

# THE POLITICS OF MIGRANT LABOUR POLICYMAKING: THE CASE OF TAIWAN

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## Abstract

*This paper generally aims to uncover how non-state actors influence the Taiwan government in the formulation of its migrant labour policies. This is a qualitative study and references have been made to books, journals, magazines and newspaper articles. Additional data and information in this study are products of my work with migrant workers of all nationalities in Taiwan, starting when I worked with the Taipei-based Migrant Workers' Concern Desk (MWCD), an international non-government organization (NGO) under the aegis of the Chinese Catholic Bishops Commission for Social Development, from 1996 to 2006.*

*Taiwan which is often referred to as one of the Asian dragons together with Hong Kong, Singapore and South Korea has a robust economy and is a popular destination of migrant workers. However, its newfound economic status creates problems like the lack of local labour to fill the job vacancies in the different factories and small to medium-sized enterprises (SMEs) that serve as the backbone of the country's economy. The problem of labour shortage is exacerbated because many local blue-collar workers are not willing to work in factories and industrial plants as they consider such jobs dirty, degrading and dangerous or the so-called 3D jobs.*

*The acute labour shortage was felt by factory owners and industrialists during the later part of the 1980s. In order to survive in a competitive business environment, and to maintain the momentum of their businesses, the factory owners and industrialists petitioned the government to allow them to import foreign workers. Seeing the pressing need for blue-collar workers, the government acceded to the demand of the employers for them to import foreign workers. And so in October 1989, the Taiwan government decided to open its labour market to foreign workers from Indonesia, Malaysia, the Philippines, Thailand and Vietnam. During the year 2004, workers from Mongolia were subsequently allowed to work in Taiwan to give employers a ready pool of countries where they may source their particular labour requirements.*

*Specifically, this paper aims to find out how migrant labour policies of Taiwan are shaped by the interplay and logrolling of both state and non-state actors. In order to understand the mechanics of how politics play a role in the migrant policymaking of Taiwan, this study uses the theory of transgovernmentalism. As explained by political scientist and legal expert Anne-Marie Slaughter, transgovernmentalism puts premium on non-state actors particularly NGOs as they complement the state in carrying out its policymaking function. This view is echoed by Keith Faulks who believes that states seek to share their power with other states and the institutions of civil society in response to social changes. The state function of crafting policies aimed at realizing a labour environment that is beneficial to the governments of both the labour sending and the labour receiving countries is discussed extensively in this paper. The state being the ultimate architect in crafting labour policies sometimes craft such policies that are considered anti-labour. Under this scenario, non-state actors like the local and international NGOs play a vital role in checking and balancing the state function of policymaking, if only to come up with policies that are considered pro-labour and usually seen as preconditions to realize industrial peace.*

*This paper found out that some migrant labour policies have been shaped and in fact are the results of the lobbying efforts and concerted strategies employed by the different NGOs. Such policy initiatives realized through effective networking between and among civil society groups in the local front and those overseas are now part of the migrant labour policies of Taiwan that are implemented for all foreign workers in the country.*

*Furthermore, this paper found out that migrant labour policies seen as not being too suppressive of the rights of migrant workers are in fact beneficial not only to the labour sending governments as their migrant workers are protected by such policies but also to the labour receiving government as it reaps certain benefits like few cases of foreign workers who abscond their jobs. In the process, everyone benefits as industrial peace is realized through an atmosphere where contented foreign labourers work not only for the pay but also for the survival of the very industries that offer them jobs and the maintenance of the impressive economic performance of Taiwan as an Asian dragon.*

## INTRODUCTION

Taiwan, considered as one of the Asian Dragons together with Hong Kong, Singapore and South Korea because of its impressive economic performance is a popular destination of migrant workers. Although there are many things stacked against the state that are beyond its control and are not working to its favor in terms of economic advancement, it nonetheless withered all such odds, soared like the mythical dragon and attained a well-developed economy it enjoys today. Economically, Taiwan an island nation like Singapore virtually lacks natural resources, yet it is able to sustain the resource requirements of its industries that serve as the backbone of its economy. Politically, the government in Taipei that is still technically at civil war with the government in Beijing because of the unsettled issue of Chinese representation in the international community, particularly in the United Nations, is being continually choked by the latter regarding the way how to conduct its international relations with other countries. As Dittmer (2017) aptly pointed out, “the Mainland has always competed with Taiwan to represent China to the rest of the world, and one way of resolving this contest has always been for one side to absorb the other” (p. 1). This state of events makes it difficult for Taiwan to conduct friendly economic and political interactions with most countries. However, the gains it made to attain a developed economy it enjoys today is a testament that the lack of natural resources and the backdoor diplomatic maneuvers of political enemies can be arrested through sheer perseverance and sound economic policies. Despite these economic and political setbacks, Taiwan is able to sustain its impressive economic performance. The island experienced rapid industrialization that transformed it into the world’s no. 1 hi-tech electronics and semiconductor manufacturing hub. In the 1980s, it became an economic power with a mature and diversified economy, solid presence in international markets and huge foreign exchange reserves. In 2010, it replaced former colonial master Japan as the world’s top producer

of semiconductor. Taiwan is the 27<sup>th</sup> largest economy in the world (8 Countries with no Natural Resources, n.d.).

With the remarkable economic development of the country come with it attendant problems that need to be addressed if only to sustain the upward trend in the country's economic performance. One of these problems is the lack of manpower especially for the small to medium-sized enterprises (SMEs) that serve as the backbone of the country's economy. This problem is exacerbated because many local blue-collar workers are not so willing to work in these enterprises and in the manufacturing industry as most of them consider the jobs generated by the industry as dirty, degrading and dangerous or the so-called 3D jobs. Even with the government's decision to raise the basic pay for the local blue-collar workers in order to give better incentives for them to remain in their jobs and at the same time to entice more people of working age to join the ranks of the blue-collar workforce, the measure did little to arrest the problem. The raise in pay of the blue-collar workers in Taiwan had been pointed out by the Bureau of Labor Statistics of the United States Department of Labor citing a progressive increase in the hourly pay of production workers in its manufacturing industry. For example in 1985 when the shortage of local blue-collar workers started to be greatly felt by Taiwanese factory owners and industrialists, the hourly rate in US Dollars was only US\$1.49. This rate jumped to US\$3.85 five years later in 1990. The rate further increased to US\$5.87 in 1995 (International Comparisons of Hourly Compensation, 2005). These dramatic increases in pay did not do the trick. In short, the problem of labor shortage in the manufacturing sector in the country was not addressed with such a measure. As more and more job items in the manufacturing industry were generated with the few local blue-collar workers willing to take the jobs, factory owners tried hiring foreign workers even before the Taiwan government legalized the entry of foreign workers to the job market.

The need for blue-collar workers was simply unavoidable. During the first half of 1988 for example, there were 185,337 job openings, but there were only 35,025 job applications for three key labor-intensive job categories, that is for production and transportation workers, machine operators and physical laborers (Lu, 2000 p. 119). Seeing the situation as not getting any better, factory owners and industrialists pressured the government for them to be allowed to legally hire foreign workers. As a result of this, the Taiwan government announced in October 1991 that it would permit 15,000 foreign workers to work in the textile and other 5 industries (Lee and Wang, 1996). These industries include fabric and stock weaving, sweater producers, electroplating, pigments, machinery molding plants and producers of stone products (More Foreign Workers for Taiwan, 1995). This new development spurred the factory owners and industrialists to hire foreign workers. In fact this need-driven government policy measure was just a sort of formalizing things because a number of factory owners and industrialists were already hiring foreign workers albeit illegally, even before the government gave them the green light to do so. Most workers hired through this scheme came to Taiwan legally as tourists and remain in the country after they were able to find jobs. Factory owners and industrialists were often the ones who facilitated the entry of young tourists to the country and as expected, these tourists automatically land jobs upon arrival. This scheme was especially true during the later part of 1989 when there was a boom in the Taiwan manufacturing industry creating many job items that the local blue-collar workers were not willing to take. During that time, the factory owners and industrialists were simply so desperate in their need for labourers that even young foreigners on student visas were accepted to work in their establishments on a part time basis. The problem of the lack of workers to man the manufacturing industry was so serious for the government to ignore. That is why the government acceded to the demand of the factory owners and industrialists for restricting them will not help in the long run.

The fear of the increase of undocumented foreign labourers in the island was equally a serious matter for the government to ignore and therefore it has no other way but to legalize the entry of foreign workers to the country. Allowing foreign workers to legally work in the country will make it easier for the government to keep a tab on those who enter and join the job market through legal means. With the go signal of the government for employers to hire foreign workers although on a limited scale, foreign workers started going to Taiwan in 1991 to work in the allowed job categories within certain industries.

### **THE TAIWAN ECONOMIC MIRACLE: BETTER TO BE THE HEAD OF A CHICKEN THAN THE TAIL OF AN OX**

By most accounts the Taiwan economy is impressive. But what propelled it to be where it is today? Given the fact that the country lacks natural resources to supply the material requirements for its manufacturing companies, it is indeed a feat that Taiwan surpassed most of its resource-endowed neighbors which are still struggling to mend the mess as a result of a long period of economic dystopia.

One of the driving forces that helped the Taiwan economy develop is the active presence of the SMEs in the island's business landscape. These SMEs have been honed, developed and supported by the Taiwan government since the late 1960s but its impact on the country's economy has just been dramatically felt during the later part of the 1980s. These SMEs were established as small businesses or trading companies specializing in products that could be imported and could merit a modest share of customers in the international market. Since these SMEs have limited market in Taiwan, they have no other recourse but to scourge the international market for a fair share of consumers for their products. These SMEs target products with no competitors that could pose a direct challenge to their consumer share. The "*Made in Taiwan*" label which started to be

popular during the 1980s is a testament to the business activities of these SMEs churning out products like specialized pins and medals, figurines, metal-based decorative items, cigarette lighters, specialized pens and writing instruments, tennis rackets and lately electronic and computer parts. These SMEs are very successful in their respective businesses and they really contribute much to the economic success of Taiwan as there are many of these establishments in the country. According to the 2014 White Paper on SMEs in Taiwan, there were 1,363,393 enterprises (including large enterprises) in Taiwan in 2013 (White Paper, 2014 p. 240). The same White Paper pointed out that these enterprises contributed US\$1.241 trillion in annual sales for the year 2013 alone (White Paper, 2014 p.242). SMEs make up 98.5% of Taiwan's companies, 75-80% of all employment and 47% of the total economy. No wonder even its government economists refer to corporate Taiwan as an "army of ants" obviously referring to these SMEs (A Survey of Taiwan, 1998). Many of these companies serve as employers of migrant workers. Indeed, these SMEs are the real harbingers of Taiwan's economic miracle.

But how did these SMEs come to being? The SMEs were born out of the desire of many young and middle-aged Taiwanese to establish their own businesses. The owners of these enterprises are former workers in other bigger companies or establishments. They are often referred to as "black hands" bosses. These individuals are to be credited for their contribution to the impressive economic performance of Taiwan who after years of working in such establishments, earning a modest savings and getting the experience needed to run a small company, started out and venture into such businesses. Many of such companies are just operating in residential houses staffed by family members and relatives. With their business acumen coupled with perseverance and determination, they succeeded. Wu (n.d.) described these individuals or the 'black hands' bosses as those people who "instead of learning from school, learned their skills

through apprenticeship within factories and these machinists and apprentices created their own businesses and became bosses. They learn by doing. Combining skills and experience, the ‘black hands’ create opportunities for success” (p 4). Being former employees of bigger companies and factories, these ‘black hand’ bosses illustrate the Chinese thinking as reflected in one of their famous sayings, “Better to be the head of a chicken than the tail of an ox.” For them it is much better to be the boss of a small company than just be a subordinate in a big company. That is why after years of work as subordinates, they somehow managed to set up their small businesses and help in the economic development of their country. The Taiwan economic miracle is an unfolding masterpiece traceable to the vital role played by the “black hand” bosses actively doing their share in the background.

## **HOW THE LABOR PIE IS DIVIDED AND WHO GETS WHAT?**

With the sound economic performance of Taiwan propelled by the business acumen of the ‘black hand’ bosses, comes with it the problem of labor shortage. But since this problem has no answer in the domestic front, the government allowed the factory owners and industrialists to import foreign labour in 1989. However, from the very start, the Taiwan government has been very circumspect in its policy on foreign labour. There were many things it took into consideration which contributed to the state of the migrant labour policies that are in place today. Foremost of these is the fear of an imagined society that has to grapple with overcrowding in a small island, characterized by a high crime rate where social vices and serious diseases are spread by outsiders. The Taiwan society of course must not be faulted for this because it is just one of the many that regards foreign workers as outsiders; a threat to society; spreaders of diseases; perpetrators of crimes; a group that will erode national identity and many other negative labels. This is not an

overstatement for such sentiments are also echoed by other societies and such labeling transcend cultures. Referring to foreign workers in Taiwan, Underwood (2000) wrote, “foreign workers are blamed for such social vices as spreading AIDS” Also, Williamson (2014) in his study pointed out that “for the media in Great Britain ‘immigration’ is the most significant crisis facing the country and migrants, asylum seekers, etc. are a burden on national resources, and increasingly, as a security threat” (p. 64). In a similar vein, Adjar and Lazarides (2013) in their study of migration in South Africa pointed out that, “irrespective of the fact that the police are clearly violating the human rights of migrants one of the justifications for their action is based on the myth that migrants commit crime” (p. 200). The Japanese on the other hand generally believe that foreign nationals would cause social unrest and erode national identity (908,000 Foreign Workers, 2017). Therefore, foreign workers in Taiwan are not isolated from the members of a crowd viewed as a threat to society. But given the gravity of the problem of labor shortage in the country, the government has no other alternative but to allow employers and factory owners to import blue-collar workers, even with those negative labels attached to migrant workers. However, this labeling did make things different in terms of how the native Taiwanese population deal with foreign workers.

Starting 1988, the problem of lack of blue-collar workers to man certain industries has been felt by the Taiwanese employers or the ‘black hand’ bosses. When the Taiwan government approved the entry of foreign workers in 1989 there were only five ASEAN countries allowed by the Taiwan government to deploy migrant workers to the country. These countries are Indonesia, Malaysia, Philippines, Thailand and Vietnam. Noticeably, all these five countries are members of the Association of Southeast Asian Nations (ASEAN) and such policy of the Taiwan government is consistent with the Go South Policy. This policy is riding on the wave of growing Taiwanese investments to ASEAN thereby reducing Taiwan’s economic reliance on the mainland, which

absorbs 40 percent on the island's exports (Jen, 2016). During the year 2004 however, the Taiwan government opened its labor market to foreign workers from Mongolia.

**TABLE I**

**Total Number of Foreign Workers in Taiwan from 2001 to 2016 by Sex and Nationality**

Year	Indonesians			Filipinos			Thais			Vietnamese			Others*		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
2001	91132	10336	80796	72779	23284	49495	127732	107635	20097	12916	3977	8939	46	41	5
2002	93212	9622	83590	69426	22212	47214	111538	93904	17634	29473	8400	21073	35	31	4
2003	56437	6971	49466	81355	23685	57670	104728	86914	17814	57603	10831	46772	27	25	2
2004	27281	4831	22450	91150	25504	65646	105281	86477	18804	90241	11610	78631	81	31	50
2005	49094	6350	42744	95703	28311	67392	98322	81215	17107	84185	12497	71688	92	30	62
2006	85223	8861	76362	90054	28429	61625	92894	77696	15198	70536	15065	55471	48	22	26
2007	115490	12845	102645	86423	29079	57344	86948	73057	13891	69043	24031	45012	33	18	15
2008	127764	15373	112391	80636	28035	52601	75584	64015	11569	81060	34568	46492	16	12	4
2009	139404	17016	122388	72077	24596	47481	61432	52031	9401	78093	34949	43144	10	10	0
2010	156332	19706	136626	77538	26296	51242	65742	55647	10095	80030	38462	41568	11	10	1
2011	175409	24975	150434	82841	29154	53687	71763	60734	11029	95643	50790	44853	4	3	1
2012	191127	30676	160451	86786	32754	54032	67611	56891	10720	100050	57554	42496	5	3	2
2013	213234	41573	171661	89024	33843	55181	61709	51234	10475	125162	74310	50852	5	3	2
2014	229491	49737	179754	111533	40734	70799	59933	49528	10405	150632	94302	56330	7	3	4
2015	236526	53743	182783	123058	44791	78267	58372	48503	9869	169981	110288	59693	3	1	2
<b>2016</b>	<b>245180</b>	<b>56061</b>	<b>189119</b>	<b>135797</b>	<b>48876</b>	<b>86921</b>	<b>58869</b>	<b>48903</b>	<b>9966</b>	<b>184920</b>	<b>120468</b>	<b>64452</b>	<b>2</b>	<b>1</b>	<b>1</b>

\*Others include foreign workers from Malaysia and Mongolia

*Source: Ministry of Labor, Republic of China on Taiwan*

In terms of nationality or country of origin, Table I shows that Indonesian foreign workers number the most at 245,180 followed by the Vietnamese at 184,920, Filipinos at 135,797, Thais at 58,869 and 2 workers falling under Others which the MOL said they either come from Malaysia

or Mongolia. These data tell us that there are a total of 624,768 foreign workers in Taiwan at the end of 2016. This total is also reflected in Table II.

Generally, as in other parts of the world, migrant workers from these five ASEAN countries, who are already working in their host country in this case Taiwan, are often thrust into a situation where they suffer discrimination. Their situation is of course not different from those in other migrant receiving countries. Since they are considered outsiders, discrimination is a fact of life. In Singapore for example, Ti (2016) pointed out that, “ugly stereotypes spread online are sometimes reflected in discriminating behavior and revulsion towards these workers as well as ill-treatment or exploitation”. Also in their study, Jumankar, Satya and Wahida (2004) in reference to migrants in Australia said, “we have found prima facie evidence for discrimination against male Asian migrants which policy should address in the future” (p. 19). Based on studies, there is reason to believe that migrants regardless of their location suffer discrimination one way or another. Also they become the absorbing sponges of whatever developments that result in the tussles between their governments and the host country on so many issues associated with the management of migrant labour.

Taiwan as a labour market just actually saw the legal entry of foreign workers in 1989, but it was only in 1992 when the Employment Service Act was implemented. Being a new and inexperienced country to host foreign workers, as compared to other countries that have been hosting foreign workers in other parts of the world like countries in the Middle East, Taiwan has no experience in hosting foreign workers especially on a large scale. So migrant labor policies were made and are being made based on experiences on the ground. In other words, migrant labour policies are results of a trial and error reaction, reflecting the lack of a consistent migrant labour policy. Lin (2012) reinforced this view saying that, Taiwan has many migration-related laws and

regulations but the country does not currently have a clear and consistent migration policy. This is partly explicable because the migrant sending governments add pressure to an already problematic situation by pressing the Taiwan government in behalf of their nationals for good working conditions and other employment-related issues such as salary increase, days-off, accommodation, overtime pay, medical and health insurance, and many other issues. In the process, the Taiwan government sometimes gave in to the demands of the labor-sending governments. However, at some point, the Taiwan government felt that it is being blackmailed into agreeing to unreasonable demands by the five migrant-sending governments. The Taiwan government's decision to open its labor market to Mongolian workers in 2004 was a subtle reaction to this. Such move was a veiled message to the five labor-sending governments that since a new source of foreign workers is in place, making demands may not be tolerated as it can always turn to the new source of foreign workers for its labor requirements. This is an indication that foreign workers are seen as a commodity that can be readily exchanged in the market.

**TABLE II**

<b>Total Number of Foreign Workers in Taiwan from 2001 to 2016 by Sex</b>			
<b>Year</b>	<b>Male</b>	<b>Female</b>	<b>Total</b>
2001	145,273	159,332	304,605

2002	134,169	169,515	303,684
2003	128,426	171,724	300,150
2004	128,453	185,581	314,034
2005	128,403	198,993	327,396
2006	130,073	208,682	338,755
2007	139,030	218,907	357,937
2008	142,003	223,057	365,060
2009	128,602	222,414	351,016
2010	140,121	239,532	379,653
2011	165,656	260,004	425,660
2012	177,878	267,701	445,579
2013	200,963	288,171	489,134
2014	234,304	317,292	551,596
2015	257,326	330,614	587,940
<b>2016</b>	<b>274,309</b>	<b>350,459</b>	<b>624,768</b>

*Source: Ministry of Labor, Republic of China on Taiwan*

As can be seen from Table II, there was a total of 624,768 foreign workers in Taiwan at the end of the year 2016. Of this number, there were 350,459 female foreign workers or 56% of the total, while there were only 274,309 male foreign workers or 44% of the total. It is interesting to note that while there was a noticeable decrease in the number of male foreign workers from 2001 to 2005, and again from 2008 to 2009, the number of female foreign workers had a steady increase in number over time except in 2008 to 2009 when there was a slight decrease of 643. In short, there are more foreign female workers than foreign male workers in Taiwan today. With this, the feminization of migrant labour can be observed in Taiwan and since there are studies saying that female workers are generally more vulnerable to abuse than their male counterpart, the government must be more vigilant and must guard this vulnerable sector against discrimination in whatever form. This is anchored on research findings that as the number of female workers increase in a certain place, abuse and exploitation also tend to increase. Kavar (n.d.) reinforced

this claim when she said that “as the overall feminization of international migration increases, the vulnerability of women migrants to discrimination, exploitation and abuse is also likely to increase” (p. 71).

## **THE HEAT IS ON: WHEN EVIDENCE IS INVOKED FOR POLICY CHANGES**

The data from Taiwan’s Ministry of Labor in Table II show that there were at least 624,768 foreign workers in the country as of the end of 2016. With a population of 23,404,440 based on the Taiwanese Ministry of the Interior estimate (Taiwan Population, 2017), foreign workers as a group is equivalent to 2.66% of the Taiwanese population. This is quite high if it will be compared with other countries that are also hosting foreign workers as against their native populations. For example, South Korea, a country with a population of 50,628,591 (South Korea Population, 2015) has only 962,000 foreign workers (Kim, 2016). This means that foreign workers as a group is just equivalent to 1.90% of the total Korean population. In Japan, the percentage of foreign workers if plotted against the Japanese population is even lower. It is only 0.72% given the foreign worker population of Japan at 910,000 as of October 2016 (Japan to Have Record, 2016) as against the total Japanese population at 126,146,498 based on the latest UN estimates (Japan Population, 2017). With the high number of foreign workers in Taiwan compared to that of Korea and Japan plotted against their native populations, crafting policies designed to protect this vulnerable sector as mandated by international treaties and instruments is in order. Any step towards that direction will surely better the lot of the foreign workers in the country.

Considering the composition of foreign workers in Taiwan as to place of origin and sex, there are indications that Taiwan’s foreign labor policies are skewed towards categories that are composed of large number of members. As reflected in Table I, the Indonesian workers as a group

particularly the female workers account for the highest number of foreign workers in Taiwan for a particular category. Since 2007, the number of Indonesian workers increased yearly and at the end of 2016, it stood at 245,180. Noticeably female Indonesian workers outnumber their male counterpart. The Ministry of Labor said that the Indonesian domestic workers account for 79% of the migrant workers from Indonesia (Liang, 2016). This high number has been noticed by the host government and related legislation has been drafted in order to protect the rights of this particular category of workers. And so the Taiwan government initiated to pass a law called the “Domestic Workers Protection Act.” The Ministry of Labor already finished the draft of this proposed law stipulating that domestic workers shall have at least one day-off for every seven days including provisions regarding the termination of work contract, wage standards, rest time, special leave, leave, insurance and filing of complaints (The Ministry of Labor, 2015). However, this draft legislation is still stalled in the Legislative Yuan for review. In this connection, the Migrant Empowerment Network in Taiwan (MENT), an international NGO, demanded that such draft legislation be passed already. Additionally, MENT initiated an online petition highlighting the need to protect the rights of domestic helpers in Taiwan invoking international instruments as bases for its demands. Among others, it cited the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. (Taiwan: Petition Declaring Support, 2015). In Taiwan, there is no law at present that protects the rights of domestic helpers and caretakers. At best, they can only depend on the provisions in the contract they signed with their employers. Since they lack bargaining power in a situation where many unfavorable things are stacked against them, the possibility of abuses is high.

It must be pointed out that when the Taiwan government decided to import foreign workers in 1989, there was no policy in place to protect the rights of foreign blue-collar workers. It was only in 1992 when the Employment Service Act, a law that outlined the rights and obligations of foreign blue-collar workers was passed. Liu (1996) pointed out that “this Act is the first comprehensive law in Taiwan to legalize the hiring of blue-collar foreign workers” (p. 559).

Before amendments to the Act, some of its provisions were not in accord with international treaties and instruments. Paragraph 3 Article 48, Chapter 5 is a good case in point. This particular provision in the Act requires all foreign blue-collar workers to undergo medical examination in government-designated hospitals. Such medical examination includes pregnancy test among women foreign workers, which is a contravention to international treaties and instruments. If a female foreign worker tests positively to be pregnant then she will not be issued a work permit and will be sent back to her country of origin. Pregnancy test was also required when female migrant workers renew their work permits. The purpose of this requirement was obviously to control women foreign workers and their offspring for them not to have any legal basis to claim for citizenship. However, the reason goes deeper than the mere entitlement to citizenship. This has to be understood in the sociological context of racial stratification. As Cheng (1999) pointed out, “pregnancy tests among women foreign workers needs to be seen in the context of ethnic-racial stratification and as a mechanism for population control to perpetuate the ethnic and racial composition of labor receiving countries” (p. 52).

This pregnancy test requirement has been the subject of a common complaint among female foreign workers, especially in the face of a huge debt they incurred in their country of origin before going to Taiwan. They simply cannot accept the fact that they will be sent back if they are found to be pregnant. Many female foreign workers complained with the Social Workers of the

Migrant Workers' Concern Desk (MWCD), an international NGO under the aegis of the Chinese Catholic Bishops Commission for Social Development or Caritas. Then the Social Workers contacted the CLA, now the MOL about this issue. As an added measure, the MWCD contacted their network organizations particularly the Verification for Trade and Exports (Verite), a U.S.-based NGO. For the MWCD, Verite with the nature of work they are doing was a perfect partner in this particular issue.

Verite conducts social audits of factories and manufacturing firms around the world as commissioned by well-known brands like Levis, Patagonia, Banana Republic and many others. It is paid by these brands to conduct social audits in order to insure that the factories or manufacturing firms, many of which can be found in Taiwan where these brands and companies source their products, conform to international labor standards. After the audits, Verite will submit its report to the brand or company that commissioned the audit, detailing its findings as to the violations, if any, by the factories and manufacturing firms regarding labor standards. In cases when audit findings detail some violations, the brands or companies instinctively terminate their business transaction with the factory or manufacturing firm in question. Naturally, factories and manufacturing firms that want to continue business must tow the line. Since there are many factories and manufacturing firms of such kind in Taiwan that are business partners or suppliers of these well-known brands and companies, Verite no doubt wields power and therefore can influence the Taiwan government to observe international labor standards lest it be accused of violating international labor norms in its own yard.

At the level of the MWCD, the Social Workers cited and made clear to the Taiwan government that the pregnancy test requirement for work permit extension is a contravention to international instruments designed to protect female foreign workers particularly Item e, Paragraph

1, Article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women which states:

*“State Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.*

The Taiwan government is generally receptive to suggestions on matters regarding foreign workers. This attitude is partly explicable if plotted against the country’s position in the international community. Although it is not a party to most international treaties and instruments because of mainland China’s containment strategies, it nonetheless adheres to international treaties and instruments even if the government is not a signatory to the instruments in question. In the diplomatic tug-of-war between Taiwan and mainland China when these two countries need to project an image as responsible members of the international community, ignoring international treaties and instruments designed to protect human rights will certainly backfire. As Taiwan is the underdog in this diplomatic feud, it certainly cannot afford to be viewed as an international pariah. The most sensible thing it has to do therefore is to tow the line and extend friendly gestures to everyone be they state actors or civil society constructs, at every given opportunity. There are indications that the Taiwanese state actors are concerned with the image of the country in the international community especially on issues concerning the welfare of foreign workers. This can be gleaned from the statement of Legislator Lin Shu-fen when she said, “In the future, our participation in international conferences on foreign workers’ issues won’t be such a humiliation” (Legislators to Amend, 2016).

Through the efforts of the MWCD by invoking that requiring female workers to undergo pregnancy test before renewal of their work permit is against international treaties and instruments,

in coordination with Verite, the Taiwan government did away with this particular requirement for female foreign workers on November 9, 2002.

Another policy change concerning foreign workers that has been effected because of the role of civil society and other NGOs is the Exit Requirement after a foreign worker finishes his or her contract. The old policy required foreign workers to exit the country when their previous contract expired even if they were just to extend or to enter into another contract with the same employer. The reason why this has to be done was similar to the reason why women foreign workers were required to undergo pregnancy test, that is, in order not to give any legitimate ground for foreign workers to qualify for Taiwan citizenship on the basis of the residency requirement. This claim is acknowledged by the Taiwan government and state actors who are in fact very vocal on this. The Executive Yuan stressed that, “as there is no longer any concern that foreign labourers will establish long-term residency and thereby immigrate to Taiwan by covert means, ruling-party legislators proposed draft amendment to Article 52 of the Act” (Employment Service Act Amendments, 2016). Taiwan state actors also acknowledge that the reason why foreign workers have to exit Taiwan after three years when their contract expires is to “deter migrant workers from overstaying their visas in bids for permanent residency” (Huang, 2016). This can be understood by looking at it from a socio-political perspective. A resulting society where there is inequality of social classes will bred social and economic stratification. As Panopio and Raymundo (2004) pointed out, “social stratification may result because of social inequality or the lack of equal access to what is valuable in a society” (p. 428). This is actually what many Taiwanese fear - the fear that poor immigrants will be integrated as part of the Taiwanese society as they will fall in the lowest strata of the social ladder who will then sap the resources of the government through social entitlement or support. As the Taiwan society grapples on how to take care of its elderly population

that already account for a massive share of social security costs, the prospect of additional social beneficiaries will wreck the system. All other entitlements like labor pension will be affected as well. As Ferry (2015) said, “labor pension schemes will be similarly burdened by the sheer number of recipients”. Many Taiwanese also feel that foreign workers are a burden to society. Kaneko (2009) echoed this sentiment when he wrote, “accepting foreign workers has been seen by many Taiwanese as a social disadvantage” (p. 30).

From the point of view of the foreign workers, it appears that what they are concerned about is the costs associated with their employment in Taiwan and not about obtaining Taiwan citizenship. As one foreigner opined, “gaining citizenship isn’t necessarily the most important thing, many live here with their wives and husbands without it and worry very little” (I Am Married to a Taiwanese, 2011)

Requiring foreign blue-collar workers to exit Taiwan every year or every time their work permit expires, is expensive as they have to pay the attendant documentation costs and other related expenses. So, this concern was again brought to the attention of the government by some NGOs in Taiwan like the Taiwan International Worker’s Association (TIWA), together with concerned civil society groups. They explained the effect of this policy to the financial status of the foreign workers. They lobbied and made representations with the government for the amendment of such policy and let foreign workers who are set for work permit extension or contract renewal choose whether to exit Taiwan or not. Because of the persistent clamor of labor advocates, NGOs and other civil society groups, the Taiwan government amended Article 52 of the Employment Service Act on October 21, 2016. The amendment was sponsored by Democratic Progressive Party (DPP) Legislator Wu Yu-chin and removed a clause from the Act that required foreign blue-collar workers to exit the nation for at least one day following the expiration of the three-year work

permits (Gerber, 2016). But then, it took a long time more than 12 years, before the Legislative Yuan acted on such a concern, considering that foreign workers are excluded to apply for naturalization and citizenship, even if they meet the residency requirement as spelled out in the Nationality Act which was adopted and promulgated several years back on April 8, 2004. Ideally, the Legislative Yuan could have come up with the amendment of Article 52 of the Employment Service Act much earlier, following the government's adoption and promulgation of the Nationality Act on April 8, 2004, which does not include foreign workers to qualify for naturalization and citizenship.

At the moment, foreign blue-collar workers are no longer required by law to exit Taiwan after their three-year contract expires. If they so desire, they can even stay in Taiwan for 12 straight years, the maximum span of time allowed for foreign workers to work in Taiwan.

## **CONCLUSION**

Taiwan, a small island nation lacks natural resources. Despite this however, it managed to become one of the best performing economies in Northeast Asia. Its economic performance is a pull factor for foreign blue-collar workers to flock to the country to work. But then the presence of foreign blue-collar workers has not been a welcome development for many Taiwanese. Many of them attach negative labels often portraying foreign workers as a threat to society. However, this state of events does not only happen in Taiwan, as this is also true in other parts of the world. Many Taiwanese conform to the explanation that foreign blue-collar workers are in the country not only for the jobs but also for them to gain legal grounds to apply for naturalization or citizenship in the future.

In the eyes of the public therefore, the government is justified in implementing measures and laws even if such laws are in contravention to international treaties and instruments. Requiring female foreign blue-collar workers to undergo pregnancy tests and all foreign blue-collar workers to exit the country upon the expiration of their work permit or contract are good cases in point. These measures were designed in order to control foreign workers so that they will not have legal grounds to apply for naturalization or citizenship.

Through the efforts of the civil society, NGOs and other interest groups, laws such as Article 52 Chapter 5 of the Employment Service Act were amended. This amendment was in consonance with the Enforcement Rules of the Nationality Act, that excludes foreign blue-collar workers to be eligible for naturalization or citizenship. When the Nationality Act was amended particularly Article 5 of the Enforcement Rules of the Act, which excludes foreign workers to qualify for naturalization and citizenship by virtue of the length of stay in the country, the MOL subsequently amended some provisions in the Employment Service Act particularly Article 52.

Despite these changes in the law, there are still many things concerning foreign labour that need to be ironed out. The good thing is there are concerned civil society groups, NGOs and state actors that put premium on the human rights of this particular group and advance such rights through the mechanism of policymaking in order to attain a society where everyone's rights are protected. Recent developments point to such a scenario and the Taiwan society seems to be heading towards that direction.

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