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Foreword | *Indonesia has one of the highest rates of workers seeking employment abroad, with the majority of these workers being females employed in domestic service. Due to the nature of recruitment, the process of migration and the location and characteristics of the work, Indonesian migrant domestic workers may in some instances be at risk of abuse, exploitation and human trafficking.*

Drawing on data contained in the International Organization for Migration's Counter Trafficking Module, the experiences of Indonesian victims of human trafficking who were exploited as domestic workers in Malaysia are examined, as well as the risk factors that may have contributed to their exploitation.

Understanding the nature of human trafficking and the risk factors for exploitation is crucial for developing domestic and regional responses that can effectively contribute to anti-human trafficking strategies in the southeast Asia region.

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Experiences of exploitation and human trafficking among a sample of Indonesian migrant domestic workers

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Significant growth in the economies of some Asian countries has led to a strong demand for low-skilled labour, which is largely being filled by migrant workers from southeast Asian countries. Live-in migrant domestic workers are in particularly high demand, as the recruitment of migrants enables women in less developed countries to seek employment in skilled positions, instead of performing care-related and household tasks full-time (Lan 2003; Salazar Parrenas 2000). Yet, migrants are particularly vulnerable to labour exploitation and human rights abuses, which in some cases involve human trafficking (Anti-Slavery International 2006; Human Rights Watch 2010, 2006, 2004; ILO 2006a, 2006b; IOM 2010; OSCE 2010). Labour exploitation can involve abusive working conditions where an employee is forced to work and is not free to cease providing services, as well as wage manipulation, excessive working days or hours, low or no salary and a general disregard for labour laws (such as the absence or substitution of an employment contract; ILO 2009). Labour exploitation can result from human trafficking where a person has been recruited, transferred or received, by means of threat, coercion or deception, for the purpose of exploitation. The vulnerability of migrants to these human rights abuses can be partly attributed to high levels of undocumented labour migration and unscrupulous practices by labour agents, as well as an apparent 'normalisation' or 'invisibilisation' of exploitation and abuse among employers of domestic workers in some countries (GAATW 2011: 57).



Indonesia has one of the highest rates of workers seeking employment abroad in the southeast Asian region (Ducanes & Abella 2009). Migration from Indonesia has been characterised as highly feminised, with thousands of women migrating annually, primarily to other parts of Asia and the Middle East (Asis 2005; Human Rights Watch 2010; US DoS 2011; see also ILO 2013). The majority of these women seek employment in the domestic service sector, as domestic work attracts high wages (compared with other occupations in Indonesia) for positions that require minimal skills (IOM 2010). The Domestic Workers Convention, 2011 (No. 189) (or the *Convention concerning decent work for domestic workers*) defines domestic work as 'work performed in or for a household or households' and a domestic worker as 'any person engaged in domestic work within an employment relationship'. Therefore, only a person who performs domestic work on an occupational basis is classified as a domestic worker.

The International Labour Organization (ILO) (2013: 29) reports that '[t]he vast majority of women who leave Indonesia find work as domestic workers in Saudi Arabia and Malaysia'. With this migration has come reports both in the media and from various non-government and inter-government agencies of the exploitation and abuse of domestic workers in these and other destination countries in southeast Asia and the Middle East (eg see Anti-Slavery International 2006; GAATW 2011; Human Rights Watch 2010; ILO 2013, 2006a, 2006b; Maid abuse shocks Malaysia. *BBC News* 20 May 2004. <http://news.bbc.co.uk/2/hi/asia-pacific/3732241.stm>; Malaysia couple charged over Indonesian maid's death, *BBC News Asia-Pacific* 16 June 2011. <http://www.bbc.co.uk/news/world-asia-pacific-13789631>; Malaysia frees foreign maids 'held against will'. *Australia Network News* December 4. <http://www.abc.net.au/news/2012-12-04/malaysia-frees-foreign-maids/4406132>; Indonesia ends Malaysia maids row. *BBC News Asia-Pacific* 31 May 2011. <http://www.bbc.co.uk/news/world-asia-pacific-13601362>; IOM 2010; OSCE 2010; Simon & Craggs

Box 1

Nirmala Bonat, a 19 year old Indonesian, travelled to Malaysia in 2003 as a domestic worker in order to support her family in Indonesia. After a few months, her employer, Ms Yim Pek Ha, began to physically abuse her. Examples of the type of abuse that Nirmala was subject to included having boiling water thrown on her, being attacked with objects such as clothes hangers and an iron mug, and being burned by a hot iron on her breasts.

Nirmala tried to run away from her employer twice but was unfamiliar with her surroundings and did not know where to seek help, so was forced to return to her employer. On a third occasion, she successfully escaped when a security guard found her and took her to the police station.

In May 2004, Ms Yim Pek Ha was charged with four counts of voluntarily causing grievous bodily harm to Nirmala and after a long trial she was convicted in November 2008 to 18 years imprisonment after being found guilty of three of the four charges (but was acquitted of the fourth). This was reduced to 12 years by the Malaysia High Court in December 2009.

Source: IOM 2010

2013; Subra sees end to Indonesia maid ban soon. *The Malaysia Insider* 21 March 2011. <http://www.themalaysianinsider.com/malaysia/article/subra-sees-end-to-indonesia-maid-ban-soon/>). Women have reportedly been subject to a range of exploitative practices involving irregular or non-payment of wages, excessive work hours, no weekly day off, poor living conditions, unsafe work, tasks not related to domestic work and restricted freedom of movement (Bustamante 2007; Human Rights Watch 2010, 2006; IOM 2010). More severe forms of exploitation reported to have occurred include psychological, physical and sexual abuse, and human trafficking. In recent years, there have also been a number of reports of severe abuse by Malaysian employers against Indonesian (and other) migrant women. One of the most extreme was the case of Nirmala Bonat (see Box 1).

The focus of this paper is the experiences of a sample of Indonesian victims of human trafficking who were exploited as domestic workers in Malaysia. Information on these victims has been obtained from the International Organization for Migration (IOM) Counter-Trafficking Module (CTM; see Box 2), which has been examined alongside the limited existing literature on the exploitation of migrant domestic workers. This subset of CTM data was chosen for analysis because half of trafficked Indonesians recorded in the

CTM reported being exploited as domestic workers in Malaysia (1,842; see Joudo Larsen, Andrevski & Lyneham 2013). Of the trafficked Indonesians exploited for domestic work (56%; n=2,080), the majority reported Malaysia as their final destination (89%; n=1,842), with smaller numbers exploited in the Middle East (6%; n=116—61 in Saudi Arabia, 20 in Kuwait, 10 in Syria, 9 in Jordan, 8 in Iraq and 8 in other Middle Eastern countries), Indonesia (4%; n=90), and Singapore (1%; n=25).

Background and regional context

Migration in southeast Asia

The export of labour has become fundamental to the economies of many southeast Asian countries who rely heavily on remittances sent from individuals working abroad. Rapid growth in the economies of some Asian countries, including Singapore, Malaysia and China has led to a growing demand for low-skilled labour (Joudo Larsen 2010). In order to meet the demands for such labour, more developed countries seek workers from neighbouring, less-developed countries, whose economies are weaker and where rates of unemployment and poverty are high (Human Rights Watch 2004). Migrants in less developed countries are enticed abroad with offers of

employment and wages higher than those offered locally (Joudo Larsen 2010). This highlights an emerging pattern, whereby individuals travel abroad for work and remit significant portions of their wages to their family at home to improve their family's economic situation (Joudo Larsen 2010; World Bank 2008).

Indonesian labour migrants

Indonesian men and women migrate abroad for work in a variety of industries, including manufacturing, agriculture, construction and domestic work (Human Rights Watch 2004). The US Department of State (2011) has estimated that between 6.5 and nine million Indonesians are employed abroad; of those, it is estimated that approximately 2.6 million are in Malaysia and 1.8 million are in the Middle East. The ILO (2012) reported that in 2011, the top destination countries for Indonesian migrant workers were Saudi Arabia (n=137,643), Malaysia (n=134,108), Taiwan (n=73,498), Hong Kong (n=50,283) and Singapore (n=47,781). It is estimated that 76 percent of Indonesian migrant workers are women (ILO 2012) and 90 percent of them are employed in domestic service.

Yet, it is often argued that such estimates may be misleading due to the large numbers of Indonesian workers who migrate via irregular or undocumented routes (Bustamante 2007; Human Rights Watch 2004). ILO (2013: 7) similarly claims that

problems in national data collection are likely to exert a downward bias on the global and regional estimates (which should therefore be seen as conservative estimates).

However, recent reports indicate a decrease in some forms of labour migration from Indonesia. Of relevance to this paper is a reported 47 percent decline in Indonesian domestic workers seeking employment abroad, from 451,000 workers in 2010 to 238,000 workers in 2012 (Soeriaatmadja 2013). This is partly explained by the rising minimum wage and the Indonesian Government's current policy to encourage Indonesians seeking employment overseas to undertake vocational training to help them secure formal jobs. Further, the Indonesian Government intends to stop Indonesians

Box 2 International Organization for Migration, Counter Trafficking Module

In 1999, IOM developed and implemented the CTM, which is the largest global database containing primary data on victims of human trafficking. The CTM facilitates the management of IOM's direct assistance work, specifically the Return, Recovery and Reintegration Program. In doing so, it maps the trafficking experience of victims and contains a wealth of information regarding the characteristics and histories of trafficked persons, the nature of the trafficking process (including recruitment and transportation methods), patterns of exploitation and abuse, instances of re-trafficking and the nature of assistance provided by IOM.

The CTM database holds qualitative and quantitative information relating to 3,701 trafficked Indonesians identified between January 2005 and January 2010.

going overseas for domestic work by 2017 (Abdussalam 2013; Soeriaatmadja 2013). Instead, the Indonesian Government expects that vocational training will facilitate employment in formal sectors with companies and organisations, which will replace informal employment with individual employers in private homes (Abdussalam 2013). This will have a range of effects, both positive and negative—workers will be better protected under formal work contracts and legislation but there is the associated potential for an increase in irregular migration and loss of job prospects for non-skilled workers.

Within this context, a number of factors that characterise Indonesian migration should be considered for their impact on labour exploitation and human trafficking. Specifically, a growth in undocumented migration, an increasing 'feminisation' of migrant labour and the privatisation of migration recruitment and placement agents are discussed below.

Growth in undocumented migration

To avoid high costs, lengthy waiting periods and complex paperwork associated with legal migration, a significant number of migrants seek alternative migratory pathways. This is made possible by high numbers of unlicensed brokers and recruitment agents who make (often illegal) arrangements to enable individuals to migrate via unofficial routes or using fraudulent documentation (IOM 2011, 2010). While official data indicates that approximately 400,000 Indonesians migrate for work annually, correspondence between the Australian Institute of Criminology and the Indonesian Government suggests one million may be a more accurate estimate

when taking into account documented and undocumented migration (Joudo Larsen 2010). This trend is not limited to Indonesian workers, but has become a common feature of labour migration in southeast Asia (Joudo Larsen 2010).

Undocumented and unofficial migration channels leave migrants vulnerable to a range of risks, including human rights abuses, such as human trafficking, forced labour and labour exploitation (Joudo Larsen 2010). Likewise, migrants may be subject to unscrupulous recruitment and labour placement practices by both licensed and unlicensed agents (IOM 2011). Loan arrangements between migrants and labour or recruitment agents may leave migrants vulnerable to debt-bondage situations. This refers to a situation where a person is required to repay a debt through the delivery of personal services (in this case, domestic service) and

...where the value of those services as reasonably assessed is not applied towards reducing the debt, or the debt or the length and nature of those services are not reasonably limited or defined (David 2010: 8).

Such arrangements are inherently exploitative, with debt bondage amounting to a slavery-like practice. Debt bondage may also exacerbate the risk, or be indicative, of more significant labour exploitation through forced labour, servitude or slavery. The IOM (2011) has identified irregular migration of Indonesians as a major concern, largely due to the human rights abuses associated with undocumented migration.

The feminisation of labour migration

Since the 1970s, there has been an increasing number of women migrating for work, particularly within Asia, with an estimate that some 800,000 Asian female workers migrate annually (Human Rights Watch 2004). This represents a significant shift in migration patterns, as women previously comprised only a small proportion of the total number of migrants (Human Rights Watch 2004; Joudo Larsen 2010; Rosenberg 2003). This feminisation of labour migration is particularly evident in Indonesia, the Philippines and Sri Lanka, where women comprise the majority of labour migrants (Asis 2005; ILO 2006a).

This shift has been exacerbated in the region in part by an increasing demand for domestic workers in developed, economically stronger Asian countries (such as Hong Kong, Taiwan, Singapore and Malaysia). The IOM (2011) estimates that 80 percent of Indonesian migrants are women, which is reportedly higher than any other southeast Asian country. Further, nearly all of those female migrants are employed as domestic workers. The US Department of State (2011) has estimated that approximately 230,000 domestic workers are legally employed in Malaysia; 90 percent of whom are from Indonesia. Yet, it is likely that considerable numbers of domestic workers are employed in Malaysia illegally, as domestic work tends to fall into the informal employment sector and such work tends to be confined to private homes (OSCE 2010).

The significant numbers of Indonesian women seeking employment as domestic workers abroad can be explained by a number of factors, including the low level of skills required for this type of work and the inclusion of room and board salary packages for live-in domestic employees (Human Rights Watch 2004). Although salaries tend to be significantly higher than salaries available to Indonesian women at home, they tend to be low by the standards of the destination country. Thus, employers are able to save money by sourcing labour from overseas and individuals who may not otherwise be able

to afford a domestic worker are able to employ one (GAATW 2011).

Anderson (2007) suggests that the supply of cheap foreign domestic labour can create a demand that might not have been there otherwise. This potentially creates a cyclical effect whereby Indonesian women seek work abroad and this 'supply' creates further 'demand'.

Women and children are known to be particularly vulnerable to labour exploitation and trafficking (Joudo Larsen 2010). Yet, vulnerability among women employed as domestic workers is exacerbated due to the setting in which they are employed. Such women tend to be isolated within the private home of their employer, where abuse and exploitation may be hidden from the public (OSCE 2010). This is discussed later in this paper.

Regulation and monitoring of migration agents: A regional concern

Recruitment and placement agents have been found to play a significant role in facilitating labour migration in Asia. For example, Dinan (2002: 1115) found that although

some women are able to migrate from Thailand independently, most rely on transnational networks of agents, brokers, and employers who have the resources and connections to arrange the women's travel and employment.

These agents arrange travel, identification documentation, passports and visas, and ensure the migrant worker is connected with an employment broker in the destination country. These services are often performed in exchange for an exorbitant debt that the migrant worker is likely to be unaware of (Dinan 2002).

Similarly, many workers from Myanmar looking to migrate to Thailand for work use agents who charge large fees that are determined by the types of services provided, whether the migration was legal or illegal, and the destination of the migrants (Mon 2010). Agents also offer to remit the migrant worker's pay as Thailand's banking system is unreliable; however, agents again charge exorbitant fees for this service and often

exchange the Thai currency into Burmese currency to profit from the exchange rate (Mon 2010).

In a report on labour trafficking in Australia, David (2010) also noted the prominent role intermediaries such as agents and recruiters play not only in facilitating migration, but also in the placement and retention of workers once they arrive in Australia. These agents facilitate access to 'risky' migration pathways and charge exorbitant fees, which contributes to individual vulnerability and creates opportunities for exploitation (David 2010).

In an Indonesian context, low levels of regulation and monitoring of compliance of migration recruitment and placement agents has meant that agents engage in unscrupulous practices without penalty, leaving migrants vulnerable to exploitation and abuse (Human Rights Watch 2010, 2004; IOM 2010). While the Indonesian Government is responsible for issuing agency licenses under the National Agency for Placement and Protection of Indonesian Overseas Workers (BNP2TKI), migration recruitment and placement in Indonesia is privatised (ILO 2006b). This may account for some of the malpractice that occurs within the industry (Wickramasekera 2003). Additionally, inadequate monitoring, weak penalties and low levels of enforcement mean that significant numbers of agents operate unlicensed. ILO (2006b) estimates that for every licensed recruitment or placement agent in operation in Indonesia, there are two operating without a license.

Indonesian domestic workers in Malaysia—IOM CTM data

Of the 3,701 trafficked Indonesians identified in the CTM (see Box 2), 2,080 (56%) reported that they had worked as domestic workers in their final destination. Eighty-nine percent (n=1,842) of these reported that Malaysia was their final destination and all were female.

Indonesian Law No. 39/2004 stipulates that domestic workers seeking employment abroad must be at least 21 years of age at the time of deployment. The majority of Indonesian domestic workers exploited in

Malaysia were aged 21 years or over (73%, n=1,348) and the average age was 28 years. Of the 494 workers aged less than 21 years (27%), the average age was 18 years, although some workers were as young as 12 years old.

Domestic workers exploited in Malaysia had only a basic level of formal education. Forty percent of respondents received elementary-level (primary school) education or no formal education at all (n=736) and less than one-third completed high school (29%; n=525). Only five of the women had received a university degree or diploma.

Analysis of the IOM CTM reveals that just over one-third of Indonesian domestic workers in Malaysia were married (38%, n=692); a similar number reported being single (n=679, 37%), 14 percent (n=259) were divorced and eight percent (n=141) were widowers. Over half of respondents reported having at least one child (56%, n=1,006), one-third (n=396) of whom were not married (ie were single, divorced, widowed or separated).

Recruitment and placement

Nearly all of the Indonesian domestic workers who had worked in Malaysia revealed that they had been recruited to work abroad (99%, n=1,809). Six percent of respondents indicated that they were recruited by a 'legal recruiting agent' (n=110). A further 70 percent indicated they were also recruited by an agent (n=1,289), however it is unclear whether these 'agents' were operating legally or with a license. The remaining respondents were recruited by a neighbour (8%, n=148) or a family member (7%, n=129).

Further, nearly all of the respondents (96%, n=1,737) indicated that an agent or recruiter paid their travel costs prior to departure, while only nine percent (n=170) reported that they paid money to their recruiter prior to travelling. Having an agent or recruiter pay for the worker's travel costs could lead to situations of debt bondage, where the worker is committed but unable to repay the often disproportionate debt incurred by recruitment fees and travel costs.

Over half of the respondents declared that their documents were forged in order to travel (55%, n=949) and half declared that they had not signed an employment contract (50%, n=896). Respondents who reported travelling with forged documents and working without an employment contract were most likely to be recruited by an agent, including legal recruiting agents (77%; n=726 and 77%; n=686, respectively).

While nearly all respondents (98%, n=1,761) reported that they were in possession of their travel documents while travelling (ie passport, travel papers and identification), half reported that their documents were later held by a labour agent (49%, n=860) or an employer (38%, n=671) once in Malaysia. Only 60 victims (3%) reported that they held their own documents upon arrival at their final destination.

More than two-thirds (n=1,318, 72%) of the group spent time in a transit country on route to their final destination and of those, half (54%, n=714) engaged in work in the transit country.

Deceptive recruitment

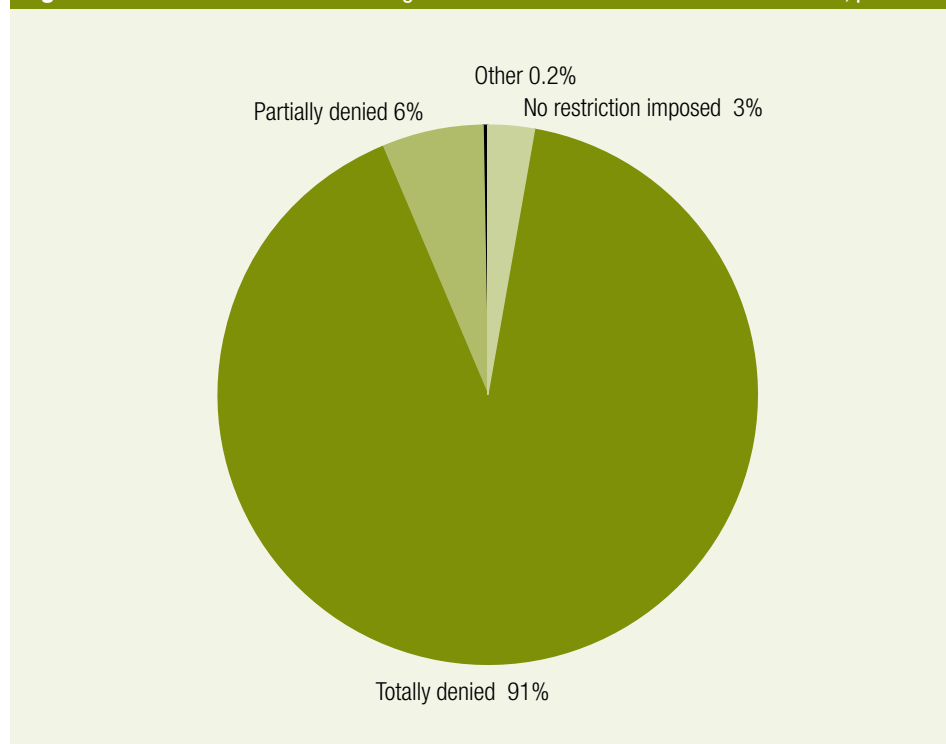
Analysis indicates low levels of deceptive recruitment among this sample of victims. Of the 1,607 (77%) Indonesian domestic workers in Malaysia who reported whether

or not this type of work was promised to them before departure, 80 percent indicated that they expected to be employed in this sector (n=1,278). Of the victims who were deceived about the type of work they were to engage in (20%, n=329), most expected to work as waitresses (n=88), factory workers (n=70), shopkeepers (n=69) and nannies or babysitters (n=57).

Exploitation and abuse

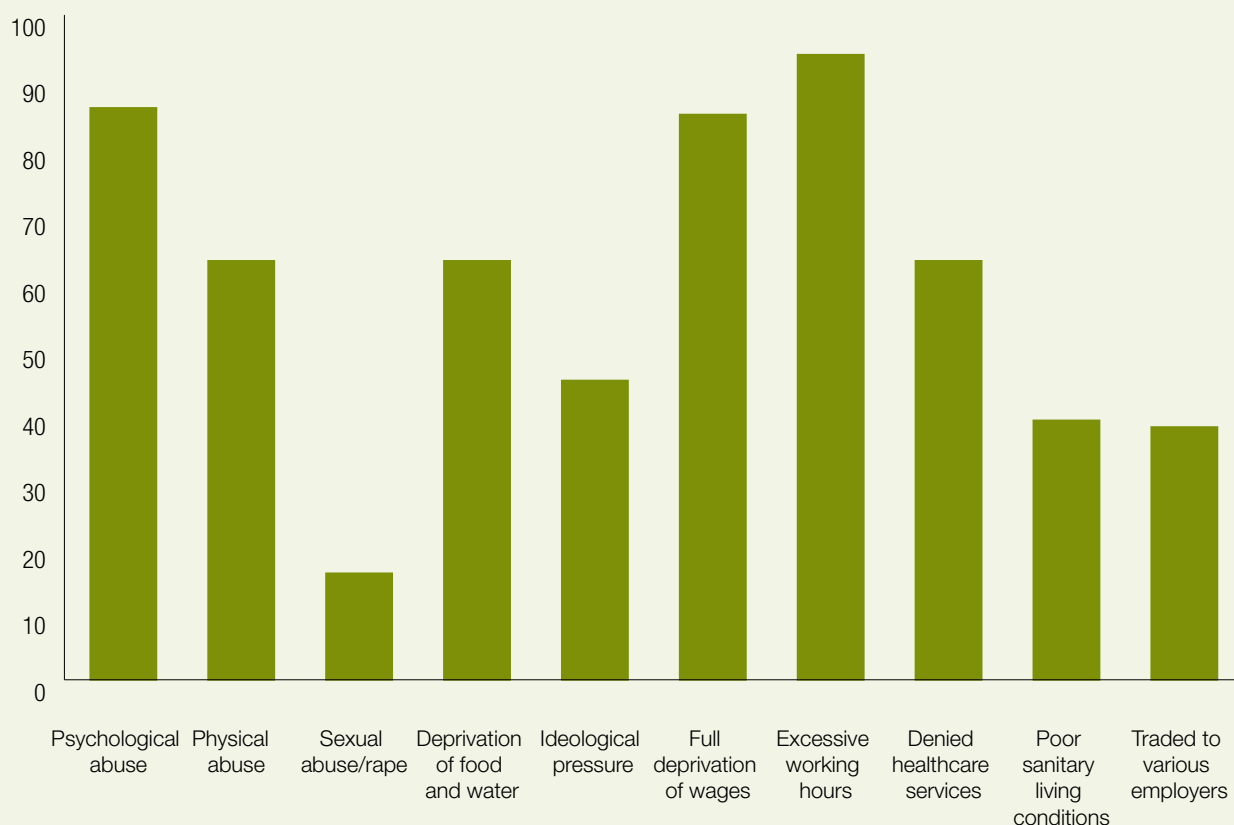
Analysis reveals a variety of indicators of exploitation, as well as significant levels of abuse among this sample of trafficked Indonesian domestic workers in Malaysia. Ninety-one percent (n=1,592) reported that they had been 'totally denied' freedom of movement; only three percent (n=57) reported that their freedom of movement had not been restricted at all (see Figure 1). Moreover, 94 percent (n=1,707) declared that they had worked excessive hours (ie more than 8 hours per day or were on permanent 24 hour standby; see Figure 2) and 85 percent reported that they had been fully deprived of wages (n=1,544). Respondents who signed an employment contract were equally as likely to work excessive hours (93% cf 93%) and be deprived of all wages (84% cf 85%) as those who did not sign a contract.

Figure 1 Freedom of movement among Indonesians trafficked for domestic service, percent



Source: AIC, IOM Indonesia CTM dataset [computer file]

Figure 2 Percentage of victims who experienced abuse, by type of abuse



Source: AIC, IOM Indonesia CTM dataset [computer file]

At the more extreme end of the spectrum of exploitation and abuse, 86 percent (n=1,560; see Figure 2) reported being psychologically abused while employed in Malaysia and 63 percent (n=1,141) reported being physically abused. A smaller number also reported being sexually abused/raped (16%, n=297) during the course of their employment. It is important to note, however, that respondents were not asked to specify who perpetrated the abuse.

Large numbers of domestic workers reported that they were deprived of food and water (63%, n=1,152), that they had trouble accessing health services (63%, n=1,149), that they lived in unsanitary conditions (39%, n=694) or that they were 'traded' to various employers (38%, n=684; see Figure 2).

Further, around one in five respondents indicated that they had been confined to prison or a detention centre (23%, n=421), usually after fleeing from their employer and being falsely reported by their employer to the police. It is unclear from the data what the respondents were reported for.

Support and legal proceedings

Most respondents indicated that they received both medical and psychosocial treatment after exiting their exploitative situation (90%, n=1,649). More than half reported that they spent between one and two weeks in a recovery shelter (61%, n=1,069). Just under one-fifth reported that they spent between two and four weeks (18%, n=318) and four percent (n=76) spent more than four weeks in a recovery shelter. Seventeen percent reported that they were in a shelter for less than one week (n=293).

Limited data was available on the involvement of trafficked domestic workers in legal proceedings. Of the six percent of cases where data on legal proceedings was available (110 or 1,732), only six individuals indicated that there had been a conviction (5%), four reported that their case was under investigation (4%) and one case was reported as being in the process of being prosecuted (1%). The majority reported that they had not filed a complaint (89%, n=98).

Similarly, in only 20 percent of cases (354 of 1,842) was data available in relation to whether the victims had been threatened by a previous employer or agent. Where data was available, 343 victims (97%) indicated they had not been threatened, while 11 victims indicated that they were (3%). Further, in only nine percent of cases could it be determined whether the victims were contacted by police to assist in investigations; of the available responses, 329 (96%) reported that they were not contacted, compared with 13 who were (4%).

Indonesian domestic workers in Malaysia: Risk factors for exploitation and human trafficking

The vulnerability of migrant domestic workers has been well documented (Human Rights Watch 2006; OSCE 2010). The following section describes some of the factors in Indonesia as a sending country and Malaysia as a destination country that exacerbate migrant domestic workers vulnerability to trafficking and exploitation.

Sending country

Indonesian legislation mandates that Indonesian migrant domestic workers must attend training centres, that are run by private recruitment agencies (eg the Indonesian Labor Providers Organization, PJTKI), prior to departing for work abroad (Amnesty International 2013). This training aims to educate migrant workers on their rights and how to access assistance if abused or exploited. However, training is provided in centres located in larger cities, causing many migrant workers to relocate and find accommodation in compounds where the living conditions have been described as exploitative. Women are reportedly kept in the training facilities for unspecified periods of time (sometimes up to 6 months) and have been subjected to forced labour, violence and restricted freedom of movement (Amnesty International 2013; Human Rights Watch 2004; IOM 2010; Rosenberg 2003).

The training provided in these centres has also been reported as 'inadequate' and unable to 'address the challenges faced in working abroad' (IOM 2010: 30). Migrant domestic workers therefore often depart Indonesia with rudimentary knowledge of their rights while employed overseas and of where and how to locate assistance if needed.

The Special Rapporteur on the human rights of migrants has identified that high fees charged by migration agents and the 'heavy administrative burden of legal migration—including payment to labour agencies and the lengthy time involved—has led many workers to migrate through irregular channels' (Bustamante 2007: 15). As there is inadequate regulation and government oversight of employment agencies in Indonesia, even migrant domestic workers who attempt to migrate legally are vulnerable to abuse and exploitation by these agencies (Bustamante 2007). The limited options for safe and legal migration have 'enabled a wide range of recruitment-related abuses' (Bustamante 2007: 15), including long-term debt bondage.

Rosenberg (2003) has outlined a number of additional factors relevant to Indonesia as a source country that may contribute to a

person's vulnerability to human trafficking. She suggests that:

- unscrupulous labour practices in Indonesia are so commonplace that they are often not recognised as exploitation or human trafficking;
- poverty and low levels of education mean that individuals have fewer opportunities and may be unable to migrate according to regular pathways;
- Indonesia has a historical precedent of bonded labour and child domestic workers. While this is not necessarily widespread today, some communities continue to accept the practice as normal;
- cultural practices such as marriage at a young age can leave girls and young women vulnerable;
- women who initiate a divorce from their husband may be vulnerable as they are not eligible for alimony, regardless of the grounds for seeking a divorce; and
- corruption appears to be widespread, particularly in relation to the forging of travel-related documents.

Destination country

In addition to risk factors in the country of origin, GAATW (2011: 57) suggest that discriminatory attitudes towards migrants in the destination country may lead to the 'normalisation' or 'invisibilisation' of exploitation.

Other factors that increase the vulnerability of migrant domestic workers specifically include that:

- domestic workers largely perform their duties in private households and in isolation from other workers, with live-in workers facing particular isolation (ILO 2013);
- the relationship between employer(s) and domestic workers is typically informal and often there is no employment contract (Rosenberg 2003);
- where an employment contract has been signed, the domestic worker's residence status is often tied to the contract, meaning the worker does not have an "exit" option' and would have to return home on termination of their employment (ILO 2013: 70);

- migrant domestic workers are often undocumented and are therefore unlikely to be protected by regulatory bodies (Rosenberg 2003);
- domestic workers are often exempt from minimum wage stipulations (see below) and the use of in-kind payments increases vulnerability to wage abuses;
- there is no clear international operational definition of the tasks that a domestic worker should undertake and thus, workers may be expected to fulfill any task assigned to them by their employer. The ILO has found that domestic workers perform tasks as varied as cleaning, looking after elderly people or children, guarding the house, driving children to school, gardening or cooking and beyond' and that tasks can 'vary from country to country and may change over time (ILO 2013: 7); and
- language barriers can exacerbate isolation (ILO 2013).

All these factors have been, or are, relevant to the context of domestic service in Malaysia.

Despite high levels of abuse against migrant domestic workers, many do not report the abuse until returning to Indonesia, if at all (Human Rights Watch 2004; IOM 2010). This can be explained by a number of factors, such as fear of further negative ramifications, lack of knowledge of where to report, lack of finances to support themselves after reporting and a sense of shame that their community at home will learn of their experience (IOM 2010). Delayed reporting may also be attributed to the victim waiting until they are in a safe environment and have returned to Indonesia after leaving their exploitative employment. Moreover, Malaysian immigration policy requires that once a migrant has left their employer, they must apply and pay for a special visa that enables them to remain in the country during criminal proceedings. Such visas cost MYR 100 per month and do not have working rights attached to them, preventing migrants from seeking employment during this time (IOM 2010). The case of Nirmala Bonat highlights the length of time that it can take for such cases to be finalised (more than 4 years) and emphasises the difficulties migrants may

encounter when they are unable to seek employment to support themselves for such a lengthy period.

Institutional risks and protections: The role of legislation and policy

A number of additional factors associated with the specific migratory pathway between Indonesia and Malaysia have been identified as particularly significant and therefore worth exploring further.

Domestic legislation—Malaysia and Indonesia

The exclusion of migrant domestic workers from key labour laws is an issue of primary concern in many countries (ILO 2013). Human Rights Watch (2006: 34) has argued that:

governments around the world have failed to acknowledge rights of domestic workers [relating to]...minimum wage, overtime pay, rest days, annual leave, fair termination of contracts, benefits, and workers' compensation.

The exclusion of domestic workers' rights from labour laws may be explained by the tendency for domestic work to be classified as an informal industry. Malaysia's *Employment Act 1955* excludes domestic workers from employment benefits relating to rest days, hours of work, holidays and other conditions of service such as sick leave, maternity leave and termination benefits. In January 2013, Malaysia introduced minimum wage legislation, however, it is only applicable to enterprises, thereby excluding domestic workers in private households. While this creates a further gap in protections for employees in this sector, the ILO (2013: 79) argues, that 'when working time is undefined or not recorded, hourly minimum wage rates are in fact meaningless'.

In Malaysia, human trafficking offences are criminalised under the *Anti-Trafficking in Persons Act 1997*, with the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants overseeing policy and operational responses to human trafficking. In addition, the 6P Program that concluded in April

2013 was put in place to regularise the immigration status of illegal labour migrants, thus reducing their vulnerability to exploitative working conditions. However, the exclusion of domestic workers from relevant domestic policies and legislation means that even legal workers remain vulnerable to exploitation.

While there are Indonesian laws that seek to protect and empower Indonesian migrant workers—such as Law No. 39/2004 on the Placement and Protection of Indonesian Migrant Workers Abroad that mandates a number of key requirements, including that job-specific and language training must occur prior to departure for employment and migration agents should not make profit from migrants—the legislation is vague in relation to a number of key factors (ILO 2006b). For example, employment contracts are often ambiguous in relation to how deductions for food and board should be calculated by employers, minimum standards of living, how 'on-call' time should be calculated and incorporated into work hours, procedures for terminating an employee and who is responsible for the payment of travel-related costs.

The ILO (2006a: 7) has outlined that legislation should include:

minimum standards for the scope of work, age, wages, working hours, rest days, holidays, annual and maternity leave, accommodation, food and transport allowances, insurance, and physical and mental treatment of domestic workers.

It should also 'guarantee freedom of association...social security, training, termination of contract and consular services and repatriation' and 'stipulate realistic and deterring penalties', 'mechanisms that minimise violation of workers' rights and allow domestic workers to seek redress' (ILO 2006a: 7).

Domestic workers must also have the right to engage with trade unions in order to protect their rights. Currently, migrant domestic workers in Malaysia are restricted from forming unions (APWLD 2010).

Immigration policy and visa provisions

Elements of the visa and migration arrangements between Indonesia and Malaysia are particularly detrimental to Indonesian domestic workers and could exacerbate their vulnerability to exploitation, abuse and human trafficking. Prior to 2006, a memorandum of understanding (MoU) between Indonesia and Malaysia on labour migration specifically excluded domestic workers (ASEAN 2006). In 2006, a new MoU relating to migrant domestic workers was signed by the two countries (Human Rights Watch 2010). However, some of the terms of the MoU increased the vulnerability of migrant domestic workers to exploitation, for example by enabling employers to hold the passports of their employee (US DoS 2011) and not specifying minimum wage and rest day provisions.

This MoU lapsed in 2009 and due to delayed attempts to negotiate a new agreement and because of the alleged abuse against Indonesian domestic workers, a ban was placed on Indonesians migrating to Malaysia to perform domestic work (US DoS 2011). The moratorium was lifted in 2011 when a revised MoU on Indonesian domestic workers travelling to Malaysia was signed (see Amending Protocol of 2011 to the Memorandum of Understanding between the Government of Indonesia and the Government of Malaysia on the Recruitment and Placement of Indonesian Domestic Workers).

The new MoU increases protection for domestic workers by allowing them to keep their passports instead of surrendering them to their employers and guaranteeing them one day off per week. However, unlike the MoU negotiated between Malaysia and the Philippines, the MoU between Malaysia and Indonesia does not set a minimum wage and 'perpetuates recruitment fee structures that leave workers indebted' (Human Rights Watch 2012: 339). Further, IOM (2010) reported that undocumented migration increased during the ban and further delays resulting from the paperwork and training that is compulsory for migrant domestic workers

under Indonesian law are likely to exacerbate the numbers of undocumented persons seeking alternative migratory pathways.

Another concern is the requirement that domestic workers remain with their original employer in order to maintain their legal work status (IOM 2010). As many domestic workers pay significant sums and enter into debt in order to migrate to Malaysia for work, they may be compelled to remain with exploitative or abusive employers to repay their debts and remit money to their families. While legislative amendments introduced in 2004 enable migrant workers to change their employer up to two times during their contract, this information is not widely disseminated and some employers lead migrant workers to believe that they will be deported, imprisoned or caned if they leave (IOM 2010).

Recruitment and placement agents

Under Indonesian immigration policy, individuals must seek work abroad through a licensed labour agency (IOM 2010). Unscrupulous practices by labour recruitment and placement agents in both Indonesia and Malaysia can contribute to migrants' vulnerability to exploitation, abuse and human trafficking. Agents can exploit migrant workers in a number of ways, including:

- charging ambiguous and exorbitant fees;
- deceiving migrant workers as to the conditions of their employment, their legal rights and obligations in the receiving country; and
- forging or modifying their travel documents, leaving them vulnerable to arrest, imprisonment or exploitative labour conditions at their destination due to lack of work rights (Human Rights Watch 2010; 2004).

Further, many agents fail to act when migrants seek assistance when they experience abuse or exploitation (Human Rights Watch 2004).

Low levels of monitoring of compliance of agents on the part of both the sending and receiving countries mean such practices

are not being detected by authorities (OSCE 2010).

Discussion

Given that the majority of trafficked persons identified in Australia originate from southeast Asia and that Australia plays a prominent role in anti-trafficking efforts in the Asia-Pacific region, an understanding of the nature of human trafficking in the region has relevance to Australian policymakers in developing both domestic and regional responses to this crime.

More specifically, in a report on labour trafficking in Australia, David (2010) noted cases involving the exploitation of people brought to Australia to work as domestic workers and suggested that further research is therefore warranted. The IOM CTM data presents a unique opportunity to examine this issue in more detail using the experiences of Indonesian domestic workers in Malaysia as a case study. Indeed, analysis of the IOM CTM data reveals a number of interesting factors relevant to the literature explored earlier in this paper.

All of the Indonesian domestic workers exploited in Malaysia were women, which is largely unsurprising given that the feminisation of labour migration is tied to specific occupations like domestic work where women have long dominated the sector. In addition, the data indicated that a significant number of single mothers with children were identified by the IOM as trafficked. It is possible that this circumstance could be used to induce such women to remain in an exploitative working situation so they can remit money for the care of their children, although further research would be required to confirm this.

The widespread use of labour recruitment and placement agents to facilitate labour migration between Indonesia and Malaysia was apparent, and reflects Indonesian immigration policy. However, it is difficult to determine whether migrant workers were assisted by *licensed* recruitment and placement agents. Analysis also revealed a possible link between the use of such agents and the considerable

proportion of respondents travelling on forged documentation and working without an employment contract, suggesting that these agents may be working illegally or without a license. The CTM data also supported the literature that suggests that exploitation and abuse experienced by Indonesian domestic workers is widespread. Significant numbers of migrant domestic workers in the sample were deprived of basic necessities and rights, and were subjected to physical and psychological abuse.

The high number of victims who reported that their travel documents were forged and that they did not sign an employment contract raises concerns about the need for legislation and policies that facilitate legal migration and give migrant domestic workers greater protections through unambiguous labour rights and conditions of employment.

Exploitation outside of Malaysia

An interesting finding from the analysis is that few exploited Indonesian domestic workers reported that their final destination was a Middle Eastern country, despite significant numbers of Indonesians travelling to Middle Eastern countries for employment and there being known cases of exploitation occurring there (Human Rights Watch 2010). However, the CTM only incorporates information on individuals who have been identified as trafficked persons upon returning to Indonesia. It is possible that only a small proportion of migrant workers employed in regions such as the Middle East return to Indonesia because of distance, or only after a protracted period away, or take the option of relocating to a different country. Such factors may have reduced the number of Indonesians in the CTM who had travelled to Middle Eastern countries for employment.

It is worth noting that in 2011, a moratorium was placed on Indonesian domestic workers seeking employment in the Middle East as a result of concerns regarding the exploitation of Indonesian domestic workers (Sijabat 2013). Although the moratorium was established after the collection of the CTM data for analysis in this paper, it is indicative of the lack of protections available to migrant

domestic workers in a range of countries and forms some of the picture of the exploitation and abuse of Indonesian domestic workers abroad. In August 2013, the 'Protection from Abuse' law was passed by Saudi Arabia's Council of Ministers, which introduced the first laws in the kingdom criminalising physical and sexual abuse of women, children and domestic workers (Habboush 2013).

Conclusion

Analysis of the IOM CTM data revealed the experiences of a largely hidden group of trafficked and exploited workers. A large proportion of Indonesians in the sample were trafficked for domestic service, suggesting a heightened vulnerability to human trafficking for workers in this sector. A range of risks were identified through analysis of the CTM database that included concerning practices associated with recruitment and placement of migrants, deception and coercion related to employment and significant levels of abuse against female Indonesian migrant domestic workers who have been identified as having been trafficked to Malaysia for work.

These findings have important consequences for responding to human trafficking in the region, particularly in relation to improved protections for migrant domestic workers. This could be achieved through greater regulation and scrutiny of migration and placement agents, enhanced employment rights for migrant domestic workers, particularly through inclusion in relevant labour laws, improved MoUs between sending and receiving countries and a commitment to better education of domestic workers seeking employment abroad about where and how to seek assistance. One way this could be achieved is through the establishment of an advisory service delivered by an Indonesian support agency in Malaysia or other destination countries that would assist individuals experiencing exploitative work environments by providing a trusted source of support and advice, and that might then assist those disclosing exploitation.

While the majority of trafficked domestic workers in the sample were exploited in Malaysia, the exploitation of migrant domestic workers is of regional and international concern. Further research should therefore examine the nature and extent of exploitation of migrant domestic workers employed in other countries with high numbers of migrant domestic workers, as well as investigating the problem in an Australian context. Few Australian research studies have examined forms of exploitation that occur in the domestic sphere, with only a single case concerning the exploitation of a domestic worker being successfully prosecuted (*R v Kovacs*; see Cullen 2011; Schloenhardt & Jolly 2010). Future Australian research should therefore examine:

- the extent and the context for exploitation of domestic workers in Australia;
- the legal protections available to migrant domestic workers in Australia and the impact on the vulnerability to exploitation;
- the protective factors that reduce vulnerability to exploitation for migrant domestic workers; and
- the help-seeking strategies of exploited domestic workers, and the availability and adequacy of support.

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