

INTERNATIONAL TRAINING WORKSHOP ON THE IMPLEMENTATION OF CEDAW



MIGRANT DOMESTIC WORKERS IN TAIWAN

By : Hope Workers' Center, Regina Fuchs

OUTLINE

- A) Migrant Domestic Workers and Caregivers in Taiwan, Situation & main Problems**
- B) 1. Relevant International Laws
2. Current National Regulations & Policies**
- C) Taiwan's Drafted Domestic Workers Protection Act: Demands and Recommendations**

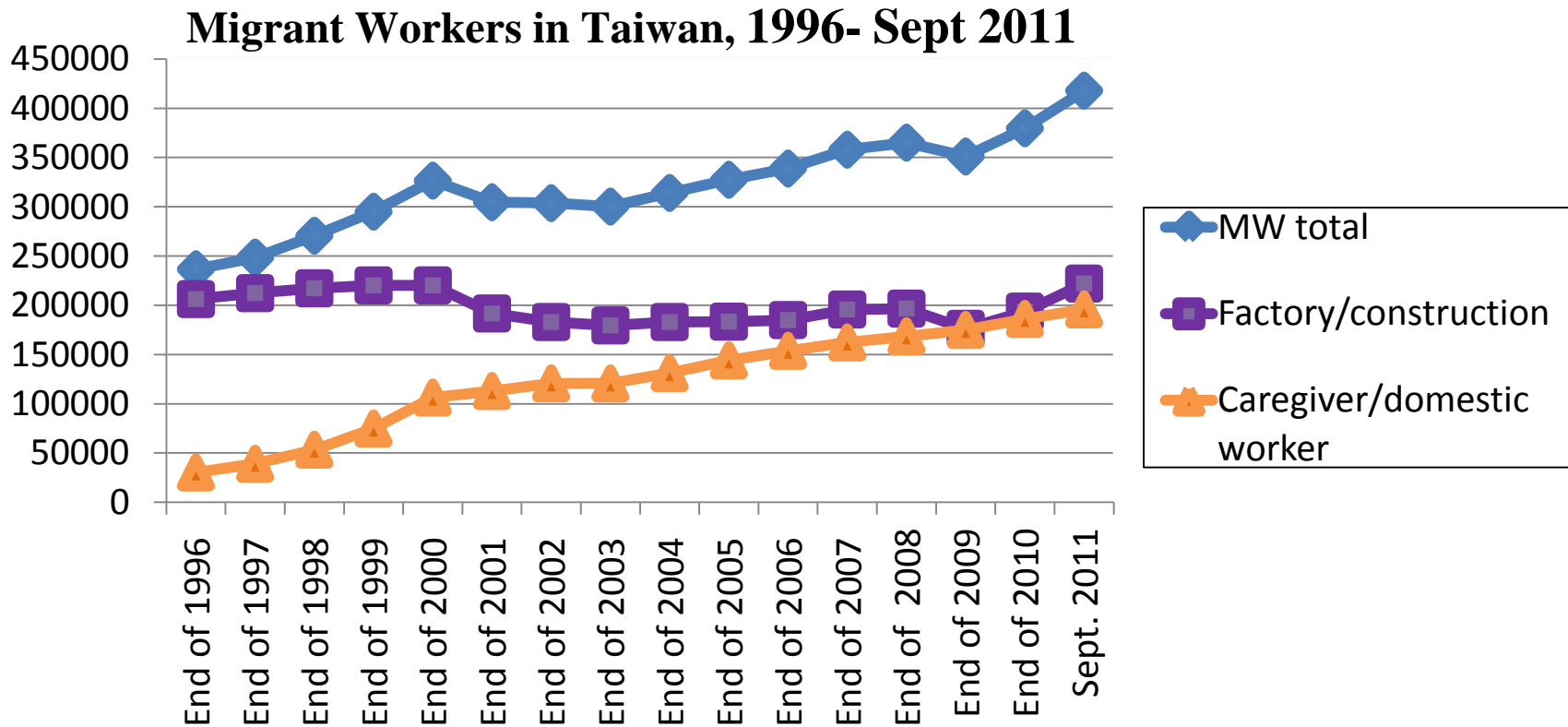
A) Migrant Domestic Workers in Taiwan

1. GENERAL INFORMATION

- 1992: Adoption of contract system for hiring migrant workers
- Migrant Workers mainly from Philippines, Thailand, Indonesia & Vietnam
- End of September 2011 around 418,000 migrant workers, 257,000 female, 161,000 male

A) Migrant Domestic Workers in Taiwan

2. NUMBER OF MIGRANT WORKERS



**Currently 418, 000 migrant workers,
196, 000 domestic workers
99% are female**

A) Migrant Domestic Workers in Taiwan

3. SITUATION & MAIN PROBLEMS

Lack of protection:

- Domestic work is not recognized as work. Domestic workers are not covered by the Labor Standards Law.
- No standard contract, provisions based on negotiations.
- Domestic workers, especially workers who reside in their employer's home, are vulnerable to all forms of exploitation: work exploitation; sexual, physical and psychological abuse.

A) Migrant Domestic Workers in Taiwan

3. SITUATION & MAIN PROBLEMS

Lack of bargaining power:

- Visa & work permit bound to employer, difficult to change employer.
- Migrant workers often don't know about their rights.
- Domestic workers are isolated, live in the house of the employer, lack of communication and networking.
- Language and cultural barrier, educational background.
- Indebted: High recruitment fees in the country of origin.

A) Migrant Domestic Workers in Taiwan

3. SITUATION & MAIN PROBLEMS

Broker agencies:

- High recruitment fees and monthly broker's fee
- Confiscation of personal documents & information material
- Threats of repatriation
- Dependency on broker
- Wrong & misleading information

A) Migrant Domestic Workers in Taiwan

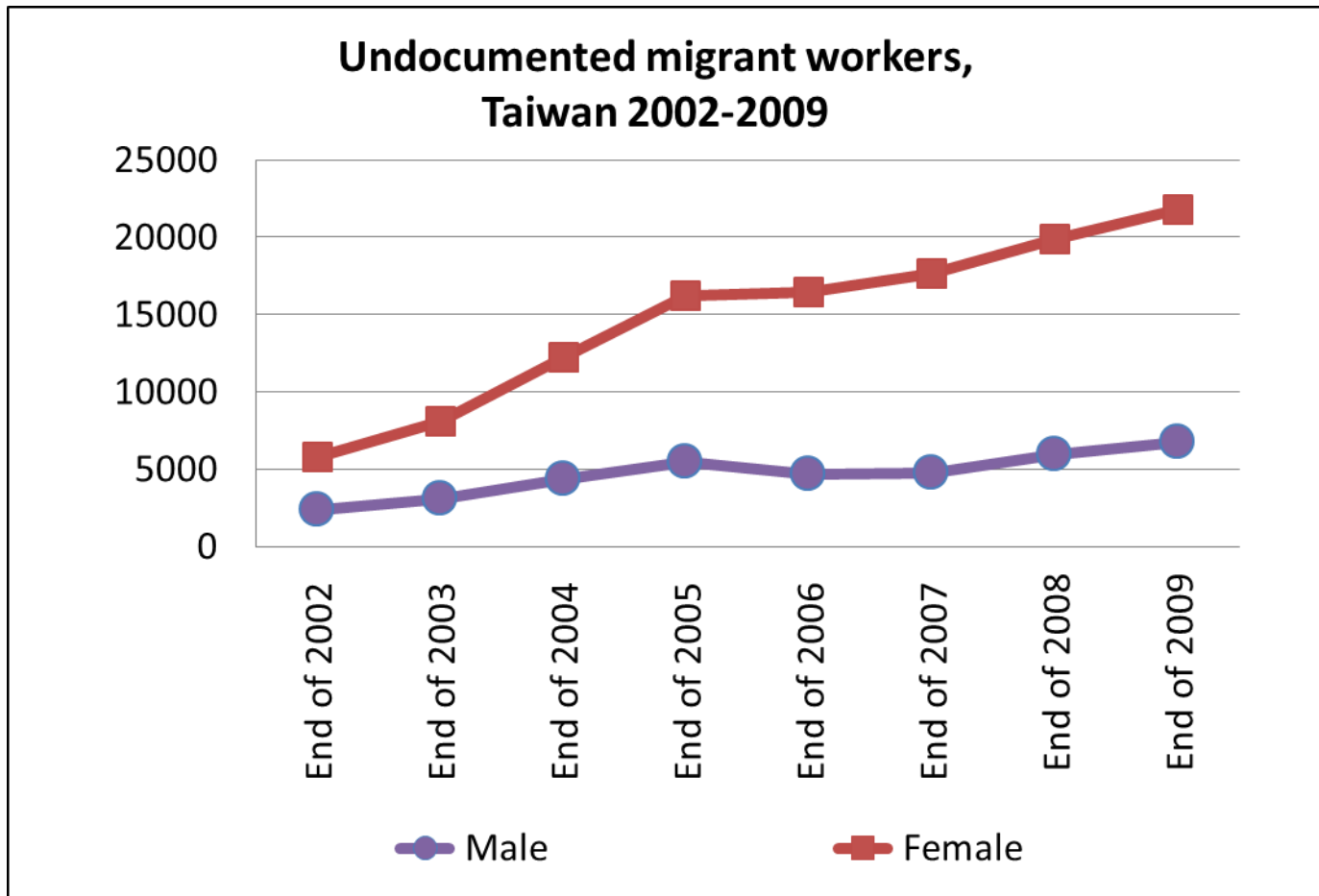
3. SITUATION & MAIN PROBLEMS

Risks:

- Exploitation & overwork: negatively affecting the workers health (physical and mental).
- Workers suffer from fatigue, depression and exhaustion, this can lead to occupational accidents as well as negatively affect the work performance.
- Worker running away from legal employer & becoming undocumented: vulnerable to further exploitation and human trafficking.

A) Migrant Domestic Workers in Taiwan

3. SITUATION & MAIN PROBLEMS



B) 1. Relevant International Laws & Conventions

CEDAW, Art.1: “...`discrimination against women` shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing the....enjoyment...of human rights and fundamental freedoms...”

CEDAW, Art.3: “States Parties shall take... all appropriate measures, including legislation, to ensure the full development and advancement of women...”

Universal Declaration of Human Rights, Art. 24: “Everybody has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.”

UN Covenant on Economic, Social, and Cultural Rights, Art.7: 1. Fair wages, 2. Safe and healthy working conditions

UN Covenant on Civil and Political Rights, Art.8,2.: “No one shall be held in servitude.”

UN Covenant on Civil and Political Rights, Art.17,1.: “No one shall be subjected to arbitrary or unlawful interference with his privacy...nor to unlawful attacks of his honor and reputation.”

CEDAW, GR26, 26h: “...monitoring systems to ensure that recruitment agents and employers respect the rights of all women migrant workers.”

ILO Convention 189, Art. 10, 1.: “Each member shall take measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave...”

B) 2. Existing Policies & Regulations

- Under certain circumstances a migrant worker has the right to change the employer.
- Since July 2009 „1955“ -foreign workers‘ hotline.
- Broker‘ s service fee since 2001 regulated by Council of Labor Affairs (CLA) & suggestion by the CLA for sending countries to limit the placement fee to 1 month‘ s wage.
- Penalties for employers of undocumented migrant workers, and for undocumented migrant workers.
- Reward system for reporting undocumented migrant workers (up to 20,000 NTD).
- Direct Hiring System for re-hired migrant workers.

C) Demands & Suggestions

1. Recognizing Domestic Work as Work

1.1 Definition of “work” needed

Art.1 “...It is not easy to clearly divide work hours from rest hours...”

Better: to define normal hours of work and stand-by hours (If a worker does not have the liberty to dispose of her time freely or if she cannot leave the employer’s residence, this is stand-by duty).

C) Demands & Suggestions

1. Recognizing Domestic Work as Work

1.2 Regulation of Working Time

The current draft Domestic Workers Protection Act leaves working time, rest hours and overtime payment to be **negotiated between employer and worker** (Art. 9).

Because of domestic workers' low bargaining power **legal standards** are needed, otherwise the worker depends on the goodwill of the employer and is very vulnerable to exploitation!

Legal standards needed for: Normal hours of work, limitation of stand-by hours and overtime and regulation of stand-by and overtime payment.

C) Demands & Suggestions

1. Recognizing Domestic Work as Work

Examples:

-Limitation of normal hours of work

France: 40 hours per week

Portugal: 44 hours per week

South Africa: 45 hours per week, not more than 8 hours per day

- Limitation of overtime & compensation of it

France: Maximum overtime: 10 hours per week

South Africa: Maximum working hours not more than 12 hours per day, maximum overtime 15 hours a week.

C) Demands & Suggestions

1. Recognizing Domestic Work as Work

...continued

-Stand-by hours

France: Number of stand-by hours stated in the contract, remuneration 2/3 of normal working hour

South Africa: Stand-by hours defined as working during the night: 22:00 – 06:00, maximum 5 times a month & 50 times a year.

C) Demands & Suggestions

2. Human Rights Protection

- No one shall be held in servitude
- Fair payment
- Freedom of movement
- Decent living conditions that respect the privacy of the worker
- Freedom to communicate
- Workers have the right to keep in their possession their documents (passport, ID, ARC, contract...)

C) Demands & Suggestions

3. Regulation of broker agencies

-Increased regulation and monitoring of labor agencies involved in recruitment and placement of migrant workers.

-Memorandums of Understanding (MoU) are needed with each of the labor sending countries to restrict and regulate placement fees.

For Your Reference

Foreign caregivers' hourly pay hit low of NT\$ 47.3 in '10: CLA

Tuesday, May 17, 2011, The China Post news staff

...The CLA has just completed a survey of 7,201 industrial employers of foreign workers and 5,064 household employers of foreign caregivers to better understand the alien labor employment and management situations in 2010... In contrast, the average daily work hours reached a high of 12.9 for foreign caregivers employed by households, and their average work hours reached as many as 387 per month, as the vast majority of such caregivers were not allowed to take any leaves in the whole month. Nevertheless, the average monthly pay for foreign caregivers hit a low of only NT\$18,341 in 2010, including NT\$15,983 in regular pay and NT\$2,027 in overtime pay. This translated into an average hourly pay of only NT\$47.3, less than half of the minimum hourly pay of NT\$98 as set in the revised Labor Standards Law. The same survey also found that 85 percent of households employing alien caregivers agreed to give the minimum monthly pay to such employees in accordance with the Labor Standards Law, and 64 percent agreed to allow the employees to take a rest for several hours per day, instead of their current 24-hour care work.