality Act. Also implemented in Singapore (Yeoh, 2006) and Hong Kong (Constable, 2013), the denial of naturalisation makes Southeast Asian caregivers *permanently temporary* in Taiwan, and this temporariness is reinforced by a short residency of two years with the possibility of renewing for another year (LY, 1996: 145–150; 1997: 310). As shown in the parliamentary review of the Immigration Act Draft Bill, this was justified by the deep-rooted belief that migrant workers, who are seen as a low-skilled underclass, staying longer would generate 'social problems' (LY, 1991a: 128;

1992a: 55; 1992b: 242–244, 246). It has been argued that labour migration may affect wage, trade, tax and public finances (Freeman and Kessler, 2008) and that migrants tend to be securitised (Adamson, 2006). However, none of the officials or legislators across the political spectrum clearly spelled out what these ‘social problems’ might entail, with the exception of the perceived problem of migrant women developing intimate relationships with local men (LY, 1992a: 242). As analysed below, the pre-empting of this ‘problem’ led to the implementation of pregnancy screening.

Temporariness does not contribute to economic benefit because it might jeopardise a stable supply of migrant workers. Thus the maximum duration of employment in Taiwan has been extended several times (LY, 2012: 69–70). In September 2015 the maximum term of contract-bound residency was extended to 14 years for caregivers (LY, 2015: 66–69). A different policy tool was required to circumscribe this long residency in order to reinstate their temporary, supplementary and disposable employment, a principle emphasised by the government’s *Report on the Protection of the Rights of Foreign Labourers* (MoL, 2014: 2). Article 52 of the Employment Services Act was utilised to serve this specific purpose. Amended in December 2001, it did not allow migrant workers to renew their contract in Taiwan. Instead, they had to return to their home country and, after departing Taiwan for a minimum of 40 days, apply for a new work permit (LY, 2001: 389) so that their residency was discontinued and they would be disqualified from applying for naturalisation. Less than two years after this amendment, an exemption was made specifically for caregivers, since their service was said to be ‘critically needed for socio-economic development’ and disruption to this could result in the withdrawal of the employer or of the caregiver’s family members from employment with the subsequent loss of income (LY, 2003: 110). This amendment was accepted and an exit record, or a minimum of one day’s physical absence from Taiwan, sufficed the need to discontinue their residency and make them ineligible for naturalisation (LY, 2003: 145).

However, taken advantage by brokers, Article 52 aggravated migrant workers’ debt bondage.

That is, to apply for a new work permit, they had to pay brokers a recruitment fee and cover the costs of applying for a passport, visa, medical examination, airfare, lodge, training, insurance, airport tax, police clearance and other administrative fees required by their home states (LY, 2016: 50; Lan, 2006: 116). In October 2016, after advocacy groups’ intensive campaign for reform, Article 52 was amended and compulsory departure was finally scrapped. While claiming that this amendment protected migrants’ human rights, the government nevertheless allayed public anxiety by pointing out that migrant workers were still by law ineligible for naturalisation and permanent residency yet local families could continue to enjoy the care provided by Southeast Asian caregivers (LY, 2016: 46–47, 49).

Another policy tool curtails family reunion in order to prevent chain migration, a measure borrowed from Japan and Singapore (Ma and Yu, 2008). This measure robs migrant women of emotional and familial support, in effect making them single, regardless of their actual marital status. The resulting isolation is exacerbated by a lack of occupational and spatial mobility. Delegated by the Employment Services Act, employers and brokers are given the power to control foreign caregivers’ mobility, a *governmentality* described as ‘governing at a distance’ (Tseng and Wang, 2013). That is, migrant workers are not allowed to change employers unilaterally, since such freedom was seen by legislators as ‘causing problems’ (LY, 1992b: 245). Moreover, they must register their residential address in Taiwan with the government. Being confined to an employer’s home makes home-based caregivers particularly vulnerable to employers’ demands beyond their contractual work, which may amount to breaching their labour and human rights (e.g. Taiwan International Workers’ Association (TIWA), 2004). Poor working conditions and debt bondage may see some caregivers abscond in order to set themselves free at the cost of criminalisation, since deserting a contract or being absent from a registered address constitute legal offences. On the other hand, immobility is also instrumental to the surveillance of their fertility, since physical immobility set limitations on their social outreach.

A policy measure specifically applied to home-based foreign caregivers is to exclude them from the application of the Labour Standards Act (MoL, 2014: 11). Challenged by advocacy groups (e.g. TIWA, 2004), the MoL argued that neither local nor foreign home-based caregivers were protected by law, so this inapplicability complied with the national treatment principle and both groups were treated equally (MoL, 2016). Inadequate protection was a criticism repeatedly raised by the 2019 *Trafficking in Person Report* (US Department of State, 2019). As early as 2004, TIWA had proposed a draft bill to protect caregivers, and this draft bill was supported by Southeast Asian caregivers (TIWA, 2004). TIWA's advocacy was followed by the bipartisan support of legislators who tabled seven draft bills between 2004 and 2014, some of which have been reviewed at the second reading. Yet, at the time of writing, the government has not drafted any bill to address this deficiency (Cheng, 2019).

### Prevention of fertility

A now defunct expediency tool was pregnancy screening, a practice borrowed from Singapore (Yeoh, 2006: 30). At the prime age of fertility (Control Yuan, 2017a: 4), under an unmistakable gender bias, migrant women's giving birth was conceived as a liability to socio-political stability when the draft bill of the Employment Services Act was under parliamentary review during 1991–1992. The debate surrounding pregnancy screening was dominated by male legislators, who encountered no challenges raised by Chu Feng-chi and Hsiao Chin-lan, two female legislators of the ruling Kuomintang (KMT) party who took part in the reviewing meetings. Mentioning in passing that some migrant women did sex work in Taiwan, several male legislators of both ruling and opposition parties foresaw that migrant women would form intimate relationships with local or foreign men, or marry local citizens and establish families (LY, 1992a: 59; 1992b: 242, 255). These scenarios were described as 'social problems' by Li You-chi, a male KMT legislator, who relentlessly lobbied for conducting regular pregnancy checks and repatriating pregnant women (LY, 1991a: 117, 128–129; 1992c: 67–68). Wu

Yung-hsiung, a male legislator of opposition Democratic Progressive Party (DPP), alternatively argued for short residency in order to preempt intimacy (LY, 1992b: 242). Li's one-man campaign was successful (LY, 1992d: 28) and his initiative was adopted by the government into the draft bill (LY, 1991b: 46, 69–70).

This inclusion was condemned by Chu Kao-cheng and Lin Cheng-chieh, two male DPP legislators, who defended humanity and equality. Criticising his colleagues' negligence in allowing pregnancy screening to slip into the draft bill (LY, 1992c: 46), Chu denounced the repatriation as 'barbaric'; he condemned pregnancy screening and compulsory repatriation as an extreme form of discrimination based on class and occupation, since it did not apply to white-collar workers. He further called for granting family reunion to migrant workers since the right to enjoy a family life was integral to human rights (LY, 1992c: 46, 65–66; LY, 1992d: 27–28). Lin added that Singapore's enforcement of pregnancy screening had already been condemned for violating human rights (LY, 1992c: 66). Being outnumbered, Chu and Lin found themselves under siege of an Enoch Powell-style apocalypse and were ridiculed for being blind to the 'grave danger'. Li Ching-hsiung, a male DPP legislator, categorically excluded migrant women, the undesirable other, from the host society at the acknowledged cost of humanity:

*[Migrant] men can't produce babies, but women can. We can't allow foreigners to give birth in Taiwan and breed more foreigners. [...] It is indeed inhumane to repatriate a pregnant woman. However, even permitted to give birth in Taiwan, she and her child would have to be deported eventually. It is even more inhumane to break her family and separate the child from the [Taiwanese] father after they've developed bonds. (LY, 1992d: 27, 28: emphasis added)*

Although pregnancy screening was eventually voted out when the draft bill was passed in 1992 (LY, 1992d: 29), a revolving door was conveniently found via an enforcement rule which required migrant women to submit pregnancy clearance as part of their regular health examination. From 1992 to 9 November 2002, pregnancy clearance had to be submitted three

months before entering Taiwan (when applying for a visa), three days after entering Taiwan and every six months during residency (Articles 5 and 6 of the Regulations Governing Management of the Health Examination of Employed Aliens; Council of Labour Affairs (CoLA), 2008: 7). Expulsion ensued if women were found pregnant. Responding to heavy criticism from advocacy groups, the Act of Gender Equality in Employment (passed in 2002) outlaws dismissal due to pregnancy and protects maternity (Articles 11, 15) that also applies to migrant women (Lan, 2006). Post-entry clearance was dropped on 9 November 2002. It was not until 2 October 2007 that arrival clearance was abolished; the pre-entry clearance required for visa approval was finally scrapped on 31 July 2015 (Control Yuan, 2017b: 29–30; Chang *et al.*, 2017).

Migrant workers were informed of the abolishment by a *Handbook for Foreign Workers* published in 2008 by the CoLA (superseded by the MoL in 2017). Published in Chinese and English, the *Handbook* was distributed to migrant workers after they landed at the airport (Control Yuan, 2017b: 8). The 2008 *Handbook for Foreign Workers* in Taiwan stated that the pregnancy clearance required upon arrival and after entering Taiwan had been dropped, and that employers cannot summarily dismiss migrant women because of pregnancy (CoLA, 2008). If Southeast Asian workers are proficient in reading Chinese or English, they will be informed that if migrant women cannot observe their contract because of their pregnancy, the employer may initiate the termination of their contract. If this occurs, migrant workers who are under the jurisdiction of the Labour Standards Act should receive the notice for termination in advance and receive a redundancy payment. However, for home-based caregivers, who are excluded from this protection, the termination of the contract must be agreed on by both sides. The *Handbook* went on to remind migrant workers that:

Your body will undergo some changes and there are no family and friends to assist you. The Council of Labour Affairs calls upon foreign workers to take appropriate control measures (such as the use of condoms, contraceptive, etc.) when engaging in a sex act

in order to *protect your rights*. (CoLA, 2008: 7–8: emphasis added)

A lonely pregnancy and an isolated maternity are descriptions that have been repeated by the MoL (MoL, 2017a; 2017b). An updated version of the *Handbook for Migrant Workers in Taiwan* informs pregnant migrant women that they are entitled to prenatal healthcare and that they are legally obliged to register their children's birth. However, since their children may not acquire legal residency if they are born out of wedlock, they should cautiously consider such dire consequences (MoL, 2017b).

As mentioned, pregnancy clearance was endorsed, with the silence of female legislators, by male legislators' bipartisan aversion to Southeast Asian women's undesirability. Denying family reunion, limiting mobility and restricting residency duration were categorically designed as policy tools to prevent the 'social problems' of migrant women forging intimate relationships and giving birth. Implying immorality (engaging in sex work), they were *othered* as the source of problems. As part of an 'underclass people of low skills', their settlement had to be prevented (LY, 1991a: 128). Thus controlling their fertility was unmistakably part of foreclosing membership of the national community. Although migrant women's maternity is now legally protected (regardless of its questionable enforcement, Control Yuan, 2017b: 31–32), the denial of family reunion and restrictions on mobility remain in place. As intended by legislators nearly three decades ago, these measures continue to safeguard socio-political expediency and contribute to many cases of lonely and isolated motherhood.

### Human rights protection: A state-anchored pursuit

Given its socio-political value, one could reasonably ask why pregnancy screening was abolished. In response to public calls to reinstate the policy, the government defended its abolition as meeting international standards protecting the rights of workers and mothers (Control Yuan, 2017b: 8, 10; MoHW, 2015). In this light, Southeast Asian caregivers would now seem to be recognised not only as productive workers but



also as fertile women. It is hoped that voluntary compliance with international norms would create a positive international image and this image serves a strategic interest for Taiwan, given its international isolation (Cheng and Momesso, 2017). Since the slogan 'nationhood founded on human rights protection' (*renquan liguo*) was introduced by the DPP government in 2000, Taiwan has embarked on a steep learning curve of incorporating international human rights norms into its domestic laws, including migration legislation (MoL, 2014: 17). This is evident in the promulgation of anti-trafficking legislation in 2009 and in the gradual moderation of migrant spouses' naturalisation requirements in the 2000s during the DPP and KMT administrations. The former was undertaken by the KMT government largely due to the 'name and shame' approach taken by the United States for improving migrants' rights (Cheng and Momesso, 2017). The latter was attributed to local activists' criticism of the DPP government for paying lip service to the self-proclaimed aspiration to human rights protection. The discredited government was said to be performing a disservice to its desired international image (Hsia, 2009; Liao, 2009). Since Taiwan was reclassified as a Tier 1 country by the United States in its *Trafficking in Person Report* in 2010, publicising Taiwan's improvements in protecting migrants' human rights has become the government's annual publicity campaign, regardless of which political party is in power (Cheng, 2019). Ministers and legislators seem to have subscribed to the necessary compliance with international laws and have often claimed that Taiwan is a human rights protector (e.g. LY, 2016: 47, 49). Labour inspectors, who are on the front line of employment rights protection, also believe in the necessity of creating for Taiwan a 'positive international image' (Huang, 2010). In recent years, human rights protection seems to have become the critical 'cultural capital' vehemently pursued by Taiwan.

However, this new direction appears to be state-anchored, and not shared by the general public. Notwithstanding the strong advocacy of civil society as mentioned above to ease work permit renewal, protect caregivers and abolish pregnancy screening, public opinion towards Southeast Asian migrants in the past three decades have been consistently hostile. Before the legalisation of the recruitment of Southeast

Asian workers in 1992, a survey conducted in 1990 found that although the government and society had already begun to consider the impact of population depletion on economic development (Chu, 2014: 21), population increase facilitated by marriage between Southeast Asian workers and local citizens was not seen as a solution (Yi, 2014: 85). This appears to conform to the conviction espoused by legislators and officials during parliamentary review in 1991–1992 that Southeast Asian migrants are of the 'wrong stock' and should thus be excluded from Taiwanese society. This rejection persisted. A survey conducted between May and July 2005 found that 70.3% of respondents saw Southeast Asian workers as a 'serious problem' (Chiu, 2008: 5); another conducted between May and June 2006 found that 67.6% of respondents opposed granting them residency rights (Yang, 2008: 7). Justified by the belief that Taiwan is too small to include them (LY, 1992b: 245), this opposition was hailed by some as a 'pre-emption' against the inundation of immigrants from worse-off economies (e.g. Chu, 2008).

A survey conducted in November 2018 confirmed that there was little change to this attitude. In spite of having benefited from Southeast Asian workers' cheap labour, only 8.4% of respondents were in favour of encouraging immigration from Southeast Asia (Rich, 2019). Although this survey did not separate migrant workers from migrant spouses, the result nevertheless underlined the deep-rooted rejection of Southeast Asian migrants. These longitudinal findings send home a clear message that the state and society of Taiwan continue to view their relationship with Southeast Asian caregivers as a bargain: their cheap labour can be bought, but there is neither intention nor willingness to integrate these temporary outsiders into the national community. Such a scenario makes Taiwan a 'walled' migration state (Hollifield, 2004) which embraces economic openness for the purposes of reaping the fruit of migration but ensures socio-political closure in gatekeeping the boundaries of national community.

## Conclusion

This study unveils the mutual constitution between Southeast Asian caregivers' cheap

labour and Taiwan's alienating legislation that is underscored by their perceived undesirability. It has sought to understand how the state makes it economically and socio-politically expedient to employ Southeast Asian caregivers yet exclude them from society, and has identified the intersection between ensuring productivity and suspending fertility at the core of its strategy. That is, this exclusionary and alienating expediency is achieved by *coordinated* policy tools that disqualify these caregivers from naturalisation, restrict their residency, family life, mobility, employment, and, in the past, suspended their fertility. These tools have enabled the Taiwanese state to purchase cheap labour but perpetuate the labourers themselves as disposable outsiders.

The policy tools analysed here are interlocking: when some measures were discontinued, for example the withdrawal of pregnancy screening or easing of work permit application procedures, the government reassured the effectiveness of others. Although pregnancy screening was overruled by the strategic interests of human rights protection and positive international publicity, the other policy tools outlined here remain intact. Their value has been confirmed by explicit public endorsement, despite opposition from civil society.

Focusing on fertility has generated significant insights into the feminisation of migration. Southeast Asian caregivers' labour is instrumental in securing the family in Taiwan as a care unit. Their substitution of local women nevertheless reinforces the role of women as carers for the family, where a close relationship between production and reproduction is sustained. Yet this apparent social benefit is itself premised on the separation of the caregivers' reproductive capacity from their productive output. Considering pregnancy screening as a socio-politically expedient policy tool opens up a critical avenue for us to understand the exploitation at play in the guest worker system. It is argued that women's bodies and their reproduction capacity mark and make the boundary of national community (Yuval-Davis, 1997). It is also argued that guest workers have become a 'disenfranchised class' (Walzer, 1983) due to their lack of access to citizenship and the constant threat of repatriation. Focusing on fertility control demonstrates that migrant women are further disenfranchised and

exploited on account of their biology. Commenting on the rights of guest workers migrating to western Europe in the 1950s and 1960s, Max Frisch wrote that the European governments 'asked for workers but *human beings* came' (cited by Hollifield, 2004: 201). Frisch was arguing that migrant workers, just like the citizens of the states they come to, have lives, families, hopes and dreams. They are human too, with all the flawed complexity that entails. The suspension of migrant women's fertility as analysed in this article is an illuminating example of the indispensability of *holistically* understanding the experiences and coexisting identities of migrant workers as women of reproductive capacity, humans of dignity and workers of productivity. What dignity do they have if they are not welcomed by the state, recognised as human beings with a right to live a family life, the freedom to choose an employer, the opportunity to belong to if they wish to settle in their new home? For caregivers in particular, their care cannot be dismissed as 'women's work' but paid labour that is entitled to legal protection.

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