

MIGRANT ENCOUNTERS

INTIMATE LABOR, THE STATE,
AND MOBILITY ACROSS ASIA

EDITED BY
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Migrant Encounters

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*In memory of Irene Fernandez,
whose work continues to inspire us all*

Chapter 7

Reproduction Crisis, Illegality, and Migrant Women Under Capitalist Globalization: The Case of Taiwan

Hsiao-Chuan Hsia

Fang, a Vietnamese woman, worked in Taiwan as a caregiver in 2003 but ran away from her abusive employer after three months and became undocumented. She met her Taiwanese husband and had a son while occupying this undocumented status. To regularize her status, her husband suggested that she surrender herself to the authorities, assuming that their marriage would grant her legal standing. To their surprise, she was deported and banned from reentering Taiwan for five years because of her illegal status as a "runaway." Fang's husband was left with their son in Taiwan and persistently sought help from many sources while Fang waited anxiously in Vietnam. They were eventually reunited when authorities bent the rules in the face of continuous petitioning and protest by several migrant advocacy groups.

Introduction

Fang's suffering is not an isolated case. Since the late 1980s, an increasing number of foreign women have migrated to Taiwan as domestic workers, caregivers, or wives, and many of them end up becoming "illegal." This chapter analyzes why this phenomenon of illegality is emerging among migrant women.

One of the characteristics of the increasingly prevalent feminization of migration is that a significant portion of migrant women, if not a great majority, are involved in *intimate labor* performed in households and domestic units (Boris and Parreñas 2010; Constable 2009; Ehrenreich and Hochschild 2002; Lan 2008). This chapter addresses the type of intimate labor associated with *reproductive labor*, including female migrant workers providing domestic services and care work and female marriage migrants who are homemakers and reproduce the next generation.

As globalization expands the scale of international migration, reproductive labor has also been restructured on a global scale (see Chapter 1). Migrant women from less developed countries cross borders to provide reproductive labor for the "maintenance" and "renewal" of productive labor in the more developed countries (Burawoy 1976). In addition to this paid migrant reproductive labor (Hochschild 2000; Lan 2006; Parreñas 2001), an increasing number of migrant women provide unpaid reproductive labor in receiving countries as wives, mothers, and daughters-in-law. This phenomenon of marriage (im)migration has paralleled labor migration as women from poorer countries migrate to richer countries through cross-border marriages (Constable 2005; Hsia 1997, 2004, 2010; Piper and Roces 2003; Chapters 1, 8, 9 this volume). Most research treats migrant domestic workers and marriage migrants as separate categories, however, rather than articulating their interconnectedness in a broader framework. Building from two decades of research on female migration to Taiwan (Hsia 2006), this chapter explains how the Taiwanese state produces illegality among migrant women engaged in reproductive labor by comparing and contrasting the conditions of migrant domestic workers and marriage migrants. The primary empirical bases of this chapter derive from three sets of data collected in Taiwan over the course of two years: a study of the causes and experiences of undocumented migrants, research on the experiences of marriage migrants concerning citizenship and domestic violence, and a comparative study of Filipina and Indonesian domestic workers.

The overarching framework of this chapter is the growing *reproduction crisis* under capitalist globalization, as illustrated in Figure 7.1. As capitalist globalization intensifies, the welfare state is in crisis and many social services are eliminated. Rising living costs combined with the lack of a comprehensive social welfare system lead women in more developed countries to seek cheaper surrogates to take care of household needs while they work to provide income for their households. Therefore, many countries have established

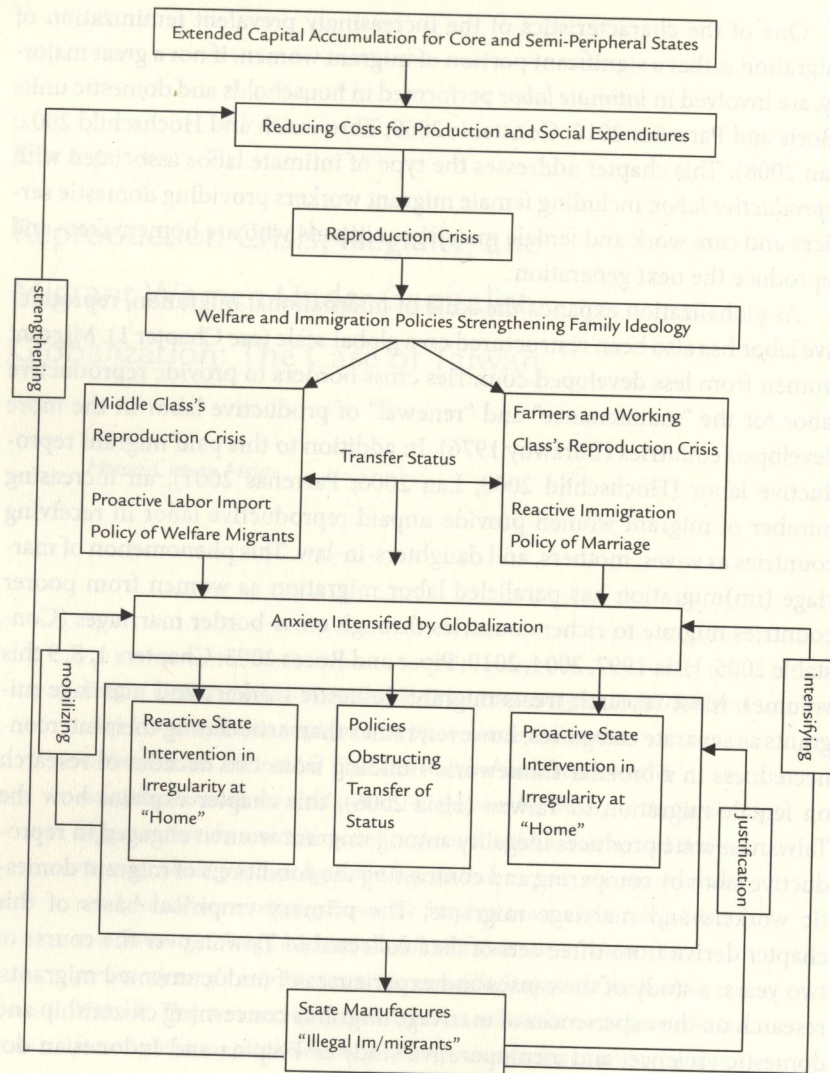


Figure 7.1. Analytical framework of migrant reproductive labor under capitalist globalization.

policies that allow for the importing of migrant domestic workers (Kofman et al. 2000) to resolve the crisis of reproduction which leads to what I term “the restructuring of reproduction” (Hsia 2008b), in which women from less developed countries migrate to perform reproductive labor for the more developed countries—that is, in the reverse direction to the restructuring of production.

However, these policies of importing migrant domestic workers serve only as “Band-Aid” solutions, especially as fertility rates in more developed countries continue to drop with rapid increases in the costs of childrearing. Moreover, although middle-class families can resort to hiring migrant domestic workers, farmers and working-class families cannot afford to hire this type of labor. Consequently, working-class and rural men in the more developed countries follow the flight of capital to neighboring, less developed countries in search of brides (Hsia 2010; Chapters 1, 8, 9 this volume).

Despite similar reproductive needs motivating the cross-border movement of women as wives and domestic workers, states take different policy approaches to these two types of migrants. The Taiwanese government adopted a “proactive” approach to importing blue-collar migrant workers by initiating a comprehensive labor-import policy. By contrast, it took a very “reactive” approach to marriage migrants by reluctantly formulating an immigration policy only when the number of marriage migrants and their children could no longer be ignored. However, when it comes to state intervention in response to “irregular” migrants, the state takes a “reactive” approach to migrant domestic workers whose abuses are overlooked because their workplaces are considered the “private domain” of the employer, but adopts a “proactive” approach to potentially irregular marriage migrants whose homes are not seen as inviolable but open to investigation by the authorities.

These contradictions in state policies are the result of national anxieties about the potential impact of migrant women’s “lower status” on Taiwan’s ability to compete in a global economy. The policies in turn create a broad web of illegality among migrant women. Unlike some research that sees illegality as the state’s failure to manage cross-border migration (Cornelius and Tsuda 2004; Coutin 1996), this chapter argues that the state itself produces illegality and further sustains it, rather than reforming policies to prevent them from producing illegality. By maintaining the illegal status of migrant women and mobilizing national anxiety to criminalize migrant women, the state benefits from lowered costs of production and reproduction, which it hopes will enable the country to survive in the wake of intensifying competition in a global

economy, and evades its responsibilities for providing systematic welfare to its citizens, especially the underprivileged. In turn, the state has transformed itself into a corporate-like entity which sees competitiveness, rather than equality and justice, as the ultimate goal. The citizens have assumed a consumer-like status by merely demanding that the state (the corporation) ensures the “quality” of the “commodities” they purchase (e.g., migrant women), rather than exercising their rights and responsibilities as citizens by holding the state accountable for ensuring equality, justice, and a basic standard of living for all.

State Policies on Foreign Reproductive Labor in Taiwan

As Taiwan moved from the “periphery” to the “semi-periphery” in the world system beginning in the mid-1980s, it started importing migrant workers to supplement its own labor force and became a host country for many marriage migrants in the region (Hsia 2004). The first influx of foreign labor to Taiwan occurred in 1989 when the state gave permission to recruit three thousand migrant workers to supply labor for fourteen key national infrastructure projects. Soon after, the government added a second category of migrant worker: the “migrant care worker” (including home-based care workers and domestic helpers), later called “migrant welfare worker.”

Because Chinese patriarchal family traditions continue to exist, the government is allowed to play a minimal role in the provision of long-term care by defining elder care as a private family responsibility typically performed by women. While it is becoming increasingly difficult for Taiwanese women to stay at home to carry out these necessary care duties within the family, as the rate of female employment and the size of the aging population increase, many married Taiwanese women adopt the strategy of “passing the dirty work to others” when they are unable or unwilling to perform these duties. Since the early 1990s, the lack of public intervention has turned the rising need for care work into a profitable market niche (Wang 2010).

According to Wang (2010), private nursing attendants offer the most expensive care that only affluent families can afford. Though there are publicly subsidized home care services and nursing homes, these meet only a very small proportion of the need for elder care. Since the Taiwanese government permitted the importing of migrant domestic workers, these workers have offered the least expensive form of elder care and have become the primary providers of in-home care. Recruiting migrant workers is presented by the state as a type of

welfare, which, ironically, is not provided by the state but by the market; all the government does is give families the right to access the market.

In 1992, Taiwan’s legislature passed the Employment Services Act, which formed the legal basis for labor-import policies and propelled the dramatic increase in the recruitment of Southeast Asian migrant workers to labor in 3D occupations, including manufacturing, construction, and welfare sectors. Due to persistent political tensions between Taiwan and China, PRC workers were explicitly excluded from the Act and to this day are not permitted to enter Taiwan as blue-collar migrant workers (Tseng 2004). By the end of 2010, the number of migrant workers in the 3D sectors reached 379,653. As of 2011, the top source countries for migrant workers in 3D sectors included Indonesia, the Philippines, Thailand, and Vietnam.

In 1996, migrant workers in productive industries (including agriculture, manufacturing, and construction sectors) made up 87 percent of all migrants, while migrant workers in welfare represented only 12.8 percent (Bureau of Employment and Vocational Training, CLA 2002). The percentage of migrant workers in welfare sectors grew rapidly, however, reaching 49 percent in 2010 (Bureau of Employment and Vocational Training, CLA 2011). The increasing rate of migrant workers performing reproductive labor corresponds to the increasing rate of women migrant workers. In 1998, the percentage of women among all blue-collar migrant workers was 26.4 percent, but reached 63.1 percent by the end of 2010. Moreover, migrant women may be hired as “care workers” or “domestic helpers” in their contracts; however, in reality, the distinction between these two categories is blurred. Therefore, this chapter uses “migrant domestic workers” to refer to migrant women working in the households of their employers, regardless of the occupational category into which they are recruited.

Although migrant domestic workers have filled a great portion of the need for care work, there are many farming and working-class families who cannot afford to hire this type of labor. In addition to their elder-care needs, many farming and working-class families also seek women to marry their sons, bear children, and continue the family line. However, the men of these families are no longer seen as desirable marriage partners by local women as a result of their poor economic prospects, the consequence of Taiwan’s long-term distorted development policies and the decline of the agricultural economy and exodus of labor-intensive industries under neoliberal globalization. As a result, these men look abroad for wives; therefore, the “foreign bride phenomenon” emerges (Hsia 1997, 2004).

Similar to the trends of blue-collar migrant workers recruited to Taiwan, the number of women from Southeast Asia and mainland China entering Taiwan as foreign spouses increased significantly beginning in the late 1980s. According to statistics released in 2002 by the Directorate-General of Budget, Accounting and Statistics, one in every four new marriages in Taiwan was between a citizen and a foreigner, although the percentage decreased after 2003 and now hovers between 15 and 20 percent of all marriages registered annually. The vast majority of foreign spouses are Southeast Asian and mainland Chinese women married to Taiwanese men. From January 1, 1985 to February 28, 2011, there were 446,143 foreign spouses in the country (29.3 percent from Southeast Asia and 64.2 percent from mainland China). Over 90 percent of these foreign spouses are women (Ministry of Interior 2011).

Proactive Labor-Import Policy Versus Reactive Immigration Policy

The Taiwanese government has taken many initiatives to import foreign labor. Regulations and policies about foreigners working in Taiwan are very clearly class based, with blue-collar foreign workers governed by separate and much stricter regulations than professional, technical, and managerial foreigners. For the purposes of this chapter, I use the term *migrant worker* to refer to blue-collar migrants only.

For blue-collar migrants, a quota system is imposed to restrict the importation of migrant workers to a limited number of countries and to certain industries and occupations. Migrant workers can only stay in Taiwan for a limited number of years (as of February 1, 2012, the maximum duration of stay was extended to twelve years), they are not eligible to apply for permanent residency or citizenship, and during their stay they have no freedom to choose their residence or employer without permission from the government. Moreover, migrant workers are neither allowed to bring their family members to Taiwan nor to form a new family in Taiwan. Prior to the changes in the law implemented in November 2002, women migrant workers found pregnant at their required regular medical check-ups would be deported immediately (Lan 2006; Tseng 2004).

Whereas the Taiwanese government took a “proactive” approach to importing migrant workers, it took a very “reactive” approach to marriage migrants, both those from Southeast Asia and the PRC. Because this chapter

focuses on interconnections between marriage migrants and female migrant workers, and because mainland Chinese are not permitted to enter Taiwan as migrant workers, my analysis focuses on government policies developed in response to Southeast Asian marriage migrants.

The Taiwanese government did not develop a full-fledged immigration policy until 2003, though the significant influx of marriage migrants began in the late 1980s.¹ As the first researcher working on Southeast Asian marriage migration issues starting in 1994, I observed how the attitudes of government officials suddenly changed in late 2002. As of mid-2002, government officials did not consider issues of marriage migrants to be within their scope of responsibility. They simply hoped that the “foreign bride” phenomenon would be short-lived.² However, in late 2002, the government’s position shifted dramatically with the release of two major statistics that indicated the prevalence of marriage migrants from Southeast Asia and the PRC and the increasing rate of children born to marriage migrants. Since then, the government of Taiwan has quickly initiated support programs and revised immigration-related laws to control the inflow of marriage migrants, increase barriers for them to acquire citizenship, and assimilate them into Taiwanese culture (Hsia 2012). These immigration policies are indeed reactive in that they are a response to the statistical prevalence of marriage migrants and their children, a response motivated by national fears about the imagined deteriorating “quality of the population” due to global flows that have restructured Taiwanese families (Hsia 2007).

Reactive State Intervention Versus Proactive State Intervention

When it comes to state intervention in response to potential exploitation or irregularities in migrant workers’ and immigrant spouses’ legal status, state actors have adopted very different approaches with respect to these two populations. In contrast to the proactive nature of labor-import policies, the state takes a reactive approach to exploitation among migrant domestic workers. Government officials are very reluctant to inspect the workplaces of migrant domestic workers based on the reasoning that government authorities should not enter private homes (see Chapter 6). Though migrant workers in productive industries are also subject to exploitation, migrant domestic workers are even more vulnerable because their workplace is the private home of their

employer, a situation that justifies authorities' unwillingness to intervene when migrant domestic workers report abusive working conditions to the government. After receiving such a report, labor inspectors will inform the employer of the scheduled date and time of their inspection; the advance warning thereby allows the employer to remedy the situation and reduce the possibility of a formal case being filed. As one Filipina migrant domestic worker who participated in a focus group I conducted in 2011 said,

One of my friends was forced to sleep on the balcony and she finally could not stand it and reported it to the labor office. But the labor office called the employer first, and the employer just rearranged the house to make it appear that she had a room to sleep in when the official came for inspection. After the inspection, she was back to sleeping on the balcony. And she is afraid of reporting it again because her employer knows she complained to the labor office and she is worried that the employer will terminate her.

The Council of Labor Affairs (CLA) officials interviewed in Chen's study (2011:117–18) commented that although they are aware that migrant domestic workers work long hours and are ordered by employers to do tasks beyond those described in their employment contracts, they will not initiate inspections because "authorities should not enter private homes unless they are reported as violating regulations." However, as the institution responsible for migrant workers, the CLA is entitled by law to inspect the workplaces of migrant workers, including private homes that serve as the workplaces for migrant domestic workers.

In contrast to their reluctance to inspect migrant domestic workers' workplaces, government officials have few reservations about regularly inspecting marriage migrants' homes. Because government officials suspect that many migrants from less developed countries simply use marriage to a Taiwanese to acquire residency and citizenship, they constantly inspect the "authenticity" of the marriages, including visiting the homes of marriage migrants to find any signs of "fake" marriage. If a migrant wife is reported missing, including by an abusive husband or his family members, her residency or even citizenship status could be jeopardized (Chapter 9).

Furthermore, since blue-collar migrants are not eligible to apply for permanent residency or citizenship in Taiwan, they can acquire residency and citizenship only by marrying Taiwanese nationals, an option that is seen by

government authorities as a loophole manipulated by migrant workers. Consequently, as in other countries in the region such as Singapore (Chapter 8), regulations were established barring migrant workers from directly transferring their status from migrant worker to foreign spouse. If they want to marry a Taiwanese citizen after they have entered Taiwan as a migrant worker, they must first exit the country and apply for a spousal visa in their home country. The years they have stayed in Taiwan as a migrant worker cannot be counted toward the years of residence required to apply for permanent residence or citizenship as a spouse. Moreover, if they have violated any laws when they were a migrant worker, including escaping from abusive employers and consequently becoming a "runaway," they are banned from entering Taiwan for a period of time even after marrying a Taiwanese, as experienced by Fang, the Vietnamese woman at the start of this chapter.

As we can see, the state takes two contrasting positions with respect to intervening in the private homes of citizens. It takes an approach of "reactive intervention" when it comes to the workplaces of migrant domestic workers, while it adopts "proactive intervention" when it comes to the residences of marriage migrants. While on the surface these two contrasting approaches appear contradictory, their underlying logic is consistent: migrant women from less developed countries are perceived as "untrustworthy others" who are likely to harm "innocent" citizens, that is, "we Taiwanese." To protect the interests of "we Taiwanese," whether employers or potentially naive citizen-spouses, state actors consequently ignore abuses in the private homes that serve as the workplaces of migrant domestic workers, but actively invade the homes of marriage migrants who are suspected of tricking innocent Taiwanese.

National Anxiety Intensified by Capitalist Globalization

Why does the Taiwanese government adopt these contrasting approaches to governing the influx of migrant workers and marriage migrants? I suggest that the state successfully mobilizes a sense of "moral panic" (Cohen 1972) among the Taiwanese public to justify its contradictory policies in the face of challenges to Taiwan's citizenship tradition with globalization and the subsequent rise in national anxiety about Taiwan's competitiveness in the global economy.

Taiwan's citizenship laws are based on *jus sanguinis* principles that define

national incorporation on a descent basis that reflects a patriarchal Chinese emphasis on male lineage and ancestry (Cheng 2002). As a result, prior to changes in the Nationality Act effective in January 2000, foreigners could not be naturalized as Taiwanese citizens unless they were women married to Taiwanese men (Chen 2009; Hsia 2009).

In 2003, the Ministry of Interior (MOI), charged with addressing the "foreign brides" phenomenon, drafted the Immigration Policy Guidelines and tried to rush through the establishment of a National Immigration Agency (NIA). The Guidelines focused on creating incentives for professional, managerial and skilled foreigners to immigrate to Taiwan, and stipulated that blue-collar migrants were not allowed to apply for permanent residency and naturalization.

Despite various attempts by the Taiwanese government to deter working-class foreigners from immigrating to Taiwan, it could do little to stem the rising flow of marriage migrants from Southeast Asia and mainland China, since it could not legitimately forbid its citizens from marrying nonnationals. These marriage flows have enhanced national anxieties about the ostensibly deteriorating "quality of the population," which is assumed to hinder Taiwan's competitiveness in the global economy. Unsupported by reliable data, this claim is based on the assumption that since marriage migrants hail from developing countries, they must lack the "qualities" necessary to educate their own children, an argument clearly infused with sexist, racist, and classist overtones (Hsia 2007). While Taiwan's exclusionary tradition of citizenship can be viewed as xenophobic in a general sense, resentment is directed mostly towards foreigners from less developed countries. What constitutes a threat and creates national anxiety are foreign women from Third World countries, that is, the lower class in the international division of labor.

Ironically, Taiwan's exclusionary and patriarchal tradition of citizenship itself allows many women from less developed countries to immigrate to Taiwan through marriage. Because the Nationality Act requires foreigners to abandon their original citizenship to gain Taiwanese citizenship, very few foreign husbands (or wives) from developed countries attempt to apply for Taiwanese citizenship. Hence, the great majority of foreigners naturalized as Taiwanese citizens are marriage migrants from less developed countries, a trend that further enhances national anxieties about the competitiveness of the population, especially the next generation produced by these marriage migrants. As a result of this national anxiety, the government has increased the barriers to citizenship for marriage migrants and has instituted proce-

dures to weed out migrants in ostensibly "fake" marriages, which in turn contributes to the creation of illegality. In the sections to follow, I illustrate how both reactive and proactive approaches to state intervention create illegality among migrant women and potentially transform the state apparatus and its relationship with Taiwanese citizens.

State-Produced Illegality Among Migrant Women

Many so-called "illegal" migrants enter Taiwan legally but later become "illegal." According to statistics provided by the NIA, from the Agency's inception on January 1, 2007 to April 30, 2010, 25,238 foreigners overstayed their visas, 73.2 percent of whom were migrant workers.³ Moreover, 69.4 percent of the total number of overstaying foreigners were women and 71.4 percent of the overstaying migrant workers were women, both figures disproportionately higher than the percentage of women among all blue-collar migrants. This higher rate of female migrant workers illegally overstaying their visas corresponds to the higher rate of female migrant workers recruited in the welfare sector (77.2 percent) and reflects the exploitative working conditions in that sector especially (Hsia and Wang 2010).

As Hsia and Wang (2010) argue, many undocumented migrants enter Taiwan with legal status and become "illegal" due to ill-designed policies and administrative negligence and malpractice. Migrant women from less developed countries are constantly suspected of manipulating the system to serve their own interest (Hsia 2007); as a result, the tiniest misstep easily renders them illegal. The following discussion illustrates how state policies and regulations produce the illegality of migrant women involved in reproductive labor.

Difficult Requirements and Frequent Policy Changes

To control the inflow of marriage migrants, the Taiwanese government intentionally makes the naturalization process for a marriage migrant very complicated and difficult. Consequently, those who stumble in the process and fail to complete all required procedures easily become undocumented. To begin, one may have married his or her Taiwanese spouse outside of Taiwan but the legal documents (such as the marriage certificate) were not validated by the overseas offices of Taiwan's Ministry of Foreign Affairs (MOFA). For example, Nancy met her Taiwanese husband in 1988 in her home country, South

Africa, when he worked as a seaman and went ashore with his crew. They married in South Africa and Nancy joined her husband in Taiwan in 1989. Nancy later learned that her marriage could not be registered in Taiwan because their marriage certificate was not validated by the MOFA office in South Africa. Because Nancy's husband could not afford for her to return to her home country to complete the paperwork, Nancy consequently became undocumented and has remained so for more than twenty years.

In addition, migrant women who have married a Taiwanese national in Taiwan but cannot change their status to that of foreign spouse also become undocumented. Cases include those who entered Taiwan originally as tourists, students, or blue-collar workers, but did not exit Taiwan to apply for a spouse visa and who thereby became "illegal" after their original visa expired, despite their marriage to a citizen. It is noteworthy that foreigners from "first world" countries can change their status to "foreign spouse" without exiting Taiwan, which also reflects the classist and racist ideology shaping Taiwan's immigration policies (Hsia 2007).

There are many reasons why marriage migrants fail to complete the required procedures. They might lack awareness of the requirements, they might not be able to afford to return to their home country to apply for a spouse visa, and they might fear being refused a spouse visa to reenter Taiwan or having their reentry delayed because they previously "ran away" from an employer. This fear is particularly prevalent among marriage migrants who used to work as migrant workers in Taiwan because they are constantly suspected by the authorities of having arranged a "fake marriage." This fear is not without grounds. For instance, the TransAsia Sisters Association of Taiwan (TASAT), together with other migrant advocacy groups, held various protests and forums in 2012 exposing cases in which marriage migrants who used to work in Taiwan as migrant workers have been denied spousal visas.⁴

Illness can also become an obstacle to obtaining citizenship. Marriage migrants are required to submit health certificates when they apply for visas, alien residence certificates, permanent residence, and even to extend their residency. If they fail the required health examinations, they will not be permitted to stay in Taiwan. Moreover, according to the HIV Infection Control and Patient Rights Protection Act, if a foreign spouse tests positive for HIV, her visa or permit of stay or residence will be revoked and she will be deported. Even if a foreign wife has minor children, she will be deported because of her HIV infection, unless she can prove and petition in writing that she was "infected by her native spouse or infected through the process of receiving

medical care in the country." That is, marriage migrants whose HIV test results are positive but who cannot successfully petition to stay will become undocumented if they do not leave Taiwan. One interlocutor, June, from Thailand, married her Taiwanese husband in 1992 and in 1996 gave birth to their second child. The child was found to be HIV positive and subsequently June was found to be HIV positive as well. June faced deportation because she could not prove she was infected through the process of receiving medical care in Taiwan, nor could she prove that she was infected by her husband because he tested negative. Out of fear of being separated from her family forever, June stayed in Taiwan and became undocumented.

Marriage migrants who end their marriages before acquiring citizenship and continue to reside in Taiwan may become undocumented. Before the efforts of immigrant rights organizations resulted in the amendment of the Immigration Act in January 2008, marriage migrants whose marriage ended before they had obtained citizenship, even if the divorce was due to domestic violence, faced deportation once their visa expired (Hsia 2008a). Though the 2008 amendment permitted divorced marriage migrants to continue to reside under certain circumstances, including "if s/he is physically or mentally abused by the spouse and protected by a court-issued protection order; and if s/he suffered from family violence and divorced after the judgment of the court, and also has minor children," there are still obstacles which could lead to them becoming undocumented. They are still required to apply for and receive a court-issued protection order, which might be difficult because of the barriers marriage migrants face in reporting domestic violence (see Chapter 9). Hsia and Huang (2010) found that marriage migrants have difficulty accessing services due to their unfamiliarity with local languages and their isolated living environment. Although the Taiwanese government established a reporting system for domestic violence cases, many marriage migrants do not know that they can report domestic violence or how to report it. Without police report records or medical evidence, it is impossible for them to acquire court-issued protection orders. If they run away from their violent home without a protection order and are reported as "missing" by their husband's family, they become "illegal."

Additionally, as Friedman describes in Chapter 9, court-issued protection orders expire, and therefore they do not guarantee permanent residence. Problematically, if foreign spouses divorce before acquiring citizenship, they cannot continue to stay if they have no children, and those with children can only stay until their children come of age (Hsia and Huang 2010).

If divorced migrants want to apply for citizenship, they must apply as “general foreigners” who face much stricter eligibility requirements, such as financial proof of property worth five million Taiwan dollars (approximately US\$170,000). With the economic difficulties most marriage migrants encounter, it is virtually impossible for them to satisfy this requirement. Many marriage migrants do not want to return to their home countries after a divorce because their home communities view divorced women as shameful. However, if they continue to stay in Taiwan after the expiration date of their residency permit, they become “illegal.”

Finally, because Taiwan has adopted a reactive approach to the formulation of immigration policy, resulting in often hastily designed laws and regulations, the government frequently revises the laws and regulations governing marriage migrants. Some marriage migrants become “illegal” not through any fault of their own but because the laws change under their feet. In other cases, foreign spouses who were deemed “illegal” under old regulations find they cannot regularize their status despite new regulations that eliminate their prior illegality.

For instance, prior to the 2008 amendment of the Immigration Act, minor offenses such as gambling and car accidents would lead to the deportation of a marriage migrant without citizenship. Some marriage migrants committed minor offenses and did not exit Taiwan because of family care responsibilities or because of difficulty making a living in their home countries. They became overstayers and thus undocumented. Though the new regulations exclude minor criminal offenses from the grounds for deportation, those who did not exit as required by the old regulations remain illegal. Although they can exit and reenter with a legal status, some are reluctant to do so because they fear that they will be banned from returning to Taiwan.

Because the laws and regulations governing foreigners are very complicated and have changed frequently, most marriage migrants and migrant workers need to consult government agencies to learn about the most updated versions. However, many bureaucrats, especially those dealing with issues concerning marriage migrants, are not familiar with the most updated laws and regulations. Moreover, most of them hold stereotypical views of migrants and discriminate against them, as do state policies and the public more generally. Consequently, some migrant women become undocumented because they are given false information or even because of negligence on the part of public service providers. For instance, when Sally, a Vietnamese marriage migrant, went to her local NIA branch office to request information about how

to apply for an Identification Certificate, the woman at the counter glared at her and replied in a very unfriendly tone, “You haven’t been here for three years yet! Come back when you have lived here for more than three years!” Sally explained to the staff person that she only wanted to understand the procedures and requirements, but the woman responded, “I am telling you, even if I tell you today, you will forget right away” (Hsia and Huang 2010).

Similarly, migrant workers who seek help from state authorities often experience negligence. My focus groups with migrant domestic workers showed that when they experience exploitation and call the CLA hotline for help, they are often given advice such as “just endure it if you want to stay in Taiwan.” Some migrant workers who cannot receive help decide to “run away” from exploitative working conditions and become “illegal” migrants.

Despite the problems with the regulations governing marriage migrants, the status of foreign spouse is considered relatively stable when compared to that of migrant worker. Therefore, some blue-collar migrant women enter Taiwan through an arranged marriage with a Taiwanese man. They will become “illegal” once their spousal visa expires or they are caught by the authorities. These women report several reasons for choosing an arranged marriage as their method of entry. Some seek to avoid the exploitative system encountered by migrant workers (see more below), and others hail from countries removed from the Taiwanese government’s list of source countries for labor import.⁵ For this latter group, the only pathway to work in Taiwan is through marriage.

Exploitative System of Migrant Labor

A great majority of undocumented migrants are migrant workers, who are reported as “runaways” by the state authorities. The reasons for running away include escaping exploitative working conditions and control from brokers, and continuing to earn money to support their families (Hsia and Wang 2010). Because domestic workers are not covered by the Labor Standards Law and thus their basic labor rights are not protected, they face harsh working conditions such as no days off, long working hours, and even twenty-four-hour on-call requirements. Additionally, similar to Gardner’s (2010) analysis of the *kafala* system in the Gulf, by binding migrant domestic workers to individual citizens (including employers and brokers), the Taiwanese government creates systematic and structural violence against migrant women, who can be deported not only by the state but also by individual citizens. Consequently, the path to “illegality” by running away from abusive employers and

brokers is a strategic response to the systematic abuse enabled by labor import policies themselves.

Jane's story is typical among migrant domestic workers who eventually run away from employers. She worked for a big family with ten adults and fifteen children. In addition to cooking three meals a day, she had to clean, do laundry, and care for young children. Jane worked from six in the morning until three the next morning. She had worked for this employer for four months without being able to contact anyone and did not have any days off. Eventually, she decided to run away.

I am not allowed to go out and to make a phone call. There is one time, the driver fetched me to another house to clean and I saw a 7-Eleven. I asked the driver to stop for a while for me to make a phone call. I told him it's an emergency. Then he said, "OK. Make it fast!" Then I borrowed NT\$100 from him to buy a phone card because my employer remitted my salary directly to my account in the Philippines so I did not have any cash with me. . . . I did not have a cell phone because the broker told my employer not to let me use it or I will be influenced by others. . . . I lacked sleep badly. . . . I even burned myself when ironing clothes at midnight after they all slept. Every day I felt like I was floating. So this is the reason why I ran away.

Although many migrant domestic workers run away because of exploitative working conditions, others run away from employers who treat them fairly. They run away because they are worried that the employer will not continue to employ them, yet they need to work to pay off debts and support their family.

Joy came to work in Taiwan in 2003 to support her young children in the Philippines. Though she had a contract as a care worker, she actually worked as a domestic worker. Fortunately, her employer treated her fairly. She decided to run away from her employer because she sensed her employer would not renew her contract.

I needed to extend my contract after two years. Since they did not extend me so I planned to run away. Actually, I asked them if they wanted me to extend the contract. They just assured me that they will. However, since I was active in the organization, I had an idea how to process the papers. Though they kept assuring me that they will extend

my contract, how can they process my papers in only three to four days? . . . So I already had an idea that they will not extend my contract. . . . I was afraid that they did not process my papers and they already had the ticket to send me home, so I decided to run away. . . . I cannot afford to go home because I still have lots of responsibilities in my country. My source of living is here and if I lose my job here, my support to my loved ones will be cut off.

We do not know why Joy's employer did not extend her contract. But from other stories we know that the labor-import system actually encourages an employer to hire a new migrant domestic worker, instead of extending the contract for the old one. While the CLA claims to have a policy for "direct-hiring," that is, to hire a migrant worker without a broker, the procedure is so complicated that most employers utilize the services of a broker. Moreover, since rehired migrants are required to exit Taiwan and reenter for the extended term, many employers prefer (or are encouraged by brokers) to hire a new migrant, so that there will not be a "window period" when they are waiting for the rehired migrant to return to the job. This "window period" is particularly troublesome for employers of care workers, whose jobs are to care for the ill or disabled members of the household who require constant attention.

Due to their financial responsibilities, migrant workers who run away must continue to work. For migrant women to find jobs after running away from employers, a market must be available. This market, ironically, has been created by weak state responses to widespread societal demand for long-term care and care for young children.

Because the government has stopped issuing almost all permits for migrant domestic helpers, while setting no quotas on recruiting migrant care workers, many households supply false information to be eligible to apply for a migrant care worker and then assign that worker to do household chores or childcare, as Joy's former employer did. To apply for a migrant care worker at home, the elderly or disabled person must go to a public hospital to be assessed by a medical team and only those who require intensive care are eligible. Many employers actually pay brokers a fee to acquire a certificate that makes them eligible to sponsor a migrant care worker, when, in fact, they really seek a migrant domestic helper (Chen 2011).

Those who need to hire a domestic helper but are not eligible to apply for a migrant care worker and cannot, or choose not to, purchase the required

medical certificates often opt to hire migrants who have run away from their original employers. It is this widespread need for migrant domestic workers and the limited official channels available to hire them that creates the market for “runaway” migrant women. In other words, it is the state-produced market that enables undocumented migrant women to survive in Taiwan.

Moreover, by maintaining the constant pool of migrants with illegal status, the state can further evade its responsibility to provide comprehensive welfare, since those who are not wealthy enough to hire private nursing attendants and yet not eligible to apply for publicly subsidized care services or migrant workers can hire “runaways” to fulfil their welfare needs. Originally, the government set up strict eligibility criteria for Taiwanese citizens to qualify to hire migrant domestic workers in order to protect the job market for local domestic and care workers. Nevertheless, by creating a “black market” for undocumented migrant domestic workers, the state neglects its responsibilities to citizens who would fill such a niche while fulfilling other citizens’ welfare needs.

State-Produced and State-Sustained Illegality Reduces Costs of Production and Reproduction

Both the “reactive” and “proactive” modes of state intervention produce migrant women’s illegality in Taiwan. As pointed out by De Genova and Peutz (2010), the “illegality” of migrant women is produced by the very system responsible for the management of migrants. Moreover, the fact that the state refuses to reform policies, despite government officials’ recognition of the state’s responsibility in creating illegality, shows that the state does not only produce illegality but also actively sustains it.

Despite continuous protests by organizations advocating for im/migrant rights, the state refuses to develop a systematic response to legalizing undocumented im/migrants who are obviously victims of ill-designed state policies and administrative malpractice. State authorities fear that any systematic legalization process will become a loophole manipulated by “undesirable” migrants (i.e., blue-collar migrants) to acquire residency and citizenship, after which they will become social burdens because they are assumed to be abusing social welfare and benefits. At the same time, state authorities espouse a rhetoric that associates undocumented im/migrants with increased crime and social problems that cost the public resources and money. This rhetoric

further justifies efforts to strengthen regulations that criminalize marriage migrants and migrant workers.

While all blue-collar migrants are considered “undesirable,” migrant women are seen as particular threats because they may marry Taiwanese citizens and reproduce Taiwanese children, who are assumed to lower the “quality of the population” in the face of an increasingly competitive global market. By constructing migrant women as “threats,” state authorities successfully argue that it is the duty of the government to protect the institution of citizenship from abuses by such foreign-national women.

By maintaining the illegal status of migrant women and mobilizing national anxiety to criminalize migrant women, the state benefits in two ways. First, it benefits from lowering the costs of production and reproduction, which it hopes will enable the country to survive in the wake of intensifying competition in a global economy. On the one hand, the only paid jobs available to undocumented migrants are those without benefits or insurance. Moreover, employers tend to pay them less because of their illegal status. On the other hand, although migrant workers paid income tax and dues for national health insurance and labor insurance while documented, their benefits are immediately invalidated, that is, confiscated by the state, once they become “illegal.” Therefore, they lose their health insurance coverage and cannot claim benefits for occupational injuries or funeral benefits from their labor insurance (Hsia and Wang 2010). Moreover, by not reforming policies that produce migrant women’s illegality, the state maintains the poor working conditions for migrant women so that the cost of production remains low.

Second, by maintaining the illegality of migrant women and associating such illegality with a host of social problems, the state evades blame for creating the very system that produces illegality and abdicates responsibility for providing comprehensive welfare for its citizens, especially the underprivileged, by redistributing resources and wealth. As mentioned previously, the influx of migrant women is indeed the result of the needs encapsulated within the realm of reproductive labor, which the state fails to meet. By maintaining a pool of undocumented migrant women, the state facilitates the fulfillment of a great majority of citizens’ welfare needs. Moreover, by invoking citizens’ “moral panics” (Cohen 1972) about the illegality of migrant women, the state directs citizens’ attention away from state accountability and toward worrying about how “we-Taiwanese” are threatened by “them-illegal migrants.” Because the state evades its responsibility to provide a comprehensive welfare system, it is not pressured to reform the tax system so that the wealthy are

taxed at a much higher rate, thereby keeping the costs of production for the capitalists low and maintaining the position that such low costs are essential to preserving Taiwan's competitiveness in the globalized market.

Furthermore, government policies that criminalize marriage migrants and migrant domestic workers are implemented in the name of "protecting the public interest" of Taiwanese against "foreign invaders." In this militarist discourse, what is at stake is the "quality of the population," perceived as the weapon needed to win the war in the competitive globalized market. In this discourse, the state apparatus becomes a corporate-like entity, whose ultimate goal is to maintain and advance its competitiveness in the global economy, rather than ensuring equality and justice by narrowing the gap between the haves and have-nots. In turn, citizens have assumed a consumer-like status by merely demanding that the state (the corporation) insures the "quality" of the "commodities" they purchase (e.g., migrant women), rather than exercising their rights and responsibilities to hold the state accountable for providing welfare and advancing equality and justice.

Notes

1. Though the Entry/Exit and Immigration Law was passed in 1999, it mostly stipulated regulations regarding entering and exiting Taiwan. Mainland Chinese fall under a separate law that was first passed in 1992 (see Chapter 9).

2. In everyday discourse, the term *foreign bride* refers to marriage migrants from Southeast Asia and sometimes mainland China. Women from the United States, Japan, and other developed countries are not referred to as "foreign brides."

3. The total figure includes foreigners and mainland Chinese.

4. See <https://docs.google.com/file/d/0Bzxrhbz-YNw0YzNVcUF5NzBOU0U/edit>.

5. Cases include countries such as Indonesia and the Philippines, which were originally on the list but were banned by the Taiwanese government for a time due to diplomatic conflicts. Migrant workers had to find another way to enter Taiwan during the period of the ban.

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