

THE REGULATION OF THE SOUTH-NORTH TRANSFER OF REPRODUCTIVE  
LABOR: FILIPINO WOMEN IN SPAIN AND THE UNITED STATES

by

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STATES

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This dissertation examines the experiences of Filipina migrant domestic and care workers and the role of the state in the Global South-Global North transfer of reproductive labor.

On the one hand, Western countries currently face a “care void” resulting from women’s entry in the workforce, aging populations, and limited state support, among other factors. On the other hand, countries in the Global South have gone through decades of economic restructuring. This has resulted in the perpetuation of economic crisis, high unemployment rates, and massive outmigration. In the past two decades, these migration flows have become increasingly feminized. Women from the South move to semi-industrialized and industrialized countries and take jobs as domestic and care workers. Given this scenario, the overall question that guides my analysis is, how do states regulate the South-North transfer of reproductive labor? Particularly, how do the

Philippine, Spanish, and U.S. governments shape this transfer through their migration and labor laws? How do Spain and the United States regulate the immigration and reproductive labor of Filipino women? And how do these two receiving countries of reproductive labor, resemble or differ from each other in all these tasks?

My goal is to contribute to a growing scholarship that studies government regulation of female migration. I do this by examining Filipinas' out-migration, their arrival in the United States and Spain, and their labor as care givers and domestic workers in the San Francisco Bay Area and Barcelona. Although work on the intersection of gender and the state is growing, there is a need to further analyze the gender factors, components, and consequences of the regulation of migrant labor in the Philippines, the United States and Spain.

The methods I use in this study include in-depth interviews with Filipino women, government employees and officials, and representatives from migrant workers' organizations, among other subjects, in the three countries. I also conduct participant observation in the three research sites and analyze multiple documents such as legislation, newspaper articles, and migrant workers' organizations newsletters.

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## CHAPTER I

### INTRODUCTION

This dissertation examines how the state shapes the experiences of Filipina<sup>1</sup> migrant workers in the context of the global South to North transfer of reproductive labor. On the one hand, Western countries currently face a “care void” resulting from women’s entry into the workforce, aging populations, and limited state support for social services, among other factors. On the other hand, countries in the global South have gone through decades of economic restructuring. This has resulted in the perpetuation of economic crisis, high unemployment rates, and massive out-migration. In the past two decades, these migration flows have become increasingly feminized. Women from the South move to semi-industrialized and industrialized countries and take jobs as domestic and care workers. Given this scenario, the overall question guiding my analysis is, *how do states regulate the South-North transfer of reproductive labor?* In particular, *how do the Philippines, Spain, and the United States contribute to or shape this transfer through their migration and labor laws? How do Spain and the United States regulate the immigration and reproductive labor of Filipino women? And how are the two countries that receive reproductive labor similar and different in its regulation?*

My goal is to contribute to a growing scholarship that studies government regulation in the context of female migration. To do this I examine the regulation of Filipinas’ out-migration, their arrival in the United States and Spain, and their labor as care givers and domestic workers in the San Francisco Bay Area and Barcelona. The

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<sup>1</sup> There is no consensus on whether it is better to use the term “Filipino” or “Filipina” to refer to women from the Philippines or of Filipino descent. While the Spanish nature of the word allows us to use the feminine gender (Filipina or Filipinas), with some exceptions and following common practice in the Philippines, I choose to use the English form. Thus, I talk of Filipino women or Filipinas instead of Filipina women.

methods I use in this study include in-depth interviews mostly with Filipino women, government employees and officials, and representatives from migrant workers' organizations in the three countries. In addition, I conducted participant observation in the three research sites and analyzed multiple documents such as legislation, newspaper articles, and migrant workers' organizations newsletters.

The Philippine state both creates and regulates the context in which women migrate, while the Spanish and the U.S. governments both create and regulate the context into which they arrive and where they work. I aim to provide answers to the following sub-questions: *Why do Filipino women migrate? What is the legal and political-economic context from which they emigrate? Why do they migrate as reproductive workers as opposed to jobs more in accordance to their formal training or work experience? How do the Spanish and U.S. governments regulate their entry and work? How do the three states under study affect their experiences?* In other words, *what takes place in these women's lives both in sending and receiving societies, and what does the state have to do with this?*

Although work on the intersection of gender and the state is growing, there is a further need to analyze the gender components of migrant labor in the Philippines, the United States and Spain, particularly regarding the ways in which immigration and employment laws shape immigrant women's experiences. While the state has started to take a more central role in the studies of female migration in recent years, further work is necessary in order to shed light on some of the gendered factors, components, and consequences of migration control and regulation (Chin 1998; Davies 2002; Goldring 2001; Piper 2004; 2006). The inclusion of the Philippines as one of the world's main exporters of female labor, as well as two receiving countries to which Filipino women migrate, allows me to adopt a transnational perspective on state regulation, or what I call transnationalism from above (Ezquerro and Garcés-Masareñas 2008). Transnationalism from above involves the analysis of state regulation of women's migration from departure to the moment they become incorporated into the receiving country as laborers. In addition, my study has a crossnational component, since I conduct a comparison of two receiving countries.

While I see Filipino women as historical subjects, albeit constrained by structural limitations, my object of study is the state per se, as regulator of female international migration and reproductive labor. This involves complex processes and requires different theoretical perspectives. In order to achieve my research goals, an understanding of global capitalism and how it has triggered both high demands for reproductive labor in Western countries and an increase and feminization of world migration flows, is very important. It is also important to take into consideration different factors shaping receiving countries' immigration policies, such as the needs of local labor markets, as well as gendered and racialized ideologies behind the regulation of reproductive labor. Immigrant women in both Spain and the United States find themselves stripped from many rights that nationals of these countries take for granted, such as the ability to live with their families or to freely access the labor market. In addition, they find themselves concentrated in labor niches, especially domestic and care work, which have been historically undervalued and under-regulated.

The incorporation of gender, race, and class, and how these intersect is an important part of my work and contributes to bridging different levels of analysis usually treated separately, such as macro and micro and private and public. I examine how these categories play out in the lives of Filipino women, and show that power dynamics shaped by gender, race, and class organize their experiences of migration and in their workplaces at different levels. Gender, race, and class shape the way their employers treat them and their everyday experiences. They also shape their particular location in the global economy, as well as ways immigration and employment laws regulate their lives. The intersection of gender, class, and race takes place both in people's intimate lives and in macro processes or entities, such as the state and the global economy. Rather than being discreet units of analysis, the micro and the macro levels affect and encompass each other. Women's personal stories conveyed in this dissertation stem from their migration experience, which, in turn, is an outcome of historical and economic changes taking place at the international level and of state efforts to adjust to these transformations. In order to understand the connections between different levels of analysis, I work toward a feminist political economy from below through the use of

ethnographic and qualitative methodology.

An examination of the experiences of Filipino migrant reproductive workers also shows the private-public divide acquires different meanings from the ones Western feminists initially established. State intervention in the “private” household takes different shapes and acquires different connotations if we include race, gender, and class in our analysis. The household is a private sphere for many Western women. Simultaneously, it is migrant reproductive workers’ workplace, and therefore a public place for them. These contradictory definitions of the household impact women’s experiences as migrants and as workers vis-à-vis their employers. They also affect state regulation of this sphere and the resulting allocation of rights to different groups of women.

Finally, by focusing on the gender, race, and class dynamics of global migration, my analysis sheds light on the importance of the ideological discourses built around these three categories in order to justify current scenarios of structural and material inequalities. More specifically, the construction of Filipino women as servile or compliant portrays them as “ideal servants.” This updates old justifications of colonial domination and legitimizes and perpetuates their contemporary subordinate position in the international labor market.

In the remainder of this introduction I provide the theoretical context for my study. This includes a discussion of migration and the state in the context of global capitalism, the gendered dimensions of globalization, the internationalization of reproductive labor, and a gendered discussion of migration theory. At the end of the introduction I outline the organization of the dissertation.

## **1. Migration and the State in the Context of Global Capitalism**

Academic and political debates around the nature, logic, and social impacts of globalization have been numerous during the past few decades. While some have identified globalization as a phenomenon emerging during the last quarter of the 20<sup>th</sup> century (Friedman 2000), others have stated it merely constitutes another stage in the development of the capitalist system, born five centuries ago (Foster 2002; Sweezy

1997). While some have characterized it as the economic system that has produced the most wealth in world history (Friedman 2000; Fukuyama 1992), others identify it as the ultimate global expansion of exploitation and inequality, which have been inherent to capitalism since its very birth (Amin 2001; Foster 2003; Meszaros 1995; Tabb 1997; 2001a; 2001b). While some have announced the triumph of transnational capital over the nation state (Friedman 2000; Negroponte 1995), others have insisted the state remains a key actor in the current global era (MacEwan and Tabb 1989; Tabb 1997; 2001a; 2001b; Wallerstein 1979).

These debates are crucial to my conceptualization of globalization as well as to my understanding of the migration of Filipino women in the current global context. Due to the nature of my research questions, I put special emphasis on the role of the state in the regulation of migration in the context of globalization. The following are three ways in which my research relates to current debates on globalization.

First, I see the current world economic system as the latest manifestation of capitalism, whose emergence and survival has been possible through the plundering of resources of Western and non-Western countries and the exploitation of workers and peasants in both the global North and the global South. The latest manifestation of the system has been the predominance of neoliberal practice and ideology, which have further impoverished countries in the South during the past few decades and perpetuated their dependent relationship vis à vis Western countries. In the context of the Philippines, these dynamics have prompted millions of people to migrate to other countries in search of better economic opportunities.

Second, increasing economic inequalities between enriched and impoverished countries have translated into subtle new forms of political domination of the periphery by the center in what some authors have called the neo-colonial era. If we want to understand South-North migration we need to look at the factors behind it in an historical perspective and recognize economic and political inequalities both within and among countries. These inequalities are present in the way the Philippine government regulates Filipino migration, and they often limit its ability to protect its workers. They also become obvious in both Spanish and U.S. regulation of immigrant flows, which strip

non-Western nationals of certain basic rights and often turn them into second-class citizens. Western countries continue to plunder resources, including labor, from the global South to satisfy their economic demands, and Southern countries rely on and promote the export of various commodities, including people, under unfavourable conditions to keep their economies afloat.

Third, the state is a key actor in the context of globalization. The undermining of state sovereignty has been a dominant theme in the globalization literature. The decline of the Keynesian welfare state in Europe and North America signaled the emergence of the debate. According to Friedman (2000), globalization is a new technological-economic arrangement that financial investors and corporations control, in which the state sees its capacity to regulate the economy and society greatly diminished. While capital, information, and people have become increasingly transnational, I argue this has not necessarily happened at the sake of the state. Tabb asserts the primacy of capital over globalization and claims that recent changes in the economy (such as capital and labor de-regulation) are political choices governments have made to support the interests of capital. The idea that the state is powerless to stop globalization and its negative effects is a powerful ideological tool allowing capital to present global capitalism as inevitable (Tabb 1997; 2001b). With the growth of neoliberalism, however, it is not the weakness of the state per se that is revealed under globalization but the erosion of its public functions.

As I will show, while I see the state as often safeguarding the interests of capital, this does not go uncontested. In the case of the Philippines, the state has been forced to pay attention to civil society demands in order to preserve the legitimacy of its labor export program. In Spain and the United States, although immigration policy has provided local economies with cheap and flexible labor, states have been pressured to protect native labor. State regulation of migration, therefore, needs to be understood from a structural-dialectic perspective, in which the state often needs to negotiate with multiple actors, such as capital (both local and foreign), social movements organizations, and other states (see Calavita 1992). In addition, whereas capital deregulation and trade liberalization have been frequent, they have not been paralleled by an erasure of borders,

and wealthy countries are becoming real fortresses to avoid the entry of Third World migrant workers. Indeed, according to Arango (2007), receiving states are restricting certain kinds of migration, particularly contract and permanent migration. Freedom of circulation is an exception reserved for citizens from countries in the North, and movement regulation, restriction, and control become the norm for most of the world's population (see also Oishi 2005). In order to capture this, Arango proposes the term *frontier globalization* or "a globalization built upon borders and barriers, a *mundialization* that has been produced despite them rather than due to their elimination" (Ibid. 10). In other words, the generalization of migration at the international level has not taken place because of a weakened state but rather in the context of a reaffirmation of its presence. While Arango makes this argument with reference to receiving states, I and other authors suggest the increasing presence and activity of sending states have also become key to facilitating and regulating migration (see Rodriguez 1999; 2005). The emphasis on the role of sending countries both contributes to and moves beyond Saskia Sassen's studies of migration and globalization, which have focused on the immigration policies of receiving countries as well as economic policies implemented in the developing world that result in international migration (Sassen 1993; 2004). Building upon Rodriguez's work, I suggest that, besides the indirect impact on migration that structural adjustment programs and neoliberal policies have had, sending states also actively contribute to labor migration through direct regulation, management, and promotion of migrant labor.

## **2. The Gendered Dimensions of Globalization**

As noted, international migration takes place within the context of globalization. Given that current migration flows are becoming increasingly feminized, it is important to understand what the gendered components of globalization are and the ways in which these trigger women's migration. Although the historical materialist tradition has provided a nuanced study of the world economic system, it has important weaknesses, one of the most important being the frequent neglect of gender and race as key dimensions of globalization. Entities, actors, and social processes such as markets,

migrants, and states have been analyzed from a gender and race-blind perspective that has often neglected how gender and race, among other things, organize and constitute them.

Feminist research on global restructuring has aimed at analyzing the effects of macroeconomic and political processes on women's lives. This literature<sup>2</sup> has challenged the patriarchal prism through which political economy has traditionally been viewed (Brodie 1994; Freeman 2001a; Gibson-Graham 2005; Marchand and Sisson Runyan 2000; Youngs 2000), questioned both the neo-liberal and Marxist emphases on macro-corporate entities (Bergeron 2001; Gibson-Graham 2005). It has shown that globalization is a contradictory and multifaceted process with different impacts on different social groups (Benería 1999; Benería 2003; Brodie 1994; Marchand and Sisson Runyan 2000).<sup>3</sup> These neoliberal and Marxist 'conceptual silences' (Bakker 1994) or 'narratives of eviction' (Sassen 1998) have, according to Marchand and Runyan (2000: 17), failed to acknowledge that globalization is a gendered process.

Women feel the impact of globalization in very specific gendered ways:

- Through the gendered divisions of labor, in which men's work is privileged over women's in terms of status, pay, and working conditions, and in the split between men's paid productive work outside the home and women's unpaid reproductive work within the household,
- Through the feminization of labor, which generates an increasing incorporation of women into the labor market simultaneously with a flexibilization and precariousness of labor. The entry of middle-class women in wealthier countries into the labor market responds to a decline in traditionally secure male jobs, as a result of deregulation, corporate

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<sup>2</sup> Feminist analyses of globalization have not only critiqued the "gender-blindness" of the neo-liberal construction of globalization but they also have found such a "gender-blindness" in the Marxist approach Benería 2003; Bergeron 2001; Freeman 2001; Gibson-Graham 1996. For the sake of simplicity I will not develop the specific feminist critique to each of the two schools.

<sup>3</sup> These weaknesses of the neoliberal and Marxist school, according to Chang & Ling (2000), result in the absence of the subaltern- in particular the subaltern woman- from the analysis. Two crushing discourses silence and invisibilize the effects the of globalization on her: a masculinist discourse of imperialism and an equally masculinist reactionary anti-imperialism.

restructuring, and outsourcing. This incorporation in turn has increased the demand for female migrant care and reproductive workers. In developing countries women have also been entering the workforce, particularly in the service, sweatshop, sex, and tourism sectors. Poor, working-class, Third World, minority and migrant women are the cheapest and most vulnerable sources of labor and fill those jobs characterized by low wages, few benefits, little union representation, and minimal regulation.

- Through an increasing demand for nurses and other caregivers for the elderly stemming from population ageing in many Western countries.
- Through the increase of women's migration and/or the feminization of migratory populations around the world (Oishi 2005), particularly from poor to rich countries but also within the global South, to earn higher incomes to support their families and provide foreign exchange for their governments. According to Oishi, between 1960 and 2000, the number of migrant women around the world increased from 35 million to 85 million, and by 2000 women constituted nearly 49% of world-wide migrants (2005:2).
- Through cutbacks in (and privatization of) state social services- a process that particularly disadvantages women, particularly poor, working- and middle-class women, as the major recipients and providers of such services (see Holmstrom 2003). This has taken place under Structural Adjustment Programs (SAPs) in debt-ridden nations and welfare restructuring programs in Western nations. These programs shift public responsibility for social welfare back to the private realm of the home. The reprivatization of social services and Western middle-class women's incorporation into the labor market are key to understanding the increase in women's migration from the global South to Western countries. While women in the Philippines have felt compelled to leave their country due to severe economic conditions and declining state support, there has also

been increasing demand for cheap reproductive labor in many Western (as well as non-Western) countries.

### **3. The Internationalization of Reproductive Labor**

In this section I address the feminization of global migration flows and how it runs parallel to the increasing internationalization of reproductive labor. I understand reproductive work as all tasks necessary to reproduce both the current and future generations of productive and reproductive workers. It also includes the care for the past generation of workers- the elderly- and those who are not capable of taking care of themselves- the ill and disabled. Overall, reproductive labor comprises activities such as purchasing household goods, preparing and serving food, laundering and repairing clothing, maintaining furnishings and appliances, socializing children, providing care and emotional support for adults, and maintaining kin and community ties (Glenn 1992).

While reproductive labor may take place in different sites and can be both free and remunerated, I limit my discussion to remunerated reproductive work taking place in the household. I do so for two reasons. First, I am particularly interested in how women from the global South are replacing Western women in the completion of reproductive tasks within the family as a result of the incorporation of the latter into the labor market in a context of insufficient government social spending. Second, I am also interested in understanding how this replacement is connected with gendered and racialized constructions of the private household and how these shape government regulation of this realm through both immigration and labor policies in receiving countries.

The capitalist economy has historically relied on a gendered division of labor. Second wave feminism critiqued the lack of attention to reproductive labor typifying both neoliberal and Marxist perspectives. According to feminist scholars, these theories focused on productive labor, without paying much attention to the household work that made possible the reproduction of the “productive” labor force. In this sense they even question the productive/reproductive dichotomy (Ehrenreich 1990; Eisenstein 1990; Hartmann 1981; Rubin 1990 [1976]; Young 1981).

Although this scholarship raised important issues about the relationship between patriarchy and capitalism, it did not initially examine the ways in which race intersects with gender and class in the organization of paid reproductive work. In fact, as Glenn (1985; 1992) argues, the racial division of reproductive labor has been a missing piece of the picture in both feminist literature and theories of racial hierarchy (see Anderson 2000). This overlooks the historical reality of women of color in the United States, who have been consistently relegated to this sector (also see Glenn 1981; 2002). In addition to these factors, Misra et al. (2006) discuss the important role class and nationality play in the global organization of reproductive and care work, or what Romero (2003:811) has called the “globalization of household labor and caregiving.” As several scholars have pointed out using terms such as “nanny chain,” “love chain,” “global care chain,” and “international division of reproductive labor”, global economic restructuring “has increased the worldwide demand for migrant domestic workers who often serve as both caregivers and housekeepers” (Oishi 2005:3). If paid reproductive work has historically been done by poor women of color in the United States and rural women in Spain, today it is increasingly being organized within an international system in which immigrant women of color from peripheral countries provide care for families in the countries at the developed center (Hewison and Young 2006; 2005b).

Reproductive work has traditionally been treated as a non-economic activity that housewives and/or slaves perform for free, and through which no economic value is produced. Even when these tasks are remunerated, this traditional devaluation of the work depresses wages and working conditions (Fitzpatrick and Kelly 1998). In the core countries, capital needs women’s participation in the labor market, yet neither capital nor the state nor men make up for the reproductive labor lost at home. Due to the lack of state response to this situation, we have witnessed a *privatization of the solution*, in which middle-class families in countries at the center hire immigrant women from the periphery to do this reproductive work for them.

According to Cindy Katz (2001), insisting on the necessity of social reproduction highlights a key area, still undertheorized, within which many of the problems associated with capitalist globalization must be addressed. By making the reproduction of the labor

force the entry point of the study of migration, issues such as the role of women in supporting the global economy and the gendered and racialized dimensions of the state emerge. An emphasis on social reproduction allows us to examine global processes from below and to unmask new power relations that have gone unnoticed or understudied.

#### **4. Gendering Migration Theory**

Despite all the “women on the move,” migration research has traditionally had a male bias (Kofman 1999; Pessar 1999; Pessar 2003), and women’s involvement in international migration has generally been overlooked (Escrivá 2000). The main reason for this has been the view of women as “dependents,” moving as the wives, mothers, or daughters of male migrants (Nations 1995; Zlotnik 1995). While migration theory has in the past two decades begun to take women’s experiences into consideration, gender bias and the neglect of female migration still characterize it.

One of the most significant theories to explain international migration has been network theory, which argues that once the departure of a few pioneering migrants is triggered, the migration process may become self-sustaining through the construction of increasingly dense social ties across space (see Hugo 1981; Massey 2004; Massey 1990a; 1990b; Taylor 1986). As I discuss in Chapter VI, network theory is useful in explaining Filipino women’s migration flows to Spain and the United States, since it has studied the particular and differentiated uses male and female migrants make of networks. While men tend to use weaker networks (i.e. acquaintances, people they meet at work), women tend to use stronger or close networks. In the United States, while Filipino men initially migrated in search of work, female migration has mostly taken place through family connections. In Spain, Filipino migration has been mostly female since its beginning. Once an initial pioneer colony settled in the main Spanish cities, they supported and sponsored the arrival of friends and relatives, which has exponentially multiplied Filipino migration to the country.

While network theory has mostly attempted to explain the perpetuation of international migration once it begins, other theories have aimed to understand the reasons why people migrate in the first place. One theoretical approach to the origins of

immigration has been the push-pull model, which examines “factors of expulsion” and “factors of attraction.” Under this model, individuals are propelled to leave their home countries because of lack of employment opportunities and economic hardship, and are drawn toward certain destinations that offer employment and higher wages. This model presupposes that individuals make rational choices on the basis of the information available to them (Harris and Todaro 1970; see Lewis 1954; Massey et al. 1993; Ranis and Fei 1961).

Marxist political economy provides a structural analysis of international migration, which shows a close relationship between the history of colonization, the influence of powerful “core” nations in “peripheral” lands, and the onset of migratory movements from the latter (Massey 2004). Western penetration of former colonies resulted in underdeveloped economies and impoverished populations. These eventually migrated to rich countries in search of better life opportunities. Thus, according to World-Systems theory, international migration follows directly from the globalization of the market economy, where the penetration of capitalist economic relationships into non-capitalist societies creates a mobile population inclined to migrate (see Castells 1989; Sassen 1991; 1998). While sharing with neoliberal theory its emphasis on push factors, Marxist political economy emphasizes the importance of structures as opposed to individual choices and takes into consideration the colonial history of the world economy.

The push-pull model and the structuralist analysis of international migration have mostly aimed to explain the origins and/or reasons for the migratory process.<sup>4</sup> While they point to very important aspects of the causal factors at macro, meso, and micro levels, they do not shed any light on how these factors may be different for women and men. They provide a “gender neutral” explanation of migration that presents the male migrant experience as the norm. In addition, they have largely neglected the role states have in the regulation of out- and immigration. Saskia Sassen has been one of the only authors in the structuralist school linking the effects of global economic policies on women’s migration. As noted above, however, she has mostly focused on the effects SAPs have on women in

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<sup>4</sup> For a comprehensive and in-depth review of migration theories see Massey et al. 1993.

the global South and the way receiving countries regulate the entry of immigrant workers. She has not addressed, however, the explicit policies sending states have created to regulate, manage, and promote out-migration. As Rodriguez (Rodriguez 1999; 2005) has vastly argued, the role of sending states like the Philippines is crucial to understand the shape current migration flows take.

The structuralist and the push-pull model, therefore, do not present a clear explanation on how sending and receiving states may contribute to create and regulate migration flows, as well as the gender components of their policies. For example, Nana Oishi (2005) has pointed out that, while Asian women's migration to the United States and Europe is indeed considerable, far more Asian women are ending up in other countries within Asia. In part, this reflects the restrictive policies industrialized countries have toward low-skilled and unskilled workers.<sup>5</sup> In addition, whereas men emigrate from almost all developing countries in Asia, most women tend to originate in only few countries- the Philippines, Sri Lanka, and Indonesia- despite the fact that other nations such as Thailand, Nepal, India, and Bangladesh share with the former push factors such as high unemployment, low wages, and poverty. Ironically, according to Oishi (2005), "more men emigrate from low-income countries -Bangladesh, India, and Pakistan- but more women emigrate from better-off countries -the Philippines, Sri Lanka, and Indonesia" (Ibid. 5). There is no linear correspondence between high unemployment and women's migration. In addition, the fact that most Asian women are migrating to middle-income countries within the region, rather than going to high-income countries in the West, poses a challenge to structuralist theories that explain patterns of international migration in terms of a country's role in the international division of labor and the exploitation of "periphery" nations by the "core" nations.

These facts reveal the weaknesses in both the push and pull and structuralist models. While the Philippines certainly presents numerous push factors that explain the great numbers of people leaving the country, and these factors often stem from its

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<sup>5</sup> For example, ten times as many Filipino migrants go to other Asian countries as go to North America: 582,584 migrated to Asian countries as temporary migrants in 2001, whereas only 51,308 migrated to the United States and Canada as permanent migrants (Oishi 2005:4).

historical position within the world-system, the same applies to neighboring countries such as Bangladesh. Why then is it that so many Filipino women migrate and Bangladeshi women tend to stay home? Further, while many Filipino women migrate to the United States and Spain as a result of former colonial ties, their destinations have diversified in the past couple of decades, now including as many as 192 receiving countries.

I suggest that the failure of the push-pull and the structuralist models lies in their lack of attention to the state as a key actor in the international migration scenario, and, more specifically, their neglect of the gender components of state regulation of migration. Migration policies apply differently to women and men, and this has a direct impact on the migration profile of each country. Philippine institutionalization of migration through regulatory policy and government promotion of Filipino workers becomes crucial to understanding the massive exodus of female workers from the Philippines in the past three decades. State gender bias continues in the receiving countries. Facing a shortage of reproductive workers, Spanish immigration law prioritizes female immigration and their allocation in the domestic labor niche. U.S. immigration policy does not address the need of the country for reproductive workers. As a result of other mechanisms such as the normalization of illegality and institutional barriers in the labor market, however, female migrants to the United States concentrate in the reproductive labor sector.

A gendered approach to global migration focused on the experiences of migrant women themselves also allows us to challenge traditional categorizations of the immigration policies of receiving countries. Below I present mainstream categorizations of worldwide immigration policies and suggest that taking Filipina migrants' stories as our departure point may present some challenges to mainstream classifications of immigration regimes. The differences between both highlight the importance of studying immigration policy from a gendered perspective and taking women's experiences as the departure point.

Joaquín Arango (2007) has divided receiving countries into three differentiated groups in terms of the restrictive degree of their immigration policies. According to his classification, the first regime accepts only temporary labor migration; the second is quite

restrictive in terms of permanent labor migration; and the third accepts all kinds of immigration. The countries adopting the different regimes, according to Arango, are the following:

- *Middle Eastern and other Asian countries* admit only temporary workers or “contract labor.” In these countries, migrant workers have limited rights. These do not include naturalization, asylum, or family reunification. This model is based on a utilitarian conception of migration, which views migrants solely in terms of their labor power.
- *Western European countries* are also reticent to admit immigrants, but they do grant certain rights to workers from other countries. The dominant flows toward these countries have been consisted of asylum applicants, undocumented migrants, and family reunifications. These countries have also aimed, through the regulation of labor migration, to fulfill labor market demands the local population does not cover.
- *The United States, Canada, Australia, and New Zealand* are the traditional immigration countries. They are characterized by the admission of large numbers of legal immigrants as permanent residents and fully incorporating them into the receiving society.

Arango’s classification reflects the “common sense” categorization of immigration policies among mainstream immigration scholars. I argue, however, that once we consider the way reproductive labor is transferred from the global South to receiving countries, Arango’s categories become questionable. If we take Filipino women’s perspectives and experiences as the starting point, the United States actually is a more restrictive country than Spain. While both countries present their immigration policies in neutral terms- and therefore do not have especial programs regulating the entry of reproductive workers- Spain currently has a policy that allows for women’s autonomous migration as workers. In addition, Spanish family reunification mechanisms, although not problem free, are becoming more liberal. In contrast, a preference of high skilled workers and increasingly restrictive immigration policies are gradually replacing the traditional U.S. emphasis on family reunification since 1965. This may favor the immigration of

high-tech professionals or nurses, but it negatively affects the entry of Filipino reproductive workers.

It is true that among all receiving countries in the world, the United States has the longest immigration history and has received the largest number of immigrants. A large portion of immigrants entering the U.S. each year come under family reunification categories. Yet, waiting periods to obtain family reunification visas can be as much as 25 years, and these are limited to individuals who already have relatives in the United States, which, in the Philippines, is a small privileged middle- and upper-class minority. This means that legal entry into the United States through family reunification channels is barred to most Filipinos. In addition, the United States does not have any labor immigration program facilitating the entry of reproductive workers and is generally very restrictive of the entry of unskilled immigrants. This results in an immigration scenario in which professional and family immigrants, especially those of higher class status, are privileged over unskilled migrant workers, and where there is no special legal mechanism for women (or men) to enter as reproductive workers. Overall, most Filipino women I interviewed outside of the United States perceived this country as being very restrictive, where only the “luckiest ones” go. Most of my respondents currently residing in the San Francisco Bay Area arrived after long waiting periods between their application and their actual migration.

Up to the 1980s, Spain was a labor sending country. Its rapid economic growth and its incorporation into the European Union have made it into one of the main receiving countries in Europe today. While it is true that Spanish immigration policy has been designed fundamentally to regulate the entry of workers local businesses require, the government has recently implemented changes that facilitate long-term permanent residency for immigrants. In response to the existing need for reproductive labor, Spanish immigration policy has favored entry of Filipino women migrating as domestic workers. Spanish immigration policy requires a worker to receive a job offer while she is still in the Philippines. Because for the most part private agencies do not undertake immigration in Spain, it is Filipino women themselves who contribute to recruitment by sharing information among family and friendship networks. This has facilitated the arrival of

Filipinas during the past three decades. A recent liberalization of family reunification policy is allowing women to bring their husbands and children. As a result, the Filipino community in Spain is growing fast and becoming increasingly permanent. While Spain and the U.S. have restrictive immigration policies, an examination of Filipino women's stories sheds light on the ways the policies of both currently shape female migration flows and the strategies Filipino women follow to circumvent, manipulate, and comply with immigration policy in order to achieve their migration goal.

## **5. Dissertation Organization and Chapter Outline**

My dissertation is composed of nine chapters and a methods appendix. The chapters are grouped into five parts. The first part is an introduction, in which I state my research and analytical goals, contextualize my research questions, and explain the organization of the dissertation. The second part is composed of three chapters, which discuss labor migration in the Philippines. The third part is a comparison of how immigration and employment legislation affect Filipino women in Spain and the United States. The fourth is a conclusion in which I summarize the main parts of my analysis and suggest future research paths leading from my current work. The fifth part includes the methods appendix, the in-depth interviews questionnaire, as well several documents and additional information relevant to the substantive chapters. Due to the variety of the literature used for this project, rather than a separate theory chapter I integrate my theoretical discussions into the relevant substantive chapters.

**Part II** is the result of my research in the Philippines and includes chapters II, III, and IV. **Chapter II** provides an overview of the political-economic background and context within which labor export emerged as a development strategy in the Philippines. I then discuss the evolution of the program throughout the past few decades, which highlights the multifaceted and dynamic approach the Philippine government to the regulation of labor migration. I show how the evolution of the labor migration program has responded to an ongoing tension between economic demands, political decisions, and social movement organization demands for the provision of better protections for migrant workers. While labor migration has financially benefitted both the government and the

private recruitment sector since its inception, it has also opened a “Pandora’s box” that has put thousands of Filipinos- usually women- at risk of exploitation and abuse abroad. As a result, the government has had to strengthen its efforts to protect its citizens overseas. Simultaneously, increasing competition in the international labor market has forced it to aggressively market its labor force. This raises issues about the ability of the state to accrue foreign exchange through migrants’ remittances and keep its people safe at the same time. Protection and migration promotion have constituted two crucial axes of public discussion about migration in the Philippines and have also triggered debates on whether labor export is a viable development strategy. Current economic statistics and human development indicators show that no substantial economic and social improvements have taken place in the Philippines since migration was first implemented. I end the chapter by introducing some of the ways in which the government currently portrays labor migration and development and how migrant workers’ organizations incorporate and/or contest official discourses.

**Chapter III** starts with a brief literature review of state theory, particularly Marxist theorization of state hegemony and World Systems analysis of the geopolitical location of peripheral states. The Gramscian notion of hegemony highlights the need of the state to achieve reforms and to enact changes through consent rather than coercion. In addition, a dialectical-structural understanding of the state acknowledges that this responds both to business and pressure from civil society. While the Philippine state for the most part manages labor migration in a way that benefits itself and the private sector, it cannot afford to do so without addressing civil society raises. I describe the widely publicized hanging of a Filipino domestic worker in Singapore to show how this triggered massive reaction against what many people perceived as the government export and exploitation of its own women. In the face of social and political crisis as a result of the hanging, and confronted with a loss of hegemony, the Philippine government created a law, RA 8042, which provided migrant workers with unprecedented levels of protection. The remainder of **Chapter III** discusses some the main provisions of RA 8042. This discussion sheds light on several constraints the government faces in implementing this law and protecting migrant workers. I stress the weak geopolitical position of the Philippine state,

insufficient political will, corruption, and insufficient allocation of resources as the main factors behind the limited ability of the Philippine government to protect its citizens beyond its borders.

**Chapter IV** is a more specifically gendered analysis of Philippine emigration policy. It starts with an analysis of the crisis the 2006 Lebanon War created. Twelve years after the enactment of RA 8042, media exposure of the war showed the rampant abuse and lack of protection Filipino migrant domestic workers suffered in that country. Similar to the impact Contemplacion's conviction and death had on the creation of RA 8042, I argue the "Lebanon Crisis" was one of the main factors behind the 2007 passage of the Household Service Workers' Reform Package by the Philippine Overseas Employment Administration (POEA). I suggest POEA created the Reform Package to deter opposition from migrant workers' organizations and maintain state hegemony. The Reform Package has focused on the professionalization of Filipino domestic workers, salary increase, and other provisions as a means of protection. Due to its inability to protect migrant women, the Philippine government aims to get them better quality jobs abroad, which will supposedly result in less abuse. The Reform Package illustrates increasing efforts of the Philippine government to market its labor force through the creation of a "Filipino Brand." Filipino women are marketed and deployed as elite maids. This further commodifies and objectifies them, and, while it may get them higher wages than immigrants from other countries, it does not empower them as assertive workers who can manage to stay safe. Moreover, it promotes and reinforces submissive and passive attitudes, which construct Filipino domestic workers as feminized and racialized servants. While the Reform Package it is too soon to know what the outcomes of the Reform Package will be, I predict it will fail to protect Filipino women who migrate as domestic workers, particularly in Asia and the Middle East. This is because it does not address the real reasons behind migrant domestic workers' abuse, which lie at the intersection of gender, class, and race dynamics and the systemic exploitation inherent in domestic work.

**Part III** is composed of **Chapters V, VI, VII, and VIII**. In this part I analyze and compare the immigration and employment policies of the United States and Spain,

specifically how these affect the experiences of Filipino migrant reproductive workers in those countries. **Chapter V** introduces immigration policy in Spain and the United States and discusses the ways it has been used (or not) to address the existing “care void.” I suggest that while the Spanish government directly facilitates the entry of immigrant women to fill reproductive jobs, the United States relies on the 10-12 million undocumented workers already in the country to take on these tasks. A comparison of both immigration regimes shows historical differences as well as their differing orientations. While the United States has since 1965 emphasized family immigration, Spain has since the 1980s emphasized labor immigration. Recent changes in the United States, however, indicate this country is gradually moving toward a labor, particularly skilled labor, immigration model. Finally, I provide a historical overview of Philippine migration to both receiving countries as background for understanding current migration flows. While Philippine migration to Spain and the United States are different in terms of gender composition and mode of entry, both can be tracked down to the formal colonial, and eventually neo-colonial, relations the Philippines has maintained with both countries

Building upon the discussion of immigration policy in Chapter V, **Chapter VI** examines how immigration law in each country has shaped the experiences of the women that I interviewed. My interviews with Filipino domestic workers in Barcelona confirm that their most common mode of entry into Spain is through a work contract. While Spanish immigration law has important rigidities in its requirements for legal entry, Filipino women have resorted to different strategies, including mobilization of social networks, to circumvent these rigidities and establish themselves in Spain. In addition, narrow definitions of “family members” in Spanish immigration policy have forced Filipino women to manipulate legal categories in order to facilitate their relatives’ migration. Thus, while Spanish immigration law places a great emphasis on labor and only encourages those migrants who can be useful to the Spanish economy, Filipino women find ways to bend the rules and gradually to reunify their nuclear and extended families. On the contrary, while the U.S. immigration model formally focuses on family reunification and the rights of families to be together, interviews with Filipino women in the San Francisco Bay Area, as well as analysis of different legal documents, indicates

Filipino migrants endure extremely long waiting periods before they can join their families in the United States. This creates a lot of stress on families and sometimes forces them resort to illegal entry mechanisms. In both countries, either directly or indirectly, immigration policy contributes to the concentration of Filipino women in reproductive labor activities.

**Chapter VII** builds on the analysis presented in Chapter VI. While the latter focuses on institutional dynamics, particularly immigration law, to describe the entry of Filipino women in Spain and the United States and their concentration in the reproductive work sector, **Chapter VII** discusses additional reasons for this concentration. These include already existing racially segregated labor markets, institutional and language barriers, and ideological discourses that update colonial constructions of Filipino women and present them as the perfect candidates for reproductive work. In addition, I discuss gender dynamics both inside and outside the household that shape women's incorporation into the new labor markets. I argue that exclusion in the labor market is shaped by, and in turn shapes, gender dynamics. I also examine gender differences in terms of the strategies Filipino women and men follow to cope with exclusion and discrimination.

**Chapter VIII** is an analysis of how employment regulations shape Filipino women's experiences as reproductive workers in both countries. Although in both Spain and the United States reproductive labor is legally recognized as work, its regulation does not provide the same rights as workers in other labor sectors have. In California care givers are exempted from overtime provisions, while Federal Law does not establish a minimum wage for them. In Spain, the regulation of domestic work is separate from most labor activities, and it is rife with ambiguity and legal gaps. I discuss how the under-regulation of reproductive labor in both Spain and the United States echoes the larger trend of decreasing intervention of states in labor markets. In addition, under-regulation of reproductive labor sheds light on particular and complex relationships the state establishes with households. These relationships reproduce larger gender, class, and race dynamics and are an illustration of the role the state has in reproducing power relations.

**Part IV**, which includes Chapter IX, is the conclusion, in which I summarize my main findings and suggest future directions in which research on migrant women and the

state should be taken. The methods appendix in **Part V** briefly explains the data gathering techniques I used. While in-depth interviews constituted my main strategy, my study involved other activities, such as participant observation and analyses of newspaper articles and policies. In this appendix I also reflect on some of the methodological challenges I encountered during my fieldwork, such as the difficulties of accessing undocumented Filipino women for interviews in the San Francisco Bay Area and my inability to verify some stories from interviews in the Philippines due to government or media censorship. I also reflect on my own social location, both on how it helped me achieve my research goals and how it made this task more difficult. Besides my in-depth interview questionnaire, the rest of Part V consists of various tables and documents I find relevant to better understand my research.

## CHAPTER II

### THE PHILIPPINES: BACKGROUND, CONTEXT, AND EVOLUTION OF THE LABOR EXPORT PROGRAM

I thank God for this honor and I express gratitude to my country and government for this opportunity. I accept this distinction with both joy and sadness. There is joy in my heart right now because once again I have proven that there is a reward for hard work, dedication, and excellence. But I am sad right at this moment, I am sad for our country and for our people. I am sad for you fellow graduates. And I am sad for myself. I am sad that the Philippines, the homeland of brilliant, highly skilled and very articulate people is now becoming the number one supplier of cheap labor including domestic helpers into the booming world of global markets. We can kid ourselves by saying that there's nothing wrong with being a domestic helper. Oh come on! I am a domestic worker myself and I'm not ashamed to be so. But then, what? I am looking at the big picture and I am looking at our country and I am disappointed that there is not much hope if we remain there. I am regretful that every single day, no less than 3,200 Filipinos are leaving the Philippines, many of them for good, in the hope of finding jobs that can send our children to school, buy medicines for our sick, repair our dilapidated shanties or pay for all our indebtedness. What happened to the Philippines? Our country is supposed to be the Pearl of the Orient Seas. In 1961, many Malaysians used to envy the Filipinos. They dreamt of study in UP, La Salle, or Ateneo. Today, Malaysians are the employers of Filipino domestic helpers. They have sent an astronaut into space, while the Filipinos are still quarrelling about government contracts and alleged rigging of elections.

Address by Ophelia A. Beto, Filipino domestic worker in Malaysia (in The Philippine Daily Inquirer, 11/07/2007)

#### 1. Introduction

In this chapter I outline the framework in which Philippine labor migration can be inserted. The enactment of neoliberal policies in the Global South, including Structural Adjustment Programs, and a discussion of their social and economic effects, constitute the first section. Once I provide this framework, I review the evolution of the Philippine

economy since the beginning of the 20th century until the 1980s, and suggest that colonial and neocolonial relations, perennial foreign debt, and the implementation of Structural Adjustment Programs have been its main features. Special attention is given to the effects of neoliberal policies on Filipino women. A further examination of the economic policies that different administrations between President Marcos and the present have adopted sheds light on a continuation of the trend toward liberalization, privatization, and deregulation. While the predominance of political corruption in the Philippines has been an important factor behind economic crises in the country, I provide in the next section an explanation for economic stagnation that is not exclusively based on corruption. Both internal and external factors are relevant, and these include corrupt politicians as well as structural changes imposed from the United States and International Development Institutions. The analysis of the political-economic conditions of the Philippines during the past few decades is meant to provide a framework within which I analyze the emergence of labor migration as an economic development strategy in the country. Subsequent sections, thus, examine how the Labor Export Program was created in the early 1970s as a response to high unemployment rates and severe social opposition to the Marcos regime. Initially thought of as a temporary development strategy, labor export has become increasingly institutionalized. Its key role in the Philippine economy and social movement organizations' increasing demands for migrant protection have forced the Philippine government to adopt protective measures to maintain the legitimacy of the overseas employment program. Also, in a context of increasing competition among labor-sending states for a share in the international labor market, the Philippine government has become increasingly aggressive in its deployment efforts, and has adopted diverse measures, such as marketing its labor force, that have turned it into a *broker state*. These sections introduce what will be a more in-depth discussion of the Philippine government role in labor migration in Chapters III and IV.

In addition, the continuation and growth of the labor export program more than three decades after its implementation has made social movement organizations question its temporary nature. A lack of substantial improvement in economic conditions of the country has provided labor export the role of permanent development strategy. It is not

clear, however, whether it is actually working as such. In the latter sections of the chapter, I illustrate how both the government and social movement organizations currently view migration. I shed light on government efforts to preserve the legitimacy of the program and migrant workers organizations' claims that substantial changes need to be enacted in order to improve economic conditions in the Philippines. According to the latter, migration presents high social costs and development has not taken place since its inception. Their eventual goal is to work toward economic and social conditions that will allow Filipinos to stay and work in their homeland.

## **2. Political-Economic Background**

### **2.1. The Neoliberal Era and Structural Adjustment Programs**

The 1970s witnessed a world recession with devastating effects on the economies of so-called developing countries.<sup>6</sup> Eager to invest increased deposits from the oil boom, Western banks offered low interest loans to Southern countries. To a great extent, these used the loans to finance their imports, perpetuating, therefore, the indebtedness of the South to the North and severely limiting economic growth in the Global South.

Between 1980 and 1982 Southern governments continued to borrow money to finance their growing trade deficits and debt. Increasingly high interest severely impacted the ability of underdeveloped countries to pay back their loans. Facing severe budget deficits, many countries turned to the International Monetary Fund and the World Bank for assistance. These were willing to loan money and reschedule debt payment on the condition that governments applied economic reforms. The reforms Southern countries had to adopt are known as Stabilization and Structural Adjustment Programs (SAPs). These have been applied until the present and have required governments to prioritize export production, remove trade and investment barriers, and balance their budgets through cuts in public spending.

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<sup>6</sup> There is no consensus around the denominations used to describe “developing” and “developed” countries. Throughout this dissertation, I use developing, underdeveloped, peripheral countries, and global South interchangeably. Similarly, I use developed, industrialized, Western countries, countries at the center, and global North as synonyms.

SAPs have been a component of the broader economic perspective known as neoliberalism, which argues the free market system is the best mechanism to create wealth and jobs and increase people's living standards (see Gibson-Graham 2005). Neoliberalism expects state intervention in the economy to be minimal. Since the 1980s, free trade, privatization,<sup>7</sup> and the liberalization<sup>8</sup> of local economies were seen as key tools to create sustainable growth (see Friedman 2000; Fukuyama 1992). In addition, countries should specialize in those products they could produce most cheaply and efficiently. In the Philippines agricultural goods such as sugar and coconut were encouraged, and the absolute land area used for domestic food crops actually declined. The shift in land allocation had mid- and long-term effects on local farmers' subsistence and their economic strategies (see Sassen 2004). Also, the strategy of relying on primary exports, was flawed, as the total value of exports declined with the fall in commodity prices (Montes 1991), and oil prices and interest rates increased sharply (see De Dios and Rocamora 1992).

SAPS have not always created the significant economic growth predicted, and poverty and unemployment have increased under them. They have not alleviated the debt of the developing world either, which was of \$1.5 trillion in 1993 (Witness for Peace 2003; see Sassen 2003). During the 1980s a steady flow of wealth from the South to the

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<sup>7</sup> Privatization meant the conversion of public enterprises into private ones. The idea behind this was to unburden the government from inefficient enterprises, which, in turn, would become more profitable being operated by the private sector under the logic of free competition. Prices were expected to go down and labor would have more incentives. According to Joseph Stiglitz, former Vice President of the World Bank, the problem with this measure was that it was often done too quickly and as an end in itself rather than as a step to achieve growth. The reality is that it brought decreases in the quality of services, increases in prices, as well as the deterioration of working rights and conditions (see Bello et al. 2004; Stiglitz).

<sup>8</sup> Liberalization has meant, under the IMF definition, the suppression of public interference in financial and capital markets and trade barriers. The goal has been to promote efficiency as well as attract foreign investment to indebted and stagnated countries. One of the problems with liberalization has been that, while Western institutions have required it from Southern countries, Western countries have been selective in their application of this measure. Trade liberalization in the South, therefore, has not been fully reciprocated in the North. Goods produced in the South have often not been able to compete with foreign ones in their own market and have not been allowed entry into foreign markets due to selective liberalization (see Bello et al. 2004; Stiglitz 2002). In addition, drastic liberalization of financial and capital systems has meant, particularly in Southeast Asia during the late nineties, that when economies have slowed down, foreign capital has been able to flee overnight, leaving those countries to face their crisis on their own.

North took place. Foreign debt and the policies designed to address it during those years had devastating effects on the lives and living standards of millions of people.

## **2.2. The Philippines: Perennial Debt, Structural Adjustment, and Neocolonialism**

All [Philippine] consulates in the world, they are an agent of the Filipino government to look for investments, foreign currency and that, because the policy of the Filipino government is to develop the Philippines through debt. So instead of developing our [country] and finding resources for the Philippines they would rather go [in]to debt. [But] what happens to our resources?<sup>9</sup>

The endemic negative trade balance of the Philippines and its debt-servicing problems have seriously undermined the economic growth of the country for the past four decades (see Chang 2004). According to De Dios and Rocamora (1992), the painful Philippine experience with debt results from three key factors: first, the dependency relationship existing with the United States, which has actively promoted the “growth-through-borrowing” philosophy; second, U.S. “protection” of the corrupted and totalitarian Marcos administration; third, the constant use of the Philippines of loans and neo-liberal policies to address economic crises. This has facilitated the dramatic and unbearable indebtedness rates of the Philippines.

In order to understand how neoliberal policies have shaped the Philippine economy, we need to take a historical approach that goes back to the early 20<sup>th</sup> century and considers the colonial relationship between the U.S. and the Philippines. According to Fulleros and Lee (1989), it was during U.S. occupation that the Philippines saw the beginning of the concentration and accumulation of land by Filipino landowners.<sup>10</sup> During this time wealth also became concentrated within a small elite of local and foreign- particularly U.S. - firms.

As early as 1909, the two countries agreed on the Payne-Aldrich tariff, which opened up free trade between them. Having been granted parity rights, U.S. multinationals operating in the Philippines were able to export their goods to the United

<sup>9</sup> Fieldnotes, Philippines, April 2007

<sup>10</sup> Land concentration had already taken place during Spanish colonization and the implementation of the *hacienda* system, but this was mostly done by the Catholic Church and the colonizers from the metropolis. It was the U.S. who “returned” the land to Filipinos (Wurfel 1988).

States and enjoyed privileged access to the Philippine market and goods. The Philippines was to remain an exporter of cheap agricultural goods, such as coconuts and sugar, and an importer of finished goods (Fulleros Santos and Lee 1989). This arrangement favored the creation of a dependent Philippine economy, a chronic trade and balance of payments deficit, as well as a weak national industry. Also, export orientation and foreign capital and import dependency required low wages from the very start in order to make export products competitive and favor foreign investment (Wurfel 1988).

In the mid 1940s, having been the most severely devastated South-East Asian country during WWII, the Philippines needed over one billion U.S. dollars in aid. The United States imposed some conditions to provide this postwar reconstruction assistance. These included the alteration of the Constitution to give U.S. citizens equal economic rights and parity with Filipinos in the exploitation of natural resources, as well as other measures to solidify military and economic ties between the two countries (Wurfel 1988). As the Philippines' main trade partner, the U.S. provided bilateral development and private loans for decades (Wurfel 1988:59). The main outcome was the creation and perpetuation of a dependent neocolonial relationship. The 1950s saw various attempts to change these trends through import-substitution industrialization. However, the U.S. government and the local agricultural elites sabotaged them and the 1960s continued to see an increasing reliance on U.S. capital. The decade of the 1970s started with government overspending during presidential elections, corruption, and the outflow of capital to the United States (Fulleros Santos and Lee 1989). The resulting economic problems were met by further international borrowing. Conditions for such loans included lowering tariffs, decreasing social expenditures, and currency devaluation. Despite these reforms, the Philippine economy steadily deteriorated throughout the following two decades as a result of the sharp increase of the costs of imported oil and the 30% decrease in the world price of coconut and coconut products. Almost simultaneously, the world price of sugar, the Philippine second most important export, hit a ten year low. GNP and GDP growth rates went down to 2.6% in 1981 and -4% in 1985 respectively, and the real annual growth in per capita income dropped from more than 2% to zero (Wurfel 1988:238). Facing trade deficits and a balance of payments crisis in 1983,

(Montes 1991), the government continued to borrow heavily,<sup>11</sup> particularly from U.S. banks, the IMF, and the World Bank. Due to the international credit market recession in the late 1970s, the loans presented increasingly higher interest rates and shorter payment terms.

Public sector debt also continued to increase due to government lending to the private sector. In a context where corruption permeated the relationship between business and the political class, many of these loans were never repaid and were rarely used to enhance local industry or agriculture (Ibid.7). The 1980s were also marked by galloping inflation, rampant unemployment, and a predictable foreign capital flight (Constable 1997; Wurfel 1988). Many companies shut down, which resulted in massive lay-offs of workers. In addition, import liberalization and currency devaluation increased basic need products prices and therefore further impoverished the Filipino people. As more borrowing from the World Bank and the IMF became necessary throughout the 1980s, these institutions included other conditions such as wage depression, labor force restructuring, and the limitation of trade union rights, and have, therefore, penetrated the core of policy formulation. They have imposed constrictions consistently focused on the reduction of state intervention in the economy. Compliance with IMF-WB structural programs has reinforced the old dependent economic structure and has promoted privatization, semi-industrialization, further import liberalization, foreign loans, and export dependence.<sup>12</sup>

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<sup>11</sup> From 1970 to 1983, Philippine foreign debt increased from \$2 billion to \$24.6 billion (Fulleros Santos 1989).

<sup>12</sup> Semi-industrialization was promoted through the creation of Free Trade Zones, also triggered by the country's low wages and the existence of a large pool of unemployed and underpaid men and women. In addition, FTZs did not bring industrialization, since they reprocessed imported goods for export for the most part. This meant the creation of a- government funded through additional debt- industry that does not allow the profits to stay in the country and employed hundreds of thousands of workers, often women, who suffered long shifts, unhealthy working conditions, and low wages. The expansion of FTZs was accompanied by IMF and government promoted tourist development as an economic strategy. Manila took over from Bangkok as the cheap sex capital of South East Asia while the Marcos administration encouraged sex tourism as an attractor of foreign exchange toward debt payment. This, not very differently from the labor export program, meant an institutionalization of the exploitation of women as a response to the country's economic hardships.

### 2.3. The Post-Marcos Era

The underlying pattern in all presidencies since Marcos' replacement by Aquino has been weak state intervention, the prevalence of neoliberal policies, and free-market policies as a way to further incorporate the country in the world economy and satisfy its foreign partners, particularly the U.S. This has resulted in a gradual dilution of the *public function*<sup>13</sup> of the Philippine state and the perpetuation of unemployment and social crisis (Bello et al. 2004).

Although particularly prominent before and during the Marcos years (1965-1986), the economic patterns discussed in the previous section have continued through the present. Economic stagnation did not stop with Marcos' removal. While the Philippines saw the restoration of a democratic system with the election of Cory Aquino in 1986, the nature of her economic policies did not substantially vary from her predecessor's. Aquino (1986-1992) failed in key projects such as land reform, and she prioritized the payment of the debt Marcos accumulated (see Bello et al. 2004; Collins 1989). This perpetuated dramatic social inequalities and continued to bleed the coffers of the country, limiting thus resources necessary for meaningful reforms. Her successor, Fidel Ramos (1992-1998), in line with neoliberal ideology and developing plans such as Philippines 2000,<sup>14</sup> aimed to trigger economic growth by further liberalizing trade, deregulating the Philippine economy and privatizing state and state-run enterprises. Far from bringing growth, however, his reforms left the country in a dreadfully vulnerable situation when the 1997 Asian crisis hit, with the government powerlessly watching while speculative foreign capital fled and brought down the economy (Bello et al. 2004).

Gloria Magapacal Arroyo, the current president, has also failed to provide social and structural reforms that would address the rampant poverty and social unrest in the

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<sup>13</sup> I choose to talk about the dilution of the state's public function rather than erosion of the state itself. While neoclassic economists have long announced the demise of the state in the era of globalization, I claim here that the state remains a very relevant actor. Rather than disappearing, the state has shifted its priorities, and this has typically resulted in an undermining of its public service dimension in favor of its support to the private sector of capital.

<sup>14</sup> Philippines 2000 was a development plan aimed to uplift the Philippines as a newly industrialized country by the year 2000. According to Kim Scipes, "Ramos stated his goals for the end of his presidency in June 1998: to raise per capita income to 1000 U.S. dollars; for the economy to grow by at least 6 to 8 percent, and for the poverty rate to decline to at least 50 percent. He missed all three" (Scipes 1999).

country. In fact, under pressure from the World Bank, the IMF, and the Asian Development Bank, one of Arroyo's first important policy initiatives was the privatization of the state-owned power-generation firm (Ibid. 221), which resulted in higher prices and decreased quality of services. More recently, she introduced the EVAT (Expanded Value Added Tax), which taxes basic need products. This has had severe effects on the poor, in a context of perennial economic crisis. In addition, her numerous opposers have featured her as the "Number 1 puppet of the U.S. government"<sup>15</sup> due, among other things, to her military protection of U.S. investments in the Southern region of the Philippines and her unconditional support of U.S. Anti-Terrorism policies.<sup>16</sup> Politically, bloody and corrupted elections, political repression, and rampant violations of human rights against progressive politicians and activists have characterized her presidency.

#### **2.4. Beyond the Corruption Argument: External Factors**

If we are to understand the factors behind economic crisis and debt in the Philippines we need to adopt a multi-approach analysis that takes into consideration dynamics going on both within and outside the Philippines.

Debt, as I have argued, has been crucial to preventing sustainable growth. Debt has been identified with both an unfavorable economic and geo-political location as well as with scandalous corruption. In that sense, as James Henry argues, the "debt problem" is not only a question of too much foreign borrowing but also a question of what was done with the money" (1992:3). A substantial portion of the Philippine debt has, indeed, stemmed from mismanagement of reserves that ended up in unproductive investments and failed policies at home or "crony" capital abroad. In addition, the dependent and weak nature of the Philippine state has translated into the absence of necessary policies such as land reform, as well as an excessive reliance on traditional, profitless exports, the inability to collect substantial tax revenue, mismanagement of foreign aid, and inability to renegotiate the terms of the payment of one of the most fraudulent debt legacies ever (see

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<sup>15</sup> Fieldnotes, San Francisco, May 2006

<sup>16</sup> Interview 5, Philippines, Migrant Workers Organization, May 2007

Bello et al. 2004; De Dios and Rocamora 1992). The government, especially during the Marcos years, used many of its funds to finance private debt and lend to the private sector, which further increased the public sector debt.

According to Bello, besides “crony capitalism,”<sup>17</sup> the problem resulting from the creation and mismanagement of foreign debt speaks to the weak and anti-developmental nature of the Philippine state, which has constantly been captured by upper-class interests. This has “prevented the emergence of the activist “developmental” state that has disciplined the private sector in other societies of postwar Asia” (Bello et al. 2004:3). In other words, the root problem has not only been a corrupt state but also a weak one that has consistently complied with the economic restructuring U.S. dominated international financial institutions have designed rather than coming up with development strategies focused on its people. The distinction between a corrupt and a weak state is key, since it introduces a useful nuance that complicates the study of Philippine political economy. While the Philippine government- before, during, and after Marcos- has been characterized by rampant corruption that deserves condemnation, the idea that corruption is to blame for Philippine underdevelopment is misleading and distracts us from the real reason: neoliberal policies (Bello et al. 2004:243), both at home and overseas. The discourse that equates poverty with corruption blames stagnation in the South on the depravity and avarice of its corrupt politicians, bureaucrats, and business people, and it does not acknowledge that corruption has been common in countries like the United States as well. While keeping in mind the dimensions and context of each situation, one question that could be posed is: Why is Philippine corruption used to explain economic crisis in that country while ENRON, for example, has apparently nothing to do with social inequalities in the United States?

The “corruption discourse” has a racializing- and racist- component, that portrays corruption in the South as generalized and chronic, while in the North it only appears in isolated and deviant cases. In other words, in the North it is the exception; in the South it

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<sup>17</sup> Crony capitalism refers to a capitalist economy where success in business depends on close relationships and connections between businessmen and government officials. It may translate into favoritism in the allocation of special tax breaks, government grants and subsidies, and legal permits, among others.

is the rule. I suggest that the individualizing effects of the corruption discourse run parallel to the ideological construction of poverty in the Global South as stemming from its inability to follow neoliberal economic policies. Blaming poverty on local politicians' failure to implement Western-imposed economic logic, as well as on Third World people's backwardness, is ahistorical. It does not take into consideration the roots and conditions of peripheral countries' incorporation into the world economy or the disastrous effects neo-liberalism has had on them. Far from analyzing neoliberalism as part of the problem, it presents it as the solution.

Moreover, if political corruption is the problem, then state shrinking is in order, and this has been at the core of neoliberal mandates. Indeed, the "corruption discourse" is politically charged since it advocates the weakening of the state and absolves external players (i.e. the United States government or the IMF) from any responsibility they may have in how events have developed in the Philippines. According to this logic, poverty in countries like the Philippines has little to do with SAPS (Bello et al. 2004) or abusive trade agreements, but everything to do with local politicians' greed.

While it is important to understand the political and economic constraints the Philippines has faced due to its geopolitical position, the Philippine government is not powerless. As I discuss in the next two chapters, despite the historical limitations imposed on it, its policy making has also been an outcome of its own political decisions, which have been often masked *behind* and *as* economic imperatives. In other words, compliance with external impositions is ultimately a choice, and a very political one. I suggest throughout the next chapters that political priorities, the geopolitical position of the country, and corruption constitute three factors in the shaping of the Philippine political-economic situation, including the contours the regulation of labor migration has taken.

## **2.5. Neoliberalism and Women**

In this section I examine some of the effects neoliberal policies in the Philippines have had on women and how they have, therefore, acted as an indirect factor behind female out-migration.

Despite the official intention to promote economic growth, SAPs have mainly functioned to open up the economies and peoples of developing nations to exploitation (Witness for Peace 2003). According to Chang (2000) and Sassen (2003), SAPs hit women in developing countries the hardest, since their role is central to the productive and reproductive aspects of the economy and to the welfare of families and children. As a result of decreased government spending on health, food subsidies, education, and the imposition of export-oriented agriculture, women often take on extra burdens to be able to sustain their families. More often than not, despite these efforts, women fail and are left with no other option but to leave their families behind and migrate in search of work. Hundreds of thousands of women migrate every year from the Global South to work as servants, service workers, and sex workers in Canada, Europe, Japan, the Middle East, and the United States (Chang 2004). Filipino women are not an exception. At the end of the 1980s, 70% of Filipinos were reported to be living in absolute poverty, the majority women and children, both in the rural and the urban areas. The growing numbers of single women-headed households were among the poorest in the early 1990s, when the Philippines was the only Asian nation that continued to register a decline in average living standards.

With the low government priority given to social services, shrinking national budgets and bureaucratic 'streamlining' have had a direct impact on women in the Philippines. Cutbacks in the public sector labor force in the 1980s adversely affected the 'social wage' and quality of services. In January 1988, 300,000 local government employees in Quezon City were laid off, and two million employees at the national level risked losing their jobs as a result of retrenchment. Since the national and local bureaucracies have been the single biggest employers of women, they were the majority among those losing their jobs. An increasing school population ran parallel to a decrease in the number of teachers and growing school and college fees. The majority of teachers in the Philippines are also women. They usually have low wages and poor working conditions. Since the 1980s, many female teachers have made the choice to go overseas as domestic workers for higher wages. Several of my interviewees both in Barcelona and San Francisco had indeed completed a college degree in education and had worked as

teachers before they migrated overseas. In this context, as Fulleros and Lee have argued, the decision to go overseas has been a strategy triggered by the negative impact of government policies.

SAPs have also had an impact on subsistence agriculture. Small farmers have not been able to compete with international prices and rural wage laborers have lost their jobs. Women do over 50% of all farm work in the Philippines. The liberalization policies the Philippine government has adopted have had a dramatic effect in decreasing the competitiveness of women's products in relation to the lower cost of imported goods (See Fulleros and Lee 1989). This has resulted in a decline of family income, which harms the access to health needs, water, electricity, clothing, food, transport, school fees and other commodities and services.

The impact of economic crises on the countryside has fuelled migration to the cities, but internal migrants' needs for affordable housing in cities like Manila or Cebu have not been met. This has resulted in slums, an urban squatter population, and minimal sanitary conditions. In addition, a weak manufacturing sector and high unemployment have limited women's subsistence possibilities in the urban areas to the informal economy, prostitution, and international migration, among others<sup>18</sup> (Fulleros and Lee 1989:35).

Women and children in the Philippines also have had the highest incidence of poverty-related illnesses. For example, in the late 1980s, almost 80% of children under six were suffering some level of malnutrition. Nutritional anemia affected 48.7% of pregnant women, 37.2% of non-lactating mothers and non-pregnant women aged between 13 and 59 (See Fulleros Santos and Lee 1989). The debt problem and privatization have worsened the already deteriorating health situation because of growing prices for medicines and services stemming. Health has remained a low priority in the national budget, constituting 4.4% in 1983 and 3.72 in 1987 (Ibid.30).<sup>19</sup> This has resulted

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<sup>18</sup> In 1960, the informal economy was estimated to be contributing 26.7% of the GNP, rising up to 42.21% in 1973, and 48.18 in 1988 (Fulleros and Lee 1989).

<sup>19</sup> The health expenditure of the Philippines in terms of percentage of GDP per capital in 2002 was 3%. As indicators of a larger context where Philippine health expenditure can be understood the following are the % GDP per capital spent by few developed countries in 2002: Spain 7.3%; Denmark 8.8%; Sweden 9.1% . See 2002 World Bank data on: <http://ddp->

in overloaded and understaffed public hospitals and health clinics. In addition, nurses' poor working conditions and low wages, similarly to teachers', have forced them to find employment overseas. The same has been the case with doctors, who have often migrated to the United States or other countries facing a shortage of health professionals. This has further worsened the conditions of the Philippine health sector and has constituted an increasing brain-drain. This scenario suggests a variety of push factors that explain why Filipino people, and particularly women, have needed to work overseas in order to support their families. Economic policy and the particularly severe impact of macroeconomics on women, together with an increasing international demand for labor in feminized positions such as domestic work, help to explain why in the past two decades labor migration in the Philippines has been increasingly feminized.

### **3. Labor Export in the Philippines**

Objective economic conditions, political turmoil, and macroeconomic policies in the Philippines give us a framework to understand the exit of millions of people in order to find work overseas. Nevertheless, what makes the Philippine case unique is that labor migration has been encouraged and orchestrated by the government since the 1970s. In this section I discuss what the direct role of the Philippine government has been in this process.

#### **3.1. Labor Export as a Temporary Development Strategy**

During the late 1960s, both the United States and Canada started to liberalize their immigration policies, particularly in family and professional categories (à Nijeholt 1994). In the context of slow job creation, many Filipino professionals started migrating to these countries. The Philippine government understood their exit and consequent "brain-drain" as an important safety valve for middle-class discontent and did not discourage it. By 1969 7% of all Filipino college graduates were taking up permanent residency overseas (Wurfel 1988:67). Simultaneously, due to the 1970s oil boom, many Middle Eastern

countries started opening up their labor markets and increasing their demand for foreign workers to conduct their infrastructure and construction projects.

It was at this juncture that the Marcos administration began labor export to boost the Philippine economy (Rodriguez 2005). This strategy was institutionalized with the formulation of the 1974 Philippine Labor Code, in which the government started to pursue a policy of encouraging overseas employment (Raj-Hashim 1994). The Labor Code particularly “recognized the role of overseas employment in absorbing excess domestic humanpower (Article 17, Chapter I)” and guided the active participation of the government in the enterprise (Asis 1992:69). The goal was, by taking advantage of changing global employment opportunities, to reduce unemployment levels and to address the balance of payment problems through mandatory remittances (Carino 1992; O’Neil 2004).<sup>20</sup> This was symptomatic of the central role labor migration was taking in the economy of the country. Presidential Decree 442 provided for the creation of the Overseas Employment Development Board (OEDB) and the National Seamen Board (NSB), which became responsible for market development, recruitment and placement, and securing protection for Filipino overseas workers (Tigno et al. 2000). At that point, the government was handling labor migration, and the private sector was not allowed access to the business. This changed in 1978 when, due to the increasing demand for Filipino workers overseas<sup>21</sup> and privatization trends, the government relegated most of the recruitment and placement of Filipino workers to private agencies (Raj-Hashim 1994).

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<sup>20</sup> As the economic situation of the country worsened, the government increasingly emphasized the need for the workers’ to remit foreign exchange earnings through official financial institutions. In fact, it was recognized that noncompliance by overseas workers to remit through official channels had negatively affected the country’s balance of payment and development programs. Given this, EO No.857 stated that failure to comply with this requirement would lead to nonrenewal of passports, nonrenewal of employment contracts, suspension from the list of eligible workers for overseas employment and even repatriation from the job for those who repeatedly violated this requirement (Asis 1992). As a response, eleven organizations in Hong Kong came together and protested the Executive Order. They were followed in 1985 by organizations in Canada, Saudi Arabia, and other countries. Due to this pressure coming from migrant workers, on May 1<sup>st</sup> 1985 President Marcos announced that those punitive provisions would be repealed but not the Executive Order. The punitive measures, thus, were replaced by a system of incentives in 1989.

<sup>21</sup> In 1975, the government processed 36,035 contracts. By 1978 the figures rose to 88,241, more than doubling the 1975 level.

In 1982, with the approval of Executive Order 792, the OEDB and NSB were replaced by a single state agency, the Philippine Overseas Employment Administration (POEA). POEA was mandated to undertake a systematic program for promoting and monitoring the overseas employment of Filipinos and to oversee cases involving contract workers. Additionally, this agency erected as the main regulatory body of the migration process, in charge of setting standards Filipino migrants were expected to follow in order to *legally* migrate. These included, among others, maximum placement fees, standard labor contracts, and minimum wages.

### **3.2. From Labor Exporter to Protector State**

Between 1975 and 1982, the total number of workers processed for foreign employment increased by 1,900%, growing from 12,501 to 250,115. The contract migrant workers leaving the Philippines in this initial period were mostly young men going to the Middle East as construction workers. During the late 1980s and the 1990s male migrants were joined and eventually outnumbered by women (Battistella 1999; Heyzer and Wee 1994; Lycklama 1994). Women composed 74% and 72% of Filipino migrant workers deployed in 2004 and 2005 respectively (see Table 1.1.). In 2006 household workers constituted the largest migrating group (see Table 1.2). Since 1998, as Table 1.3 shows, women have been a great majority among migrants working in the service sector, which is explained by the relevance of domestic work as a labor destination for many Filipino women. This has been a response to local women's entry in the labor force in Asian, Middle Eastern, and Western countries, which has created a "reproductive or care void," and the resulting changes in the immigration policies of these countries (Kanlungan 2005). It has been migrant domestic workers, often Filipinas, who have taken their place as mothers, caregivers, and workers in the home.

**TABLE 2.1. Deployment of Newly Hired OFWs by Sex**

	<b>Female</b>	<b>Male</b>	<b>Female %</b>	<b>Total</b>
1998	133,458	85,757	<b>60,88%</b>	219,215
1999	151,841	85,421	<b>64%</b>	237,262
2000	178,323	74,708	<b>70,75%</b>	253,031
2001	186,018	72,186	<b>72,04%</b>	258,204
2002	208,278	77,851	<b>72,79%</b>	286,129
2003	175,103	66,408	<b>72,50%</b>	241,511
2004	208,411	72,064	<b>74,31%</b>	280,475
2005	205,206	79,079	<b>72,18%</b>	284,285
2006	184,454	123,668	<b>60%</b>	308,122

Source: POEA 2006

**TABLE 2.2. Newly Deployed Overseas Filipino Workers. Top 10 Occupational Groups 2006**

	<b>Male</b>	<b>Female</b>	<b>Total</b>	<b>% of Total</b>
Household and Related Workers	1590	89861	91451	29.7%
Factory and Related Workers	30544	12690	43234	14.0%
Construction Workers	40178	2862	43040	14.0%
Medical Related Workers	2650	15081	17731	5.8%
Hotel and Restaurant Related Workers	6210	9483	15693	5.1%
Caregivers and Caretakers	842	13570	14412	4.7%
Building Caretakers and Related Workers	2103	10191	12294	4.0%
Dressmakers, Tailors, and Related Workers	375	7456	7831	2.5%
Overseas Performing Artists	709	6722	7431	2.4%
<b>TOTAL DEPLOYMENT- New Hires</b>	<b>123688</b>	<b>184454</b>	<b>308142</b>	<b>100.0%</b>

Source: POEA 2006

**TABLE 2.3. Deployment of Newly Hired OFWs in the Service Sector by Sex**

	<b>Female</b>	<b>Male</b>	<b>Female %</b>	<b>Total</b>
1998	73048	7627	<b>90,54%</b>	80675
1999	76792	7346	<b>91,26%</b>	84138
2000	83794	7412	<b>91,87%</b>	91206
2001	83951	8400	<b>90,90%</b>	92351
2002	88082	9292	<b>90,45%</b>	97374
2003	76296	7725	<b>90,80%</b>	84021
2004	101595	11261	<b>90,02%</b>	112856
2005	123241	10666	<b>92,03%</b>	133907
2006	128186	16135	<b>88,82%</b>	144321

Source: POEA 2006

As overseas employment sped up and became increasingly feminized, and due to the lack of provisions in the Labor Code regarding workers' welfare and protection, 1987 saw the creation of the Overseas Workers Welfare Administration (OWWA). OWWA became the main state agency in charge of providing protection to migrant workers. The creation of OWWA took place in the context of increasing media and social movement organizations' exposure and denounce of the grave abuses Filipino migrant workers, particularly domestic and entertainment workers, suffered. OWWA was erected as the main agency in charge of protecting workers overseas, through the provision of welfare services, both at home and abroad. In addition, POEA, as the state regulatory agency of labor migration, aimed to establish certain minimum conditions in standard labor contracts. These standards targeted Filipino recruitment agencies, foreign employers, and even foreign governments, and were meant to provide protection to Filipino migrants through regulation of their labor overseas. These have included, among other conditions, two-year contracts, \$200 monthly salary, 1 rest day per week, free transportation to host country and back to the Philippines, and free suitable and adequate food and lodging<sup>22</sup> (POEA 2006c). Also in 1987, as I discuss in Chapter III, after conducting an investigation on the labor conditions of Filipino domestic workers in Asian and the Middle East and finding out about the severe abuses that they suffered, President Aquino imposed a temporary world-wide ban on the deployment of Filipino domestic workers.

A growing discussion about the social costs that female migration had at home (i.e. children being raised without mothers) took place in this context. In spite of increasing problems, both at home and overseas, President Aquino, as well as all subsequent administrations, embraced labor migration as a way to keep a battered economy afloat and recognized the economic contributions of migrant workers by naming them "modern-day heroes." Simultaneously, social problems associated with massive migration, particularly its feminization, such as broken families in the Philippines or abuses that

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<sup>22</sup> Other conditions required by the contract have been free medical and dental services; minimum of 15 days paid vacation leave per year of contract; free round-trip plane ticket in case of contract renewal; personal life; accident and medical insurance; in case of death, repatriation of remains by employer; assistance in remittance earnings; grounds for termination by the employer; grounds for termination by the worker; termination due to illness; settlement of disputes machinery; change of contract only with Philippine embassies approval; and the application of labor laws of host countries (POEA 2006).

female workers suffered overseas, helped to create a new policy orientation toward workers' welfare and protection (see Tigno et al. 2000). In 1995 Flor Contemplacion, a 42 year old Filipino domestic worker in Singapore, was convicted by a Singaporean court of killing another Filipina domestic worker and her employer's three year old son (see Gonzalez III 1996; Kanlungan 2006b; 2006c; Nuqui and Josue 2000; Philippine Migrants Rights Watch 2003). There were massive protests in several countries supporting Contemplacion's innocence and asking the Philippine government to intervene on her behalf. Despite international public pressure and President Ramos' plead for her life, Flor Contemplacion was hanged on March 16<sup>th</sup> 1995. (see Gonzalez III 1996; 1998; Kaibigan 1996; Nuqui and Josue 2000; Oishi 2005; Rodriguez 2002; 2005; Tigno 2004; Tigno, Rye, and Macablog 2000). Facing an upcoming national election, and given the political crisis and social pressure generated by Contemplacion's story, president Ramos urged Congress to complete a law that would address the challenges, dangers, vulnerabilities, and abuses faced by migrant workers.

This was the context in which *Republic Act 8042* or the *Migrant Workers and Overseas Filipinos Act* (hereafter referred to as RA 8042) was born. Since its passage in 1995, RA 8042 has constituted the most comprehensive protective mechanism for Filipinos abroad, and more specifically for women. While the Philippines had been a pioneer in the institutionalization of labor migration for over a decade, RA 8042 formally incorporated workers' protection as a core component of government regulation. The creation of this legal framework made the Philippines the first Asian sending country to have a piece of legislation that explicitly provides migrant workers with protection, such as welfare offices in the Embassies and the creation of repatriation funds. As I discuss in Chapter III, nevertheless, the implementation of RA 8042 has been highly problematic, and abuses have continued to take place. POEA's passage of the *Household Service Workers Reform Package* in 2007 was meant to increase the protections RA 8042 provided. It aims to do so through the professionalization of Filipino domestic workers, or their constitution as *Supermaids*. This Package, which I analyze in Chapter IV, has established unprecedented standards for Filipino migrant domestic workers.

At present, the country is the primary exporter of human resources in the “Third” World (see Beltran and De Dios 1992), and agencies such as POEA and OWWA have become models for other Asian labor-sending countries. The labor migration program in the Philippines is considered one of the most organized in Asia, providing programs and services to migrants at all stages of the migration process- i.e. pre-departure, on-site, return, and reintegration- (see Asis 2005b) both *within* and *beyond* Philippine borders. As of December of 2004, an estimated 8.1 million Filipinos- nearly 10 percent of the country’s 85 million people- were working and/or residing overseas (Asis 2006).<sup>23</sup> 2006 witnessed the deployment of over 1 million Filipino workers to more than 190 countries, with a resulting \$14 billion in remittances being sent back to the Philippines<sup>24</sup> (POEA 2007). In addition, according to a 2004 survey of the *Social Weather Stations*, 52% of Filipinos had relatives abroad, with 22% having relatives in the United States alone.<sup>25</sup>

The outflow of Filipino women all over the world, particularly in the domestic service sector, constitutes one of the largest and widest flows of contemporary female migration (Tyner 2000). Filipinas have become the paramount domestic service workers of globalization (Parreñas 2001). The informal nature of their work and the privacy of their workplace often pose serious challenges for the design of regulative and protective measures. Migrant domestic workers experience problems with their wages and workload. They also often see their physical and emotional health and integrity threatened, as well as their personal dignity. These problems define them as a particularly vulnerable group among Filipino migrant workers. It is because of these difficulties and the continuous increase of female domestic workers exiting the Philippines, that an attentive analysis of the Philippine regulative and protective efforts becomes essential. I undertake such analysis in chapters III and IV.

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<sup>23</sup> According to non-governmental organizations in the Philippines, there are approximately 6.5 million Filipino workers overseas. 2 million are in the US and 600,000 in Europe. In addition, 1.8 million are in an irregular situation, and there are a total of 2.5 Philippine nationals permanently residing somewhere else.

<sup>24</sup> This amount only includes remittances sent through formal banking channels.

<sup>25</sup>[http:// www.sws.org.ph/pr140904.htm](http://www.sws.org.ph/pr140904.htm). Accessed 11/10/07

### 3.3. Toward a Broker State: Protection versus Promotion

Given the crucial role migrants' remittances have to the national economy, I suggest there is a tension between the protective intentions of the government and its labor promotion efforts. Labor protection and regulation often raise labor costs and, within the scenario of neoliberal ideology and practices, they make labor less competitive. In this, context, the Philippine government has developed strategies aimed to market Filipino workers in particular ways with the goal to ensure them a portion of the international labor market and favor protection. By doing this the Philippine government has become a *broker state*. While I introduce the tension between protection and promotion here, I conduct a more in-depth analysis of how these two dynamics currently play out in the Philippines in Chapters III and IV.

Protective efforts have run parallel to a well defined marketing strategy the marketing branch at POEA has undertaken. While OWWA and RA 8042 make the Philippines unique in the protection they provide to migrant workers, aggressive marketing campaigns have also been a feature of Philippine management of labor migration. Many countries in the South have realized the benefits of remittances and have, therefore, joined the "migration business." This has created competition for Filipino workers and, in reaction, the Philippines has increasingly emphasized certain features of Filipino labor that may make it more attractive to foreign employers. Given its commitment to ensure migrant workers' protection, increasing costs stemming from regulation have been compensated by marketing Filipino migrants as elite workers and, therefore, deserving of higher wages.

The marketing branch at POEA has several tasks, which include market research and market promotion. Once POEA finds out that a particular market is a potential source of employment for Filipino workers, they coordinate with their embassies and strategize on how to promote the employment and capability of Filipino workers among host employers. Both Philippine government officials and recruitment agents meet with foreign employers to market Filipino workers. Hoping to capture its share of the global labor market, the Philippine government presents migrant domestic workers in particular ways which, I argue, work toward the creation of a *Filipino Brand*. Filipino migrant

workers are portrayed as having the right attitude to work, and possessing innate ingenuity, innovative spirit, skill, and dexterity (Rodriguez 2005).<sup>26</sup> This is consistent with the way a consular officer at the Philippine Embassy in Kuala Lumpur described Filipino domestic workers:

The Philippine Overseas Labour Office (POLO) has the aim to explore new opportunities for Filipinos abroad. We believe that the main competitive advantages of Filipino workers are their communication skills, which is why employers usually prefer Filipinos, their good attitude and flexibility, their high productivity... and the fact that they are readily available at a competitive cost.<sup>27</sup>

The Filipino State promotes an update of the colonial stereotype of Filipinos as compliant, warm, and docile in order to find them jobs in the global labor market.<sup>28</sup> In addition to their gendered and racialized docility and dexterity, their knowledge of English is said to make them more productive, skilled, and easier to train. Foreign employers usually value Filipino domestic workers' English proficiency, which differentiates them from their counterparts from other countries, as a symbol of status and a way in which the worker can go beyond traditional household work and become their children's tutor (Anderson 2000; Parreñas 2001). There is indeed a generalized preference for Filipino domestic workers among employers worldwide, who have recognized Filipinas as *la crème de la crème* of this sector.

Marketing has gradually been gaining more relevance in the case of domestic workers' migration. Due to increasing competition for the domestic labor niche from other Asian sending countries such as Indonesia, Sri Lanka, and Thailand, the Philippine government has made efforts for years to identify Filipino domestic workers as elite maids, or what has been commonly known as the *Mercedes Benz* of the domestic work

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<sup>26</sup> In this sense, Rodriguez (2005) describes how Filipina nurses and domestic workers are represented as warm and caring.

<sup>27</sup> This interview was conducted by investigator Blanca Garcés in Kuala Lumpur in October 2006 and she very generously shared some of the results of her research in Malaysia with me. I quote the interview here with her permission.

<sup>28</sup> This does not address a history of imperialist violence. Ironically, Filipinos speak English because of US imperialist presence in their country.

sector. The following is an illustration of how discourses of the Philippine government construct Filipino women, both at home and overseas:

[T]he comparative advantage of the Filipino is of course that they are skilled workers, highly educated, since about 40% of the workers that migrate have completed higher education. And aside from these traits, our work ethic as Filipinos and part of our cultural trait as being caring people, it works very much toward our advantage. So our caring and compassionate attitude I think is a very preferred trait of employers across the globe. And of course other cultural traits, our dedication for work, our loyalty, so if you treat us Filipinos very well, and you give us good terms and conditions, then they tend to be very loyal companies ... and they are very dependable and committed to their job ... And these are things that we emphasize in our missions [with governments and employers] and we include them in the brochures we make about Filipino workers.<sup>29</sup>

I suggest, building upon other authors' work, that this portrayal of Filipino workers the Marketing Department conducts has run parallel to the protective efforts of the government: given Filipino domestic workers' globally privileged position within their sector, the government is in a position to demand better wages and conditions for them. While the role of the government is to provide services to its citizens, the Philippine government does this by presenting Filipino domestic workers as a marketable commodity with especial value, and has therefore become a migrant labor *broker state* (Rodriguez 2005). Filipino domestic workers are worth more – in terms of money, protection, etc.- because they possess the characteristics (education, English proficiency, hard-work, easy-going personalities, etc.) that make them into the ideal *maids*. The *Filipino Brand* has been under construction for decades now. A welfare officer in Manila explained how:

[W]e are good at marketing the people, at selling the people, at selling ourselves! The first time that I saw that it was in the 1980s, good attitude, 100% literate, English... It was an advertisement put up by the Philippine government on why you should get Philippine workers ... But it only shows how worthless the government is, because, you can't provide for your citizens? You market them!<sup>30</sup>

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<sup>29</sup> Interview 18, Philippines, Government Employee, May 2007

<sup>30</sup> Interview 4, Philippines, Government Employee, May 2007

Recently, this portrayal has been both maintained and updated in the 2007 Household Service Workers Reform Package and the failed *Supermaid* Program. Both aimed to professionalize Filipino migrant domestic workers and portray them as elite servants. Particularly the notion of the *Supermaid* reinforces the marketing and commodification of Filipino women who, since they possess more skills than their counterparts from other countries, deserve higher salaries and better work conditions. While better conditions have often been the result of marketing, this strategy falls into an essentialization of Filipino women through their racialization and feminization. In addition, as I discuss in Chapter IV, marketing strategies ultimately fail to protect female workers since they fail to recognize the micro- and macro-power relations which are at the root of their abuse and exploitation.

In sum, Philippine institutionalization of labor migration has been multifaceted and has been evolving since its inception. As I discuss in Chapters III and IV, while government protection emerged as a response to social concern over migrant workers', particularly women's, welfare, actual protection has faced serious challenges and has often been seen as a constraint in the context of increasing competition for a share in the international labor market, since protection and labor regulation often involve higher costs. In its attempt to remain competitive while simultaneously providing quality and safe jobs for Filipinos, the Philippine government has increasingly marketed them, becoming therefore a *broker state*. What remains to be seen is the extent to which promotion efforts are compatible with workers' protection. I address this in Chapter IV.

#### **4. Labor Export within the Larger Development of the Philippines**

Despite the problems migration creates, it continues to be seen as an alternative provider of jobs and income. In addition, despite it was initially posed as a temporary development strategy, during the past decades it has become increasingly institutionalized. Over three decades after Ferdinand Marcos started labor export to remedy economic crisis in the Philippines, as of 2007 there are no indications that things have substantially changed. This has raised serious questions regarding the inability of the government to address local social and economic problems, as well as doubts around

the long term sustainability of migration. Throughout the remainder of this chapter I discuss the role migration has in current development efforts, and how the government and migrant workers organizations perceive this.

#### 4.1. Management versus Promotion: *Why Don't They Call a Spade a Spade?*<sup>31</sup>

[W]e are silent about that. We do not have a policy, direct policy on [...] migration, but the Philippine government is very subtle on our migration policies. We don't want to say that we encourage, we don't even want to promote, but we are doing things, like POEA is doing, processing contracts, hiring through agencies, looking for jobs openings overseas... so without saying we are promoting we are encouraging Filipino to go abroad, but in terms of policy we do not have that. It is really a policy of migration, right? But in terms of in black, in letter, we don't have a real policy of migration. Because we would like to be silent about it.<sup>32</sup>

Probably the most controversial statement of RA 8042 since its inception has been “the State does not *promote* overseas employment as a means to sustain economic growth and achieve national development” (Department of Labor and Employment 1997). As labor migration has grown and become increasingly institutionalized during the past three decades, non-profit and social movement organizations have questioned both its role as a development strategy and its temporary nature. While they acknowledge remittances have somewhat alleviated the economic situation of the country, the bottom line is, according to many, that labor migration does not address the roots of economic crisis and therefore does not promote long term development. Despite this, the government has increasingly relied on labor migration to generate employment and foreign currency.

The concept “promotion” has become key in public political discussion in the country, and no administration since the deposition of Marcos has dared to make the promotion of migration an official policy. The official discourse of the Philippine government has usually been that, rather than *promoting* migration they just *manage* it (Santo Tomas 1996). Regardless of how migration began, they say, it has become a phenomenon independent of government. Even if migration institutions were abolished

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<sup>31</sup> I borrow this phrase from one of my interviewees in the Philippines.

<sup>32</sup> Interview 2, Philippines, Government Employee, April 2007

in the Philippines people would continue to leave the country. Given this, the government has the responsibility to manage migration by regulating the out-flows and providing protections to migrant workers. As one top POEA official put it:

That's what POEA is doing, it's what government is doing, we are not promoting overseas employment, we are presenting [it] as an option for those who would like to seek employment elsewhere... We want to keep them home, why not, but people keep moving around.<sup>33</sup>

According to POEA, those who leave the country are acting upon their own individual or household choice rather than following government directions or incentives. Although migrants make an important contribution to the economy, the government would rather people stay in the country and take local jobs.<sup>34</sup>

Migrant workers' organizations have encountered this argument with skepticism. The statement that government does not encourage migration, according to many migrant organizations, is flawed for three interrelated reasons: First, as noted above, besides its regulatory functions, POEA has a marketing branch in charge of promoting Filipino workers overseas and finding them jobs. Second, POEA itself is a recruiting agency. Third, the fact that Filipinos migrate out of individual and/or household choices is questionable, since both individuals and families find themselves inserted in a larger political-economic context. As a matter of fact, The Magapacal Arroyo Administration set the target of sending one million workers overseas every year. This target was met in 2006. The previous discourse of migration as a temporary measure has been reframed into a discourse of migration as reality in the era of globalization (see Asis 2005b). The government promotes and deploys Filipino labor and searches new labor markets. Following the view of all migrant workers organizations representatives that I interviewed and, along with Robyn Rodriguez's (1999; 2005) excellent analysis of the Philippine State in the context of migration, I suggest throughout the next three subsections that, despite official discourses, the government is an active promoter, manager, and producer of migration flows.

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<sup>33</sup> Interview 1, Philippines, Government Official, April 2007

<sup>34</sup> Interview 16. Philippines, Government Employee, May 2007.

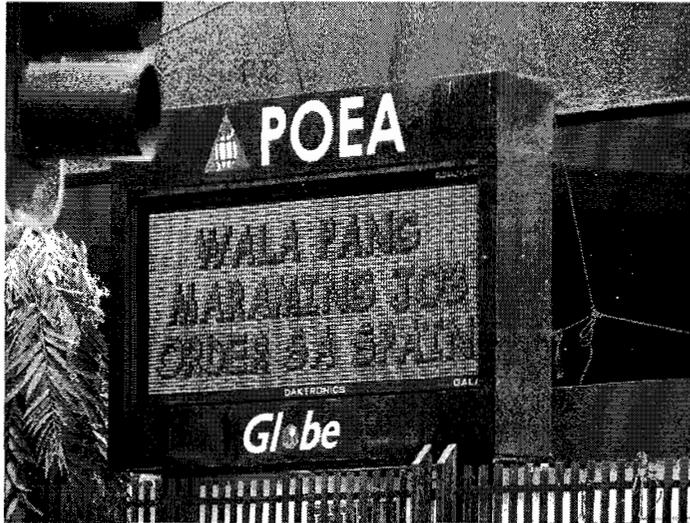
#### 4.1.1. POEA's Marketing Branch

Resilient, Adaptable, English-proficient, Loyal. These are just among the reasons why Filipinos are preferred by the world's best fleets.<sup>35</sup>

The marketing branch of the POEA has three main functions: market research, market promotion activities, and employment standards formulation. Market research mainly consists of gathering information on both current and prospective labor markets for Filipino workers. This information is usually gathered by the Philippine Overseas Labor Offices, which are part of Philippine Embassies and Consulates. Labor attachés are, therefore, in charge of providing POEA with data on employment prospects in particular countries, the terms of employment of foreign workers, immigration and labor policies, and anything related to the work of foreign migrant workers in receiving countries. Once the marketing division receives this information they process it and use it as basis for program development and policy formulation. They also disseminate it to the placement and recruitment agencies that deploy most Filipino workers. This process is crucial to opening up new markets for Filipino workers, as well as to expanding existing ones. The information is also made available to the public, mostly in order to prevent future workers from being victimized by illegal recruiters. Figures 2.1 and 2.2 show monitors at POEA reminding future migrants to protect themselves from illegal recruiters.

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<sup>35</sup> Excerpt from one of the Marketing Branch brochures marketing Filipino seamen.

**Figure 2.1**

Monitor at POEA warning that there are no available job orders to Spain. It is meant to prevent deployment to Spain by illegal recruiters. Picture taken by Sandra Ezquerra, Manila, 6/18/07

**Figure 2.2**

Monitor at POEA literally saying: "Be aware and be cautious of illegal recruiters." Picture taken by Sandra Ezquerra, Manila, 6/18/07

Public dissemination is done in coordination with the Information and Education Division, which manages POEA's website. The information is also displayed in several monitors in the POEA building and therefore available to the hundreds of people who visit the administration every day. Another part of POEA's research work is to prepare background materials and discussion points for Department of Foreign Affairs (DFA) and Department of Labor and Employment (DOLE) officials in preparation for bilateral or multilateral agreements, as well as international conferences and conventions.

Market promotion work mainly consists of organizing overseas missions. As discussed earlier, market missions consist of meetings between Philippine government officials and both employers and officials in the destination country to assist the private sector to enter a new market and secure jobs for Philippine workers. The following quote comes from a brochure designed to promote the hiring of Filipino teachers and is hardly different from any brochure distributed to sell any kind of product:

One of the primary providers of *human resources* to the world, the Philippines boasts of a workforce equipped with extensive education and training, and a *natural ability to adapt to different work culture. Conscientious, highly skilled, and flexible*, Filipino professionals have become the *popular choice* in today's dynamic, mobile environment" (POEA 2006a) [emphasis added].

These promotion efforts are part of what POEA calls macro marketing, which consists of promoting the recruitment industry, the workers, and government programs. As one manager in the marketing division explained:

We promote the capability of our workers, we tell [foreign employers] about the availability and supply of Filipino workers and the particular skill that they need, and we also promote our recruitment agencies and our own migration management system. In other words, the Philippines migration system: our delivery, our recruitment system, [and] how we are able to deploy workers.<sup>36</sup>

The third task of the marketing office is employment standards formulation and it has two main objectives. On the one hand, it works to create minimum training standards for public and private training agencies. Workers need to fulfill these requirements in

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<sup>36</sup> Interview 18, Philippines, Government employee, May 2007

order to be deployed to certain countries and sectors. Although these standards used to apply to all kinds of workers, in the past several years they have focused on what are considered vulnerable labor categories, such as domestic and entertainment workers. The trainings are developed and distributed among the private agencies in order to guarantee the protection of the worker. On the other hand, the marketing branch sets standards that receiving countries themselves require, such as kind of education, work experience, or language proficiency. The employment standards formulation work is meant to serve both workers, by providing them with protection through the acquisition of skills, and host employers, by making sure agencies are training and deploying the workers the receiving market is looking for. Finally, POEA also transmits information about immigration and employment policies followed in the host country to make sure the private sector follows them. For example, if the host country prohibits charging recruitment fees to the worker, POEA implements a similar policy for Philippine private agencies deploying workers to that particular country.

Migrant workers' organizations have seen the existence and tasks of the marketing division as symptoms of the increasing institutionalization of labor migration in the Philippines and as part of the government agenda to maintain emigration as an integral and growing component of economic policy.<sup>37</sup> They have also argued that it shows that government priorities are lopsided in favor of market development, while the welfare and protection of Filipino migrant workers remains secondary (Asis 1992). In fact, my interviewees at POEA showed that while some of the tasks of the marketing branch are oriented toward guaranteeing better protections for migrant workers, opening up new markets and the promotion of Filipino labor are its central functions. One interviewee from a coalition composed of several migrant workers' organizations explained that during some of the regular meetings her coalition held with government representatives to ensure migrant workers' protection, the latter presented their marketing plans and

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<sup>37</sup> Interview 3, Philippines, migrant workers organization, April 2007

targets instead.<sup>38</sup> According to one interviewee from a different migrant workers' organization, the POEA and its marketing division

[A]re going all over the world looking for markets for Filipinos. Job orders go through their office, they license private agencies, they collect \$100 as a processing fee ... They have reports about countries where there are open markets. This is the reason why they go to different countries to negotiate. They just negotiated a treaty with Spain!<sup>39</sup>

Interviewees from migrant workers' organizations consistently stated during my fieldwork in the Philippines that the government argument that it is only in charge of managing migration is hypocritical. The existence of the marketing branch and its efforts to constantly find new markets for Filipino labor shed light on the proactive role the government has in promoting and perpetuating the migration phenomenon. These interviewees denounced the fact that government agencies charge various fees in order to provide different services. Thus, while remittances explain to a great extent the perpetuation of migration, they are not the only factor. The government also collects large amounts of money through diverse kinds of fees, and there is a huge private business flourishing around migration. Table 2.4 is a summary of expenses incurred by migrants before even leaving the country. This information stems from data gathered throughout my fieldwork in the Philippines, Spain, and the United States:

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<sup>38</sup> Interview 7, Philippines, migrant workers organization, May 2007

<sup>39</sup> Interview 5, Philippines, Migrant Workers Organization, May 2007

**TABLE 2.4. Pre-Departure Expenses**

Medical Examination: P1,500-P3,000 (\$30-\$60)
Birth Certificate: P150 (\$3)
Passport: P500 (\$10)
National Bureau of Intelligence Clearance: P70 (\$1,40)
OWWA membership: P1,250 (\$25)
PhilHealth: P900 (\$18)
POEA Fee: P5,000 (\$100)
Pre-Departure Orientation Seminar: P100 (\$2)
Flight Ticket: P50,000 (\$1,000)

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**TOTAL: P59,470-60,970 (\$1,189.40-1,219.40)<sup>40</sup>**

These expenses create revenue for both the private sector and the government. The various businesses that migration has created are considerable. In fact, migration has created a nonstoppable industry acting on its own and claiming to be boosting the country's economy. The sector has organized itself into an interest and lobbying group, constantly attempting to influence policy making in regards to migration (See Asis 2005b).<sup>41</sup> Remittances in 2005 and 2006 amounted to a total of \$10.7 billion and \$14 billion respectively. OWWA's combined assets as of June 2004 were reported to be P8 billion (\$155.28 million). However, as I further discuss in Chapters III and IV, as migration has become a *profitable industry*, it has also become an *unpopular political issue*, so the government presents itself as merely managing it. In sum, migrant workers' organizations do not accept that the government is merely managing migration and denounce that it is actively promoting it through marketing and diplomatic efforts. They explain government promotion of the phenomenon by the importance of remittances and the large sums of money the Philippine government accrues in the form of fees. As the above quoted interview stated, "even the government recognizes that [migration] is one

<sup>40</sup> This list of expenses does not include the placement fee charged by the agencies. Although this fee is legally set in the equivalent of one month salary, in many cases ends up being 4 or 5 times that.

<sup>41</sup> As I discuss in Chapter III, politicians have also been accused of owning private recruitment agencies and therefore presenting a conflict of interests.

of the most lucrative industries. How do they even dare saying that they are not promoting it?”<sup>42</sup>

#### **4.1.2. POEA: The Largest Recruitment Agency**

Very recently [the government] advertised for vacancies in South Korea. There was a need for 7,000 factory workers and it was POEA who was posting it on the papers and doing the hiring.<sup>43</sup>

Migrant workers’ organizations have argued that government promotion of migration is also reflected in the fact that POEA often acts as an active recruiter of migrant labor. While POEA marketing activities have proven very useful in promoting the business of private recruitment agencies, the latter are not the only ones deploying Filipino workers overseas. Indeed, POEA directly does a significant portion of yearly recruitment and deployment through its Government Placement Branch (GPB). Known as government-to-government hiring, this mechanism is used to provide foreign diplomatic or labor officials with Filipino workers. Doing it itself rather than leaving it to the private sector, the Philippine government spares the foreign government the effort of allocating reliable and appropriate agencies. The GPB also recruits Filipino workers for specific private employers in foreign countries, such as airline companies in Taiwan or selected construction companies in Korea. This transfer is seen as a way of guaranteeing the quality of the workers for “special” clients, as well as guaranteeing the protection of the former.

Robyn Rodriguez has emphasized that the fact that the Government Placement Branch has clients who are governments themselves,

Suggests that with the rise of privatization, states are increasingly ‘outsourcing’ for securing workers from other countries as opposed to their own citizens and nationals. Neoliberal privatization is creating demands for labor that states like the

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<sup>42</sup> Interview 5, Philippines, Migrant Workers Organization, May 2007

<sup>43</sup> Interview 3, Philippines, Migrant Workers Organization, April 2007

Philippine state increasingly fill by facilitating the migration of its nationals to other countries (Rodriguez 2005: 112).<sup>44</sup>

The existence of the GPB raises two interesting issues when making sense of the role of the Philippine government in the context migration. First, it creates a situation in which the government is not necessarily always working for the interests of the private sector but rather at times competing with them. Private recruitment agents complained during my fieldwork that they felt that during some marketing missions the government had acted as a competitor instead of facilitating their introduction to new markets. POEA currently deploys around 50,000 workers a year which, compared to the total number of Filipino workers who left the country in 2006, is quite a low figure. If we compare POEA numbers with those of any given private agency, however, it becomes the biggest recruitment agency in the country.<sup>45</sup> According to one private recruiter, this constitutes a dual and hypocritical approach, which raises the second issue I want to discuss. Despite that RA 8042 says government will not promote migration, both private agencies and migrant organizations have shed light on the contradiction posed by the fact that POEA ultimately is both a participant in the business and its regulator. By acting as a recruiter, the government is abandoning the neutral role that it is supposed to have in the labor export whole process:

It seems to me that POEA is trying to play both roles. They are being regulators but they are also acting as a recruitment and marketing agency. How is it possible to regulate if you have such a central role in the process, right?<sup>46</sup>

This poses an interesting dilemma. While POEA is the agency in charge of making sure that private agencies follow the law, who is going to make sure POEA actually does? In fact, POEA sometimes makes its own deployment of domestic workers exempt

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<sup>44</sup> While I did not find evidence of this during my research, Robyn Rodriguez discusses how the Government Placement Branch also becomes a key agent in regulating problematic markets. For example, when private agencies are charging exorbitant fees in particular markets, the Government Placement Branch takes over that market in order to avoid its loss due the Filipino's inability to afford the fees (Rodriguez 2005:113).

<sup>45</sup> This is consistent with the argument I made in the previous section that migration is profitable for the Philippine government beyond the value of remittances.

<sup>46</sup> Interview 22, Philippines, Recruitment Agent, June 2007

from recently signed protective regulations that POEA itself designed. In addition, POEA has access to media and resources that private agencies, particularly the small ones, do not. This is seen by the latter not only as potentially corrupt but also as a way of unfair competition with the private sector.

While private agencies are not necessarily opposed to the existence of POEA and its goals, they would rather they focus on research and marketing and leave recruitment to the private sector. For migrant organizations, somewhat differently, the existence of POEA is symptomatic, once again, of its vested interests in the promotion and continuation of the migration business. In other words, if POEA itself is marketing and deploying workers, how can it argue that it is not promoting migration? The role of POEA goes far beyond mere regulation. POEA, and with it the Philippine government, is indeed one of the main stake holders of the migration business. Besides regulating migration it is also making profit out of it.<sup>47</sup>

#### **4.1.3. The Naturalization of Migration: *They Don't Have to Encourage Migration. All They Have to Do Is to Keep People Starving*<sup>48</sup>**

[We] are a poor family. [I left] to help my husband. I want to help my husband and send my children to school, and I didn't finish school, so I cannot work in the Philippines, so I decided to come. I don't want my children to have the same experience as mine ... My husband is a carpenter only. I have no *trabaho*.<sup>49</sup> We are in the farm... we are farmers. My husband is a carpenter. A carpenter doesn't receive a salary that can support the family.<sup>50</sup>

I had to help take care of my aunt. She was ill and she is *soltera*,<sup>51</sup> so she needed someone to take care of her. I also had to support my family. We are 11 siblings and my father had a heart attack. Since then he can't work as hard. I was only making 150 dollars as a nurse. It wasn't enough.<sup>52</sup>

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<sup>47</sup> Interview 20, Philippines, Migrant Workers Organization, June 2007

<sup>48</sup> Quote from an interview.

<sup>49</sup> Tagalog word for "work."

<sup>50</sup> Interview 13, Barcelona, Purisima, February 2007

<sup>51</sup> Tagalog word for "single."

<sup>52</sup> Interview 14, Barcelona, Auxilio, February 2007

As noted earlier, POEA and the government in general present themselves as regulating a process that stems from individual and household choices regarding survival strategies and career options. In this subsection I argue that while individual and household decisions are important to understand migration, government emphasis on individual choices serves the ideological function of masking the structural factors behind migration in the Philippines.

The government presents the inertia of the migration process as coming from migrants themselves, who make rational choices to pursue better opportunities in wealthier countries. This discourse is articulated in the larger global context, where borders are increasingly disappearing and human mobility across the world is growing. As one POEA official told me:

People continue to move around the world, the world has become a smaller place to live in; we have no more boundaries now. Before we had all these walls dividing East and West, now the boundaries have disappeared and people keep on moving because they want to look for better opportunities, a better life.<sup>53</sup>

Purísima and Auxilio's motivations for migrating to Spain, cited above, illustrate how, for many people, the world has not become a smaller but a bigger place. They only see their struggles to enter Spain and the pain of family separation as worth while because their migration constituted their family's only choice in a context of low wages and limited employment opportunities in the Philippines. By leaving, they became their families' only hope for a better future.

There is no doubt that pull factors are at work in the process (e.g. changing migration policies, demand for Filipino laborers all over the world, existence of contract labor programs, etc.). The focus on individual choices and strategies, however, masks poverty, unemployment, underemployment, and low wages as key push factors. Moreover, it leaves labor migration out of the discussion of the current and future economic situation and, most importantly, dissimulates the role of the government in

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<sup>53</sup> Interview 1, Philippines, Government Official, April 2007

promoting migration. According to a government employee who was overtly critical of government migration policy,

It ... was never a choice. Going abroad is not a choice. You either get starved here or you go there. There was not a choice in the first place.... The idea that the government provides people with choices is an illusion. It's a choice between getting beaten and being killed. Is that a choice?<sup>54</sup>

Along similar lines, another government employee blatantly stated:

One basic trait of OFWs is that they are risk takers, they are like gamblers, but instead of having chips they are betting on their lives. Either you die of starvation in the Philippines or die of something else abroad. Either way you'll die.<sup>55</sup>

What the interviewees are getting at is real choices are very limited in the Philippines. This is important to keep in mind when theorizing the role of the Philippine state in migration and development. By presenting migration as an outcome of individual choice, the state also presents itself as a mere facilitator of its citizens' individual initiatives. Government avoidance dilutes and diverts blame and responsibility for its failures: If the decision is an individual one there is no need to talk about how the current economic system is not working for the majority of Filipinos. In addition, there is no need either to discuss the role of the state in promoting the neoliberal economic paradigm. Therefore, government promotion of migration takes place in two different ways. First, government *directly* promotes migration through marketing research and missions and POEA recruitment. Second, it *indirectly* promotes it given its weak nature and its failure to provide for the social and economic needs of its citizens:

[[I]t's a political decision to open, you know. The Philippines is a very poor country, so it's definitely poverty that is pushing people to work abroad. Overseas employment was once thought as a stopgap measure, not as a full blown economic policy, but right now... that was during the 70s, and now we really market, that's why we have marketing arms for friendly markets, and if you look at our pre-employment orientation seminars, it's like a marketing strategy for overseas work. So, the government needs to send people out. ... the remittances keep the economy afloat, \$14 billion last year.... They don't have to encourage migration. All they

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<sup>54</sup> Interview 15, Philippines, Government Employee, May 2007

<sup>55</sup> Interview 4, Philippines, Government Employee, April 2007

have to do is keep people starving ... you can't get a decent job, you can't get paid. The National Economic Development Authority says that a family of four needs roughly P700 a day in order to live decently. Check out the minimum wage in Metro Manila. It's like P350 a day, so every time you wake up you are incurring a debt of P350 ... How long are you going to last? That's enough push for you to keep employment abroad.<sup>56</sup>

The interviewee's reflection on individual and family debt ironically captures how national debt stemming from macroeconomic policies trickles down to people's actual experiences. The debt of the country is mirrored in the average Filipino's debt. In order to stop the treadmill of debt that poverty and unemployment impose in her own life, she leaves the country to work overseas.

In addition to its focus on individual choices, the government legitimizes migration through its *naturalization*. In a global context where borders are increasingly fluid, the movement of people is at the order of the day. Therefore, Filipinos are only following global tendencies by traveling to other countries to work and live:

It's not only Filipinos who are migrating... We want to keep them home, why not, but even Americans, they come to the Philippines to work here, they work as basketball coaches, as chefs in big hotels, right? They work as consultants, in restaurants, they are also migrating. So... people keep moving around, they say about this push factor... Some are more adventurous... I know somebody who wanted to go abroad because she wanted to marry a foreigner.<sup>57</sup>

In her effort to deflect attention from the promotion role of the Philippine government, the interviewee fails to consider the historical and economic context of Filipino migration, particularly that of low wage and skill workers. On the one hand, she fails to acknowledge the prevalent unemployment, underemployment, and low wages in the Philippines, as well as government initiatives promoting it, which are the main motors behind massive labor out-migration. On the other hand, her comparison of Filipino migration with that of Westerners working in Asia as basketball players and prestige chefs sadly neglects the geopolitical and economic inequalities between countries at the global level, which is one of the main factors between the exodus of

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<sup>56</sup> Interview 4, Philippines, Government Employee, April 2007

<sup>57</sup> Interview 1, Philippines, Government Official, April 2007

hundreds of thousands of Filipino women to almost 200 countries in the world. While globalization has generalized the mobility of labor, capital, and commodities, these flows are never horizontal, but rather always shaped by the geopolitical position of countries of origin. Power relations and inequalities shape the flows. The Philippine government naturalizes the migration phenomenon in the sense that it presents it as a given in the context of globalization. This naturalization does not consider how border restrictions usually apply to men and women from the Global South, while many Westerners travel freely to developing countries in search of adventure and learning experiences.<sup>58</sup> Neither does it take into account the history of migration in the Philippine context. The Philippines has historically provided the United States with cheap labor for menial and low wage jobs. Today, the export-oriented economic structure born during colonial times has been perpetuated and, increasingly more so than sugar or coconuts, Filipino workers become the main and most profitable export commodity of the country.

## **5. Migration and Development**

Our president keeps on saying that, yes, we would like to develop our economy further, so there will come a time when Filipinos will not have to go abroad to look for overseas employment.<sup>59</sup>

Two issues are implicit in this government official's statement: First, the Philippines is not developed enough and, therefore, it should keep striving for economic development. Once development is achieved, Filipinos will not need to migrate for work anymore. Development is identified in this context as the elimination of unemployment and the creation of economic opportunities for all Filipinos. Second, besides making a connection between development and employment opportunities, the interviewee also implies that current labor migration has a development function. In other words, people migrate both because the country is not developed enough- to search for work

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<sup>58</sup> Or to do fieldwork for their thesis. As an anecdote, I will share that during my time in the Philippines I did not realize that my visa was expired so I walked around Manila and traveled throughout the country technically being "undocumented" or "illegal." When I went to immigration services to renew my visa all I got from the officials was an "affectionate nagging," but I did not have any problems to renew my visa and/or leave the country when I finished my work.

<sup>59</sup> Interview 1, Philippines, Government official, April 2007

opportunities elsewhere- and in order to develop it- i.e. through remittances. Building on these two implications, I pose the following question: What role has migration played in Philippine economic development?

### **5.1. What Role Has Migration Played in Philippine Economic Development?**

The two main ways I could identify in my research in which the Philippine government has seen migration as a development tool have been the transfer of technology resulting from it and the economic importance of migrants' remittances.

Labor migration was initially seen as a potential contributor to the development of Philippine economy through the transfer of technology and knowledge. This was particularly relevant with regard to skilled workers. Upon their return home, they would apply the use of technology learned in more developed countries. It is worth noting, though, that out of the ten categories of migrant workers' occupational groups, there are only two which qualify as skilled workers: medical workers and engineers.<sup>60</sup> While I am not able to specify the different jobs under these two categories, according to POEA statistics, only 9,4% of the newly hired Filipinos who migrated in 2006 belonged to these groups meaning only 28,000 workers of the total 308,142 deployed were skilled (POEA 2007c:27). In addition, skilled workers tend to stay overseas for longer or even migrate permanently. A constant flow of nurses and doctors moving permanently to the United States and Europe illustrates this. This means that not many of them return home to apply the knowledge they acquired overseas. The most generalized way to leave the country on a temporary basis is taking low skill service jobs. A former OWWA employee and current labor leader emphasized that the productive transfer of knowledge and technology is more a myth than a reality, since the majority of workers leaving the country are domestic workers. Sarcastically, he stated:

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<sup>60</sup> The rest are: household and related workers; factory and related workers; construction workers; hotel and restaurant related workers; hotel and restaurant workers; caregivers and caretakers; building caretakers and related workers; dressmakers, tailors, and related workers; overseas performing artists (POEA 2007: 27).

It would make sense with high tech workers or engineers, but how is it going to benefit the Philippine economy that our women learn how to use vacuums or other appliances?<sup>61</sup>

While skilled workers seem to be a minority among Filipino migrants, I also found evidence that even when skilled workers have acquired valuable knowledge overseas, this has gone unused due to government and local business lack of support. During an interview with an engineer formerly deployed to Saudi Arabia, he complained that when he returned to the Philippines hoping to find investors for new industrial recycling techniques, he could not find the required capital to develop the method in the Philippines, so his knowledge acquired overseas was not applied.<sup>62</sup>

Besides technology transfer, remittances have been since Marcos' time consistently perceived as a development motor. Politicians and economists have largely discussed the use of remittances as a key factor to promote development. While remittances can favor economic development, the degree to which they do so depends on the way in which they are used. According to an employee at the Commission of Filipinos Overseas (CFO), between 8 and 12 billion U.S. dollars are remitted to the Philippines each year through formal banking channels and around the same amount through informal mechanisms.<sup>63</sup> The same interviewee explained that although it can be argued that remittances keep the Philippine economy afloat, it is important to keep in mind that migrant workers remit their wages to their families and not to the government or to investments.<sup>64</sup> Another government employee corroborated this. He talked about Filipino skilled workers living in the United States and returning to the Philippines for vacation:

That is the waste of the remittances... you see the Philippines rich after all the remittances? They do not invest in business. They spend them on cars and beach houses. *The wealth dies because it does not generate wealth.*<sup>65</sup>

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<sup>61</sup> Fieldnotes, Philippines, May 2007

<sup>62</sup> Interview 23, Philippines, Private Agent/former migrant, June 2007

<sup>63</sup> The latter cannot be accounted for by the Central Bank, so this is an estimate.

<sup>64</sup> Interview 14, Philippines, Government Employee, May 2007

<sup>65</sup> Interview 15, Philippines, Government Employee, May 2007 [emphasis added].

While the average migrant worker may not have a beach house, the issue of remittance allocation came up repeatedly during my fieldwork. Another government employee explained:

We do have a substantial number of OFWs who even if they [get] old, they still work through the cycle of feast and famine. When they come back it's like having a feast. They spend everyday, drink everyday, party, buy things... their money runs out... they sell the things that they bought, then they are left with a particular item, right? When you need the money for placement you sell that particular thing, now he has the money for the placement fee and he leaves again. When he comes back, the same cycle, spend, buy... then sell, sell, sell, until once piece is left, you sell it, placement, and you go again...<sup>66</sup>

While the interviewee's testimony is a caricature of migrant workers' lack of economic calculation, I also found lack of investment as main characteristics among my interviewees in Spain, the United States, and the Philippines itself. Besides some purchases of real estate for their eventual retirement in the Philippines, none of my interviewees reported to use remittances for investments in their home country. When asked about the ways in which the money they sent to the Philippines was spent, they consistently replied on children's education, everyday expenses, and the construction of a house for their families. This pattern means that the remitted money is being spent or saved rather than invested and sheds light on a flaw in the view of migration as a direct and long term development strategy.<sup>67</sup> While remittances have a positive effect on the migrant's household raising their living standards, they do not necessarily benefit the country as a whole. New houses or the purchase of medicines benefit a particular family. However, they do not generate jobs nor do they increase living standards of the nation. While the generalized use of remittances to pay children and other relatives' education

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<sup>66</sup> Interview 4, Philippines, Government Employee, April 2007. This mentality was identified by a Filipino consular officer in San Francisco as *bahalana*, which roughly translates as "I don't really care what happens tomorrow as long as I am happy now. I don't want to worry." Regardless of the prevalence of different life styles in the Philippines- compared to the United States or European countries- characterizing Filipinos as following the *bahalana* logic automatically defines them as opposite to the rational, entrepreneurial individual exalted by capitalist ideologies.

<sup>67</sup> There has been extensive academic discussion on the role of migrants' remittances in their home economies. While some authors argue that it is key to channel the money toward productive investments, others have contested that consumption per se is good for the economy, since the indirectly stimulates production and money circulation.

contributes to high educational levels among Filipinos, the fact that there are no professional jobs available for them in the Philippines eventually makes them search work overseas:

[T]he challenge for the migration and development issue is not being talked about. Workers' remittances should be channeled into productive initiatives by our workers that could translate into more jobs here, so in the long run we really don't become dependent on overseas employment. Then our workers will have options, better options here, because we have tried to use the benefits, to maximize the benefits of migration. In the meantime the jobs are not so nice here, our workers are not happy with the options available to them. So, we would like to use the remittances for, you know, better purpose, that would create jobs here, the livelihood here, so that in the long term they will just choose to stay in the country."<sup>68</sup>

Migrants' remittances, then, do not seem to be creating substantial economic improvement in the country. In addition, their centrality in the discussion of Philippine migration and development portrays migrant workers as the main responsible for the economic development of the country. If the economy does not improve it is because Filipino migrant workers do not know how to behave like rational, calculating, economic beings. This resonates with colonial discourses that infantilize Filipino people characterizing them as incapable of managing their lives and their own country. By highlighting individual and even household behavior as crucial for development the state remains in the shadows. Yet, the central role that remittances have sheds light on two parallel processes. On the one hand, in a context where social services have been increasingly privatized, it is migrant workers who pay, through their remittances, for the services that their families need, such as medical attention and education. On the other hand, the fact that the Philippine state both encourages migrant workers to invest and complains for their failure to do so, masks the fact that migrant workers are increasingly expected to replace public investment in a context where neoliberal policies promote the erosion of the public and social dimension of the state (See Glick Schiller 2008). These two factors mean that Filipino migrant workers are doubly expected to pick up the slack of the state- privatization of public services and insufficient and retrenchment in public

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<sup>68</sup> Interview 18, Philippines, Government Employee, May 2007

investment- and are blamed when they fail, or refuse, to do so. According to a representative of a migrant workers organization, through gradual institutionalization and normalization of migration, “the cornerstone of the Philippine economy has become getting people out.”<sup>69</sup> Labor migration as a development strategy, however, ultimately places the responsibility on people and removes it from the government and the economic structure that the government helps to shape.

## **5.2. The Philippine Development Path**

Recent government efforts to boost the economy and create local employment are based on the premise of the need to attract foreign investment. This is facilitated by a continuous deregulation of the economy and the labor market, among other measures, and is consistent with the economic logic that previous administrations have followed. Economic and social conditions have not substantially changed since the enactment of these policies. Besides attracting foreign capital, the government has seen migration as crucial to remedy high unemployment rates and fix the balance of payments through remittances.

Neoliberal thought assumes that, since at some point in history European countries used to be like developing countries are now, if only the right economic and political measures are taken, the latter will eventually develop to be the same as the former. This logic sees world history as a uniform and linear process, in which liberalization, privatization, and deregulation become key to staying on the right historical path. The adoption of the neoliberal paradigm in the Philippines since the 1970s and the generalization of labor migration, however, have deepened the country’s dependency on foreign capital and labor markets born during colonial times, and social and economic conditions have not improved.

Debt service, economic crises, and the state have intersected to create a very complex social reality affecting millions of Filipinas and Filipinos: labor migration. Although it has become a permanent development strategy, its function to reduce unemployment, transfer skills back to the Philippines, and strengthen the foreign reserves

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<sup>69</sup> Interview 26, Philippines, Migrant Workers’ Organization, June 2007

of the country have not been realized. According to many economists, policy analysts, and social movement organizations, migration is never going to solve the economic hardships of the nation since these respond to historical and structural factors, such as colonialism, dependent economic relations, and unequal trade agreements. Similarly, for interviewees from various social movement organizations labor migration is a practical and short-term solution that has not contributed in any substantial way to enhance the economic independence of the Philippines from core countries and has not substantially triggered local investment. Unemployment has not been reduced because those who leave are usually already employed; instead of transferring skills from abroad, labor migration has indeed accelerated and aggravated the brain-drain that started in the 1960s; remittances are, for the most part, not reinvested, and go instead toward paying families' basic consumption needs. Remittances have also replaced the government in many of its functions, since they pay for services that should be public and free. The earnings that migrants remit constitute the country's largest source of foreign exchange but do not seem to be creating wealth<sup>70</sup> (Battistella and Paganoni 1992; Chang 2004; O'Neil 2004). Foreign debt and Structural Adjustment policies continue to limit severely government spending. This results in inadequate funding for income generating programs in the Philippines and perpetuates low wages and lack of employment opportunities. Hence younger Filipinos are also forced by circumstances to seek employment overseas (Fulleros Santos and Lee 1989), and the situation has turned into a vicious circle. Moreover, despite it has provided hundreds of thousands of Filipinos with jobs abroad, migration has not come without costs. As I discuss in the next chapter, victimization of workers overseas- particularly women,- Filipino citizens' increasingly generalized view of their country as a nation of overseas servants, and emotional costs to millions of families are some.

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<sup>70</sup> According to Maruja Asis (1992: 81), one fourth of the country's foreign exchange came from the remittances of overseas contract workers in 1992.

## CHAPTER III

### RA 8042 AND STATE LEGITIMACY: LABOR EXPORT AND POLITICAL DILEMMAS IN THE PHILIPPINES

#### 1. Introduction

One of the goals of this dissertation is to study the state as an actor in the era of globalized capitalism. In Chapter II I have discussed how different Philippine administrations in the past few decades have consistently applied IMF-imposed economic recipes and how this is a continuation of the subordinate position of the country since colonial times. The scenario in which policy making takes place in the Philippines, however, is more complex than that. In the particular context of labor migration, the government is constantly maneuvering around different political choices. As discussed earlier, migration has become a profitable industry but also an unpopular political issue. While migration has acquired crucial *economic* importance both in the Philippines and receiving countries, the Philippine government still needs to preserve its *political* and *social* legitimacy.

State sovereignty is often fragmented by its contradictory relations with different economic and social groups (Sassen 1993). State response to this tension is often to build national legitimacy and assert state hegemony through the fabrication of social consent. Throughout the past four decades labor migration has become increasingly important for the Philippine economy. It has taken center stage by opening millions of jobs overseas and through the resulting remittances. In addition, it has triggered the creation of an industry that greatly benefits from its existence. Yet, labor migration has also forefronted migrant workers' welfare and protection as crucial political issues, and it has often shed light on the social contradictions stemming from current economic policy. The feminization of migration in the Philippines brought an increasing exposure of the abuses

migrant workers faced and resulted in massive outrage at the inability of the government to protect Filipinos overseas. In this context, the preservation of state legitimacy has been an ongoing and important task for the Philippine government. In order to understand the pursuit for hegemony in this context, and following Skocpol's (1985) methodology, I explore in the next two chapters *why*, *when*, and *how* two of the most important Philippine migration laws have been fashioned. These laws are Republic Act 8045 of 1995 and the 2007 Household Service Workers Reform Package.

Before I do this, however, I review how different authors have theorized state action and present the creation and preservation of hegemony, in the Gramscian sense, as a crucial element to understand it. I contextualize hegemony, in the case of the Philippines, within state responses to civil society, its geopolitical position, and political will. These three factors guide my analysis of Republic Act 8042, better known as the Filipino Migrant Workers Carta Magna. I present this Act as a cornerstone of Philippine labor migration regulation and examine some of the challenges that difficult its implementation. I suggest that, given the enormous difficulties to implement and enforce it, its main function has been to provide government legitimacy in its regulation of migration.

## **2. Toward a Theorization of the State**

In order to contextualize the enactment of migration policies in the Philippines I undertake a brief overview of Marxist theorization of the state. Historically, debates about the state have been framed around its relationship with the market. Neo-liberalism endorses the contributions of classical liberal political economy, which states the market is the best means for the abolition of class inequality and privilege. Excessive state intervention would likely suffocate the equalizing process of competitive exchange and would create monopolies, protectionism, and inefficiency (see Friedman 2000; Smith [1776] 1961).

Marxist political economy has rejected the claim that markets guarantee equality. On the contrary, capitalism dispossesses people of property with the result of deeper class divisions. The role of the state in this process is neither neutral nor a source of

emancipation (Dobb 1946; Marx in Tucker 1978). In the *Communist Manifesto*, Marx and Engels (1983 [1888]) identified the modern state as the guardian of the interests of the bourgeoisie. Seen as part of the superstructure, the state is in charge of maintaining social structure intact and, therefore, it perpetuates the relations of production (see Hamilton 1982). However, as the working class gained political leverage throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries, Marxist theorization of political power became increasingly complex (see van den Berg and Janoski 2005). By the Third International Marxist orthodoxy sided with Lenin's position, which identified liberal democracy as the best shell for capitalism (see Lenin 1981 [1917]).

The rise of social democracy and Western welfare states throughout the second half of the 20<sup>th</sup> century have posed a dilemma for orthodox Marxism: How could these concessions to the working class be made by a state supposedly exclusively serving the interests of the capitalists? The response was that welfare state reforms were the low price the dominant classes were paying for the maintenance of the capitalist order. Marxist theorists spent the 70s and the 80s discussing the way in which reform is kept within the limits of ultimate capitalist class interests (Evans et al. 1985; Miliband 1969; Skocpol 1985; van den Berg and Janoski 2005). Domhoff (1979) stated that, given the over-representation of the corporate elite in political institutions, even apparently progressive legislation is ultimately aimed to preserve the interest of the corporate class (Poulantzas 1973; van den Berg and Janoski 2005). Along similar lines, Claus Offe (1976) argued that the function of the state is to counteract the self-destructive tendencies of the capital accumulation process,<sup>71</sup> often through pro working-class policies, and to thus favor the long-term interests of the capitalist class (see Polanyi 1957). He particularly emphasized how state social reforms can only *displace*- as opposed to

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<sup>71</sup> This reflects Polanyi's idea on the relationship between the State and the market. He wrote *The Great Transformation* in 1944. His position regarding the development of world-markets was that the liberal idea of the "self-regulating" market society is both a utopia and a fallacy, and that capitalism needs state intervention from the beginning to avoid destroying society. More specifically, he argued: "Economic history reveals that the emergence of national markets was in no way the result of the gradual and spontaneous emancipation of the economic sphere from governmental control. On the contrary, the market has been the outcome of a conscious and often violent intervention on the part of government which imposed the market organization on society for non economic ends" (Polanyi 1944: 258).

*resolve*- the contradictions of capitalism. James O'Connor (1973) adds that as the state accumulation function makes it support private capital, the state is forced to cover up its complicity with capital, and therefore maintain social legitimacy, by ever more generous social programs.

### **2.1. The Relevance of Hegemony**

The design of protective policies in Philippine labor migration has set worldwide precedents. I suggest in this chapter, though, building on Gramsci's theorization of state action, that the goal of protective policies in the Philippines was never to resolve the contradictions and problems that labor migration has posed, and they have indeed mostly had an ideological role.

While most Marxist theorists of the first half of the 20<sup>th</sup> century prioritized the study of the economic structure in capitalist societies, Antonio Gramsci was among the first that developed a theorization of the superstructure or ideological dimension of the capitalist state. Faithful to Marx's scholarship, Gramsci stated that the role of the superstructure is to perpetuate the class structure, and to prevent the development of class consciousness by imposing on the ruled the rulers' "conception of the world" (see Carnoy 1984). This is achieved through the conversion of the philosophy of the ruling class into "common sense" (See Sacristán 1992).

One of the main questions Gramsci posed was, in its goal to protect the interests of capital, and in a context where open military confrontation between the state and society is not the norm, how does the political elite manage to maintain power? Gramsci addressed this issue through his most notorious contribution to Marxist scholarship: the concept of hegemony. According to him, hegemony comprises "the entire complex of practical and theoretical activities with which the ruling class not only justifies and maintains its dominance, but manages to win the active consent of those over whom it rules" (1971:244).

Offe and O'Connor's conceptualizations of the state resemble Antonio Gramsci's notion of hegemony (Gramsci 1985). Hegemony means, according to Gramsci, the ideological subordination of the working class by the bourgeoisie, which allows the latter

to rule through consent (Anderson 2006 [1977]:49) or an equilibrium of compromises (Ibid. 38). Social reforms are often necessary in order to prevent a substantive restructuring of the status quo as well as to maintain political legitimacy. They become non-essential concessions meant to maintain the essential. Ideological discourses of a “social state,” rather than the actual contents of social policies, are the main factors behind the maintenance of consent.

For the purposes of my research, I consider as part of state hegemony construction process any state strategy aimed at reducing marginalized groups’ discontent without actually addressing the roots of their marginalization.<sup>72</sup> Throughout this and the next chapter I discuss policy reforms that the Philippine government has undertaken in connection with female migration. Labor migration gave birth to three main social actors, the government itself, the private sector, and migrant workers’ organizations, whose interests do not always coincide. First, the government benefits from migrants’ remittances and various mandatory migration fees. Second, the private sector has grown exponentially since the 1970s, and hundreds of agencies compete with each other to recruit as many workers as possible to go overseas. Third, migrant workers organizations have been denouncing the inherently exploitative nature of labor migration and the hardships the workers and their families suffer.

The design of protective policies and welfare programs in the Philippines has set world wide precedents. I suggest, building upon Offe’s and Gramsci’s notions, however, that the policies have displaced rather than resolved the contradictions that labor migration has posed. Further, given the recent past of political repression under the Marcos regime, as well as the existence of armed revolutionary struggle of the New People’s Army, there has been a shift since the 1970s, where post-Marcos administrations have enacted social reforms through consent rather than coercion.<sup>73</sup>

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<sup>72</sup> Aimed therefore at stripping them from their revolutionary potential through both discourse and practice.

<sup>73</sup> Coercion continues to be used in the Philippines. During my three months in the country it was frequent to read in the newspapers about assassinations of progressive political activists opposed to the government. The Philippines also ranked first world-wide in human rights violations last year. However, coercion is becoming decreasingly legitimate.

Overall, the Philippine government has introduced reforms to the labor migration program without altering the economic role it has had since its implementation. Protective policies respond to the need to maintain political hegemony and, therefore, grant the continuation of the labor migration program. They have not addressed, as I discuss in this Chapter and the following one, the real roots behind the abuse migrant women suffer. This neglect has often resulted in a tension, as we will see, between policy formulation- discourse- and implementation- practice.

## **2.2. The State in the Global Context**

Labor migration constitutes an updated version of export-oriented development. The international labor market currently presents a big demand for cheap foreign workers. By organizing and promoting the exit of millions of workers, the Philippine government remains consistent in its application of policies that benefit foreign governments and capital. These policies do not promote the creation of local wealth and do not alter economic stagnation in the Philippines. Similar to economic policies, government management of migration in the Philippines is shaped by the position of the country in the international division of labor and its relationship to core states and capital (See Skocpol 1985).

A key focus of Dependency and World-Systems theorists has been external relations of societies, particularly of those described as “peripheral” or “dependent.” They argue that “while the states of the more powerful capitalist or core countries are in a position to support capital accumulation by their dominant class in various parts of the world, the states of the periphery are or have been constrained due to economic and sometimes political domination by capital and states of the core” (Hamilton 1982:18). The relationship between countries at the center and those in the periphery has always been and continues to be a power relationship.<sup>74</sup> During the 1960s and 1970s, Dependency Theory established that developed capitalist countries have limited the development of dependent countries. World Systems Theory focuses on the state, while

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<sup>74</sup> The following are some of the forms that these power relationships take: Export-oriented trade structures, trade dependency on a given core country, reliance on external capital and technology for economic development, interest payments, loan amortization, etc.

simultaneously emphasizing external or international relations to the detriment of internal relations (See Wallerstein 1979; 1991; 2000). Wallerstein argues that “states with a concentration of core-like activities within their boundaries tend to be stronger, while those areas which remained confined to peripheral activities have been weak states” (1990:139). The development of the former has required the underdevelopment of the latter (See Amin 1974; Gunder Frank 1969). This also takes place in the context of Philippine regulation of migration since the international subordinate position of the state often renders it incapable of improving migrants’ work conditions.

From this perspective, internal classes and forces within the dependent country, including the state, have little leverage to shape the economic development of the country development (Hamilton 1982:16). In the periphery, foreign economic domination conditions the state and therefore makes difficult the establishment of the local class hegemony. Particularly when foreign ownership of the means of production has been common, as it is the case of the Philippines, the local bourgeoisie must exploit “Third World” peasants and proletarians to send surplus abroad, thereby having to rely on the state to reproduce dependent capitalism (Carnoy 1984). In the context of migration, this takes the shape of hundreds of private agencies sending Filipino workers all over the world. While the role of the state has been to protect these businesses, it has also had to attend migration workers’ organizations’ demands for labor regulation and protection. As data collected during my fieldwork shows, the interests of foreign governments and capital often supersede those of Philippine private agencies. Paradoxically, while the protective regulations it has introduced often go against the short term of the agencies, they do guarantee the permanence of the labor export program in the long run.

The regulation of migration, thus, is not free of contradictions. Within the particular geopolitical location of the Philippines, the relationship between the state, capital, and civil society is an interactive one and presents a constant tension between safeguarding and challenging the status quo. (Calavita 1992; Yuval-Davis and Anthias 1989). While I see external factors as important to my analysis, I also consider, in agreement with Nora Hamilton, the centrality of the internal situation of the Philippines, such as the strength of social movements and civil society and the leverage of private recruitment agencies for

shaping the degree of state autonomy. As Hamilton explains, “changes within peripheral formations result from internal conflicts as well as from changes in the needs of core capitals and states, and the interaction of external forces with internal structures produces the position of the peripheral formation within the world division of labor as well as the mode of integration of foreign capital in its internal structure (1982:20).

Policy reforms in the Philippines concerning migrant domestic workers are explained by the need of the state to preserve hegemony. They also constitute concessions to ameliorate exploitation in a context of politically relevant social discontent. This dialectal relationship takes place in a wider context: the position of the country in the world political-economy. This position often translates into scarce resources to provide protection and limited leverage to negotiate with richer and more powerful receiving countries. All these factors have interacted to shape the configuration of labor export as a developmental strategy and the efforts of the government to protect Filipino workers, particularly women, overseas. In the next section I discuss the initial protective efforts of the Philippine government in response to the feminization of migration.

### **3. The Feminization of Migration: Protection Dilemmas**

President Ferdinand Marcos institutionalized labor migration as a way to address high unemployment and an unfavorable balance of payments in the country. His emphasis was on the role this industry would have on the economy and the ways in which the state could maximize economic benefits. Issues such as public discussion of the social and welfare effects of migration emerged only with subsequent administrations.

They began during Corazon Aquino’s administration in 1986. As mentioned previously, whereas migration during the 1970s and the early 1980s to the Middle East and other Asian countries had been mostly composed of men working in construction and infrastructure projects, the late 1980s and the 1990s witnessed a higher demand for service, health, white-collar, entertainment, and domestic workers in Asia and Western countries. This meant an increasingly feminized Philippine emigration which, in turn, eventually brought an increase in cases of abuse and exploitation among female migrants,

particularly domestic workers. In 1987, as a response to growing media exposure to such cases and public discontent and pressure from migrant and workers organizations, President Aquino ordered the Department of Labor and Employment to conduct a fact finding mission to Hong Kong, Singapore, Malaysia, and the Middle East. As a result of the abuses found, one year later, following a temporary moratorium on the deployment of Filipino entertainers to Japan, the Aquino administration placed a temporary worldwide ban on the deployment of domestic workers. The president of PASEI, the largest recruitment agencies association in the Philippines, described the context in which the ban was implemented:

Too many complaints... Too many maids stranded in the Embassy, nobody took care of them. The media was saying: 'look, another dead body arriving here, look, there are so many people saying that they don't have money and they are now stranded in the Embassy.' People got angry.<sup>75</sup>

The ban was aimed to protect Filipina migrants from abuse and exploitation in the foreign countries where they worked. Aquino's rationale was also to force the governments of destination countries "to negotiate with the Philippines about improving the situation of Filipina migrant women" (Oishi 2005:65). This had mixed effects. For one, several countries immediately requested exemptions and made offers to improve the assistance and protection of Filipino domestic workers. During this time, a special government envoy re-negotiated the terms of employment and working conditions of Filipino domestic workers with some of these receiving countries. Within six months of the ban, 16 governments, including the United States, Canada, Hong Kong, Singapore, and major European countries, signed various agreements and memorandums with the Philippine government, in which they specified working conditions and protective measures for migrant women (Ibid. 65). For example, in Malaysia, monthly wages went up by \$40 after the re-negotiations (Heyzer et al. 1994), which resulted in a new minimum wage of \$200 (540 RM) a month for Filipino domestic workers, while the wages for Indonesian women remained at RM 300 per month (Heyzer and Wee 1994; Raj-Hashim 1994).

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<sup>75</sup> Interview 22, the Philippines, Recruitment Agent, June 2007

Most of the countries willing to enter conversations with the Philippine government, however, had already been providing relatively generous provisions, whereas the countries that presented the worst conditions<sup>76</sup> were not willing to negotiate. In fact, some governments even retaliated by slowing down or threatening to ban visas for all Filipino nationals seeking employment. This affected so many professional and skilled workers that the Aquino administration was forced to gradually lift the ban. According to an interviewee from the Department of Labor and Employment, “they were stopping issuing visas for Filipinos if we do not open the [domestic workers] market again.”<sup>77</sup>

In addition to the impact on the issuing of professional visas, Aquino’s ban also had negative economic consequences. According to the president of PASEI, some Middle Eastern countries stopped exporting oil to the Philippines, while others stopped buying Philippine products:

There was an oil problem built, because we could not get enough oil, plus gasoline prices went up... So a group went to the Middle East to renegotiate, Minister of Labor, POEA officials ... and we had to *retrade our maids for oil* ... [the Philippine government] finally said: ‘nothing is going to happen, let’s just lift the ban.’<sup>78</sup>

As I discuss below, this was the first time in the almost four-decade long institutionalization of Philippine labor migration that the limited political and economic leverage of the Philippine state in the international arena affected the ability of the government to regulate overseas migration and protect its citizens overseas. Both dependence on Middle Eastern countries for trade and reliance on professional Filipinos’ remittances contributed to the lifting of the ban. This demonstrates how a peripheral position in the world economic and political system parallels a marginal position in the international division of labor. I find particularly striking the interviewee’s statement that Filipinos “had to retrade our maids for oil.” It vividly captures a scenario where

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<sup>76</sup> Mostly Middle Eastern and Asian countries.

<sup>77</sup> Interview 20, the Philippines, Government Official, June 2007

<sup>78</sup> Interview 22, the Philippines, Recruitment Agent, June’2007 [emphasis added]

economic imperatives, labor issues, and women's protection conflicted with each other. It also identifies both oil and women's welfare as commodities with exchange values.

The ban also met protest and opposition of migrant women themselves (See Constable 1997; Oishi 2005), since they saw it as an attack against Filipino women's economic opportunities. In addition, many NGOs saw it as bad policy, since because of it many more women would leave the country illegally, which would in turn expose them to further abuse. (Heyzer et al. 1994; Ocampo 1988).

The ban also reflected one of the many ways in which state regulation of migration in the Philippines is gendered. Nana Oishi has argued that regulation of women's migration has followed a different logic than that of men. While there have existed several bans on female migration, the same has not happened with migrant men. While the regulation of male migration usually reflects economic criteria, the regulation of women's migration is more complex. The ban reflected the willingness of the state to act as protector of women. These are the daughters and wives of the nation and are often equated with its honor and pride.

Despite such problems, President Aquino embraced labor migration as a way to keep a battered economy afloat and recognized the invaluable contributions of migrant workers by naming them "modern-day heroes." Overseas employment continued to be viewed as worthy of national government attention due to its employment and foreign exchange generating functions. Yet, in contrast to Marcos' time, social problems associated with massive migration, particularly with its feminization, contributed to the creation of a new policy orientation toward workers' welfare and protection (See Tigno et al. 2000). Bans, however, became unpopular political measures, since they constrained people's movements without necessarily providing them with protections. Subsequent administrations gradually limited their use and geared their policy efforts toward a regulatory approach which, rather than preventing workers from leaving, aimed to provide them with protections while overseas.<sup>79</sup> The urgency of these efforts became obvious when the *Contemplacion* case saw the light in 1995.

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<sup>79</sup> Following the much-publicized death of Maricris Sioson in 1991, President Corazon Aquino ordered a

#### **4. Flor Contemplacion and RA 8042: Toward a Systematization of Migrant Workers' Protection**

In this section I introduce the context in which Republic Act 8042 was created. In a context of legitimacy crisis for the Philippine government, this law acted to reaffirm the state protective dimension and therefore, solidify its credibility in the management of migration. This is relevant since some of the main criticisms the government has received have been regarding its inability to protect Filipino overseas workers. Building upon the dialectical relationship Gramsci established between structure and superstructure, I suggest a likewise dialectical relationship between labor migration as an economic development policy and the legitimizing role of the Philippine state protection discourse. Regardless whether the Philippine state manages to protect Filipino workers overseas or not, what matters is that it presents itself as doing so. This provides the ideological legitimization of migration and its economic function.

In 1995 a Singaporean court convicted Flor Contemplacion, a 42 year old Filipino domestic worker in Singapore, of killing another Filipina domestic worker, Delia Maga, and the three year old son of her employer, Nicholas Huang, four years earlier (See Gonzalez III 1996; Kanlungan 2006b; 2006c; Nuqui and Josue 2000; Philippine Migrants Rights Watch 2003). Thousands of Filipinos in their home country and all over the world were outraged by what seemed an unfair trial conducted with insufficient and misleading evidence. Massive protests erupted in several countries supporting Contemplacion's innocence and asking the Philippine government to intervene on her behalf. Malacañang's reaction was perceived as excessively slow and timid, and initially more worried about maintaining a friendly relationship with Singapore than with saving Contemplacion's life.<sup>80</sup> As the case evolved, diplomatic relations between the Philippines and Singapore became strained and a political crisis occurred in the Philippines, leading

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total ban against the deployment of performing artists to Japan and other foreign destinations. The ban was, however, rescinded after leaders of the overseas employment industry promised to extend full support for a program aimed at removing kinks in the system of deployment. In its place, the government, through the Secretary of Labor and Employment, subsequently issued Department Order No. 28, creating the Entertainment Industry Advisory Council (EIAC), which was tasked with issuing guidelines on the training, testing certification and deployment of performing artists abroad.

<sup>80</sup> Presidential Residency equivalent to the White House.

to the dismissal of several cabinet members and ranking public officials (Tigno 2004). Despite international public pressure and President Ramos' plead for her life, Flor Contemplacion was hanged on March 16<sup>th</sup> 1995 (See also Gonzalez III 1998; Oishi 2005; Rodriguez 2005).

According to many authors and policy analysts, the execution of Flor Contemplacion and its aftermath shed light on many critical dimensions to the policies relating to Philippine labor migration (See Gonzalez III 1996; 1998; Kaibigan 1996; Nuqui and Josue 2000; Oishi 2005; Rodriguez 2002; 2005; Tigno 2004; Tigno, Rye, and Macabiog 2000). A substantial portion of the Philippine public did not think their government was doing enough to protect migrant workers. Migrant workers, non profit organizations, as well as civil society in the Philippines and overseas came together to express their discontent at the lack of protection of female domestic workers working and living abroad.<sup>81</sup> According to many migrant workers organizations', the Contemplacion case shed light on the failure of the Philippine government, despite the economic benefits of migration, to implement a legal framework that would ensure the protection and welfare of migrant workers. Further, given the importance of remittances to the national economy, the institutionalization of migration since the Marcos era, and various government fees exacted on migrant workers, the state was denounced for exporting women and being directly responsible for their exploitation and abuse overseas.

Facing an upcoming national election, and given the political crisis and social pressure that Contemplacion's story generated, President Ramos urged Congress to complete a law that would address the challenges, dangers, and abuses that migrant workers faced. This was the context in which *Republic Act 8042* or the *Migrant Workers and Overseas Filipinos Act* (hereafter referred to as RA 8042) was born. According to then-Senator Leticia Ramos Shahani, the enactment of RA 8042 aimed to optimize "the benefits of overseas employment providing mechanisms for full protection to migrant

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<sup>81</sup> The importance and visibility of migration in the Philippines makes it necessary to apply a broad definition of civil society. It includes organized protesting groups but also the Philippine public as a whole. Therefore, my definition of civil society presents two different levels. On the one hand it includes organized groups coming together to denounce the Philippine government. On the other hand society's generalized sense of national pride, which was often hurt by the abuse inflicted on their female nationals overseas.

workers even while still in the Philippines, but more importantly, when abroad and susceptible to abuse and exploitation.” She made special mention of female migration when she clarified: “I speak most especially for the Filipino women whose growing number in the vulnerable sectors such as entertainment and domestic service is a cause for concern” (Department of Labor and Employment 1997). With the creation of RA 8042 the Ramos administration officially admitted that labor migration was no longer a temporary solution to economic strain but rather a phenomenon that needed to be managed and further regulated (Oishi 2005). Bans had not proven effective protective measures, since they endangered diplomatic relationships and had the potential to trigger irregular migration. Regulation was seen as alternative to control and, with RA8042, the government was trying to regulate the terms under which migrants would migrate rather than preventing them from working overseas.

RA 8042 has since constituted the most comprehensive protective mechanism of migrant workers abroad anywhere. It established welfare and resource centers overseas, broadened the definition of illegal recruitment, and created various emergency funds for repatriation. While the Philippines had been a pioneer in the institutionalization of labor migration for over a decade, RA 8042 formally incorporated workers protection as a core component of government regulation and therefore turned the Philippines into a pioneer in terms of protection as well. Despite RA 8042 presents comprehensive language regarding the protection of Filipino migrant workers and represents the first concrete step the Philippine government has taken in order to achieve this goal, it also presents important gaps, which often render it difficult to implement and enforce. Insufficient allocation of resources, the geopolitical position of the Philippines, and lack of political will often render the fulfillment of many of the objectives of the Act impossible.

This does not necessarily pose a contradiction, since I suggest that the main intent behind the creation of RA 8042 was the preservation of labor export and the legitimization of the Philippine state as the protector of women rather than their exploiter. In other words, presenting the government as women’s protector was more important than actually protecting them. The main function of RA 8042 was the maintenance of hegemony and ultimately the preservation of the labor export program. This law is an

illustration that hegemony “moves on a terrain that is constantly shifting in order to accommodate the changing nature of historical circumstances and the demands and reflexive actions of human beings (Giroux 1981, cited in Carnoy 1984:70). While hegemony is an ethical-political relationship, it is also economic, since it is based on the role the political elite has in the economy. Building upon the dialectical relationship Gramsci established between structure and superstructure, I suggest a likewise dialectical relationship between labor migration as an economic development policy and the legitimizing role of the Philippine state protection discourse. RA 8042 and other protective efforts undertaken by the Philippine state resemble Gramsci’s notion of “passive revolution.” According to Carnoy (1984:76), passive revolution is a technique that the ruling class attempts to adopt when its hegemony is weakened in any way. The “passive” aspect consists of decapitating the revolutionary potential of political adversaries. The forms that this takes, among others, can be acceptance of certain demands from below and changes in the system that can be accommodated within the existing social order. RA 8042, thus, gives formal protection to Filipino migrants. This, however, does not necessarily translate into actual protection or a substantial alteration of workers’ conditions overseas.

### **5. Toward a Critical Reading of RA 8042**

Since RA 8042 has been the main law regulating Philippine labor migration, an analysis of its content is crucial to providing an accurate understanding of the legal context in which out-migration of Filipino domestic workers currently takes place. In order to discuss the relevance and impact of this law for Filipino migrants, as well as its influence in the recently signed Household Service Workers Reform Package, I detail in this section some of its main provisions and subsequently discuss its implications for labor, particularly female migrant labor. More specifically, I discuss the relevance of multiple legal bodies to guarantee Filipino domestic workers’ rights, the ability of the Philippine government to protect them during their time overseas, and the problems posed by illegal recruitment.

### **5.1. Pre-deployment Guarantees: Laws in Receiving Countries, Bilateral Agreements, and Multilateral Treaties**

Filipino migrant workers, and particularly migrant domestic workers, face numerous problems during their employment overseas. Through my fieldwork, I documented loneliness, depression, cultural adjustment, anxiety about the family left behind, contract substitution (including wages, job description, and other terms of employment), abuse, maltreatment, sexual harassment, and the perils and traumas present in situations of war (See also Asis 1992). While the Philippine government is limited in its ability to address some of these issues, Sections 4 and 5 of RA 8042 commit to guaranteeing certain social and labor standards once the worker is in the receiving country. More specifically, they establish certain standards that receiving countries must meet in order to receive Filipino migrant workers. I find these particularly relevant since they, albeit broadly, define the framework of regulation and protection the Philippine government requires to send its workers to particular countries. Let us further examine what these guarantees are and how they have been enacted.

In order to be considered as receiving countries, states must guarantee at least one of the following conditions. They must have 1) labor and social laws protecting the rights of migrant workers or 2) sign multilateral conventions, resolutions, declarations or 3) bilateral agreements with the Philippine government, relating also to their protection. If they do not fulfill any of these requirements they must be taking concrete measures toward the completion of this goal (Department of Labor and Employment 1997:3-4). While one of the central tasks of sending states is to provide protections to their migrant workers, my analysis of some of these protections raises the question of whether sending states can fulfill their protective role within the boundaries of receiving countries (See Guarnizo 2006). In other words, to what extent can the Philippine government provide protection beyond its own boundaries? In the next three subsections I examine how labor and immigration laws of receiving countries, bilateral agreements, and multilateral treaties work to grant rights to Filipino migrant workers.

### 5.1.1. Receiving Countries' Immigration and Labor Laws

[T]hat's really a problem, whether we can implement our own rules, our own policies in a country where they have their own legislation and laws that they need to follow also.<sup>82</sup>

When the Philippine government has asked receiving countries to provide higher labor protection to Filipino workers, these haven't often argued that their laws cover Filipino workers equally to their own nationals and, therefore, they do not need special attention. Many receiving countries, however, do not recognize domestic work as real labor and, therefore, do not provide labor protections to domestic workers. Labor protections vary across countries and regions. For example, although the United States formally provides equal protection for national and foreign workers, its regulation of domestic labor is usually weaker than the rest of labor activities. In other countries, the total exclusion of domestic work from employment law leaves them unprotected in the workplace and more vulnerable to exploitation and abuse.

While Republic Act 8042 demands countries that employ Filipino migrants to work toward the creation of satisfactory protection mechanisms, Filipino women are constantly migrating to countries where they do not have rights as workers. There they suffer overwork, underpayment, movement restrictions, and abusive treatment, among other abuses. The Philippine government has been incapable of altering this situation and/or stopping deployment to these countries. These situations constitute serious challenges to the government obligation- according to RA 8042- to uphold the dignity of Filipino migrant workers and to afford them full protection (Department of Labor and Employment 1997:1). They shed light on the gap between RA 8042 and the reality Filipino women face. The fact that some of the countries where abuse is most rampant (e.g. Saudi Arabia, Lebanon, Malaysia, and Singapore) suggests that migration to countries with no comprehensive regulation and protection of migrant domestic labor has continued and even increased since the enactment of RA 8042 in 1995. Interviewees from the government explained that receiving countries refused to alter their regulations since

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<sup>82</sup> Interview 1, Philippines, Government Official, April 2007

they were not seen as popular political measures. Interviewees from migrant workers' organizations complained, instead, that the Philippine government was primarily interested in signing trade agreements with receiving countries and was therefore, not willing to pressure host governments hard to provide Filipino workers with more protections. The fact remains that Filipino women are regularly migrating to unsafe and dangerous countries. Given that the Philippine government has not proven successful in amending receiving countries' laws and/or in stopping migration to destinations where the welfare of domestic workers is endangered, what other avenues are there available for the state to protect migrant workers?

### **5.1.2. Bilateral Agreements**

Another condition RA 8042 set up for receiving countries has been signing bilateral agreements to protect Filipino migrant workers. The creation of these agreements, similarly to the amendment of local labor laws, has proven a challenging task for the Philippine government. Following the explanations of interviewees from the Philippine government and migrant workers' organizations, I suggest in this section that the difficulties to sign these agreements stem both from the weak geopolitical position of the Philippines and a lack of political will on the part of the Philippine government.

According to one official at the Department of Labor and Employment (DOLE), while it is not easy to forge an agreement with receiving countries, the Philippine government sees these agreements as key to providing protection for migrant workers. The required, though, the collaboration of receiving countries:

[A] successful overseas employment program can only be achieved if both the sending and receiving countries can implement the programs, the policies that will protect the interests, the welfare of overseas workers. And now, our number one consideration in opening markets is always the welfare of Filipinos.<sup>83</sup>

This statement expresses the priority of the government to protect workers' welfare through agreements with receiving countries. The protection needs to be achieved through transnational regulation, where both sending and receiving countries work

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<sup>83</sup> Interview 20, Philippines, Government Official, June 2007

together to set standards and protections for migrant workers. Nevertheless, receiving countries are often reluctant to sign bilateral agreements with the Philippine government for various reasons.

First, receiving countries often state that their laws cover Filipino migrants equally to their own nationals. Therefore, the former do not need special attention. The previous sections challenge this statement. As demonstrated, migrant workers, particularly domestic workers, usually do not enjoy the same labor rights as local workers or workers in other labor sectors (See Kanlungan 2006a; 2006b; 2006c; 2006d).

Second, receiving countries have argued that the terms of employment should be negotiated between the migrant worker and private agencies and employers, and governments should not get involved in this process (See Gonzalez III 1996). An under-regulation of the private household as a workplace goes hand in hand with a *laissez faire* view of migrant labor, which, in the case of domestic work, goes doubly unregulated. According to one government employee:

[W]e do not have bilateral agreements in some countries where we send our people, especially domestic workers. And this is primarily because of the refusal of the country to enter a bilateral agreement. They will just tell us ‘ OK, if you want to send your nationals to work go ahead, if you don’t want to, it’s up to you, but we are not going to sign any bilateral agreement. Let the contract be the one that will bind your nationals with our employers, with our locals.’<sup>84</sup>

The under-regulation of migrant domestic work has important gender and political-economic implications for the regulation of migrant labor, particularly female domestic work. On the one hand, gender ideologies see domestic labor, and therefore reproduction, as not being real work, but rather a private matter relegated to the household sphere. This means the household is not seen as a workplace either (See Ezquerro 2007a). On the other hand, the failure or unwillingness to regulate domestic labor is part of a larger picture of political-economic inclination toward deregulation and increasing adoption of neoliberal imperatives. Employment relationships are increasingly seen as a matter

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<sup>84</sup> Interview 2, Philippines, Government Employee, April 2007

between the employer and the workers, regulated by the supply and demand laws that characterize the free market.

A third argument in response to the efforts of the Philippine government to forge bilateral agreements with receiving countries has been that if they enter such agreements with the Philippines they will need to do so with many other sending countries. Former Minister of Labor Patricia Sto Tomas addressed this issue in 1996:

We have labor agreements only with two countries, Qatar and Jordan. The agreements were signed only because the ministers who were partners to the agreements were personal friends. Otherwise, to the disadvantage of the labourer, bilateral labor agreement requires two signatories- the sending and receiving countries. When we brought this up with our Middle East counterparts almost fifteen years ago, they said it could not be done because there were almost a hundred other nationalities within their borders. They said they cannot sign an agreement with us without doing the same with the others (Santo Tomas 1996: 225).

By the time of my fieldwork, the two agreements that she cites were already expired, and the challenges that Ms. Santo Tomas explains remain current today. According to Nana Oishi, in the context of the regulation of labor migration, developing countries are not in strong political positions, since the international labor market is basically a buyers' market. Multiple sending countries must compete with each other in order to find work for their workers as remittances are becoming central to their economies (See Raj-Hashim 1994). This creates a race to the bottom, in which sending countries find it difficult to come together to ensure minimum standards across the board. Many receiving countries, particularly in the Middle East but also elsewhere, set country quotas in their immigration policies, allocating a certain percentage of work visas to each nationality. Sending countries always need to worry about an immigration quota cut if they become too demanding. Conversely, a more docile attitude may lead to larger immigration quotas (Oishi 2005).

The Philippines currently does not have any labor protection bilateral agreement with any receiving country. I have summarized in Appendix D all the labor treaties that the government had signed up to 2007. There are three things worth emphasizing from this document. First, none of the agreements constitute a bilateral agreement and they are

instead Memorandums of Understanding (MOUs) or Memorandums of Agreement (MAUs). Similarly, to what Sto Tomás stated, MOUs and MAUs are usually declarations of good intentions rather than enforceable documents. They do not contain any legal obligation under international law. Second, most of the Memorandums involving workers' protection are currently expired or actually signed with other sending countries such as Indonesia. In fact, besides MOAs with Canada, Spain, Taiwan, and the United Arab Emirates, most agreements the Philippines has signed have been with other sending countries. While it is important to promote cooperation with other sending countries to grant migrant workers' protection, the collaboration of receiving countries remains key. This brings me to the third issue. The few memorandums signed with receiving countries mostly aim to open new labor markets, regulate recruitment, training, and information exchange, and do not usually have language on protection. The Philippine government has therefore not succeeded in signing any bilateral agreement on labor protection with receiving countries. The response it usually gets has been the assurance coming from receiving countries that Filipino migrant workers will be treated fairly (See Gonzalez III 1996). This has not been translated, however, into a guarantee of protection. This lack of collaboration has made the protection of Filipino domestic workers difficult since, as Oishi argues, "the key to protecting them is largely located in destination states" (2005:179). It is there where women encounter most of the difficulties.

Like Aquino's ban discussed above, the difficulties in entering agreements with receiving countries reflect unequal political and economic power between sending and receiving states. The weak geopolitical position of the Philippines translates into a weak position in the international division of labor. In fact, immigration policies have often turned into political tools for economic partnership. Up to 1997, in the context of trade agreements with the Philippines and Indonesia, Malaysia restricted the entry of foreign domestic workers to nationals from these two countries. Similarly, Japan offered higher quotas of Filipino caregivers and nurses in exchange for tariff reductions in various economic sectors (Oishi 2005:49). In both cases immigration favors were made dependent upon trade liberalization and economic deregulation on the part of sending countries. Migrant workers organizations complain that,

[T]here are not bilateral agreements with receiving countries, except from trade agreements, meaning that, for example, Saudi Arabia will invest in the Philippines if the government says, ‘OK, you can invest in the Philippines provided that you accept our people. It’s more on trade, and it’s concretized by former Secretary of Labor, Patricia Sto Tomas, who signed an agreement with her Saudi counterpart to reduce the wage of Filipino domestic workers from \$200 to \$150<sup>85</sup> to keep Saudi employers and government happy.<sup>86</sup>

In addition, according to a Kanlungan report, “no suit has ever been instituted by the Philippine government before any Saudi court or any international tribunal for a cause of action for a Filipino migrant worker against a Saudi employer” (Kanlungan 2006b:48).

While it is important to recognize the limited economic and limited leverage of the Philippines, it is difficult to distinguish between external constraints and lack of political will. The director of Kanlungan claimed the Philippine government does indeed have some room to enact changes:

I think that it’s really the government, it’s in despair, but instead of really using its leverage, they are giving into the conditions of the receiving countries to make sure that labor export will continue... We have the leverage, we have the people, we have the skills, but the government won’t do more because they need to earn dollars... the Philippines is not pushing hard to get into bilateral agreements. That would really be protective for our workers. We would like to draft a model bilateral agreement and try to lobby it with the government ... We have very few bilateral agreements, and when we have them they are about opening up markets and not protective measures for migrant workers, so the government is not really pushing, these are not their priorities. Their priority is to send workers abroad so the Philippines will receive remittances in dollars.<sup>87</sup>

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<sup>85</sup> Although this agreement between Santo Tomas and Saudi Arabia was raised in few interviews with migrant workers organizations, I have not been able to document it either with my interviews with government officials or in the media. In fact, this was the case with several “sensitive issues” that came up during my fieldwork in the Philippines. The only time in which a government official candidly expressed views on immigration they asked me to turn the recorder off. In general, when it came down to controversial government decisions, I usually found it impossible to address the issues with government officials or to contrast it with the media. Since it became a pattern during my research I interpreted it as a lack of government transparency and even media censorship in a context where migration is such a politically relevant issue in the Philippines.

<sup>86</sup> Interview 5, Philippines, Migrant Workers Organization, May 2007

<sup>87</sup> Interview 3, Philippines, Migrant Workers Organization, April 2007

Besides pointing to the weak position of the Philippines in the international economy, the scarcity of bilateral agreements is therefore also a result of a complex equilibrium of political priorities where, while protection appears as an integral part of Philippine official emigration policy, migrants' remittances and a good relationship with receiving countries are key to keep the Philippine economy afloat. In other words, the Philippine government's reliance on imports, foreign investment, and foreign aid may affect its ability and/or will to bargain for better conditions for its workers, regardless of what RA 8042 says.

### **5.1.3. Multilateral Arrangements**

A third requirement included in RA 8042 for the deployment of Filipino migrant workers is the ratification on the part of receiving countries of multilateral arrangements that provide protections for migrant workers. In this section I discuss some of the main treaties currently addressing migrants' protection and the difficulties in their implementation. As discussed in the previous subsection, an insufficient leverage on the part of sending states, including the Philippines, makes the ratification, as well as the implementation, of these treaties quite difficult.

The role of the state in the era of global capitalism has been intensively debated during the past three decades. While neo-classical theory has announced its death under the triumph of transnational capital, other authors have suggested that, far from having become obsolete, the state has seen its sovereignty transformed before the increasingly important role of supranational bodies such as the United Nations and the International Labor Organization (ILO) (See Hardt and Negri 2000). Along these lines, Saskia Sassen has argued:

Certain components of state authority to protect rights are being displaced onto universal human rights codes... While the state was and remains in many ways the guarantor of the social, political, and civil rights of a nation's people, from the 1970s on we see a significant transformation in this area. Human rights codes have become a somewhat autonomous source of authority that can delegitimize a state's particular actions if it violates such codes (1993:27).

Sassen argues international codes and agreements can provide protections for migrant workers in receiving countries where, as I have discussed, national laws do not include migrants or discriminate against them. I suggest, however, that Sassen is overtly optimistic, since the protection these arrangements provide to migrant women is very limited.

While global governance of migration is still in a rudimentary state, some international legal instruments have been adopted to protect the rights of migrant workers abroad. For example, the ILO has the Migrant for Employment Convention (1949), the Migrant Workers' Convention (1975), The Migration for Employment Recommendation (1945), and The Migration for Employment Recommendation (1975). More recently, the United Nations General Assembly adopted the International Convention on the Protection of All Migrant Workers and Members of Their Families, usually called the UN Migrant Workers Convention (1990) (Oishi 2005:180). This convention provides a general framework for migrant protection. Some of its provisions include: freedom to leave any state and to enter and remain in their state of origin; right to life; protection against torture, cruel, inhuman or degrading treatment or punishment; protection against forced labor; right to freedom of thought, conscience, and religion; protection against arbitrary interference on privacy, correspondence, and communication; right to property; no arbitrary deprivation of property; right to liberty and security, including protection against violence, physical injury, threat and intimidation; freedom from harm; right to adequate information; right to preserve cultural identity and roots.

The UN Migrant Workers Convention has been seen as the main multilateral protective mechanism for migrant workers (Abrera-Mangahas 1994). Many of its provisions, however, are constantly violated. It has also been criticized for lacking sensitivity to gender-specific issues. Even though migration situations are different for men and women, it applies equally to female and male migrants (Philippine Migrants Rights Watch 2003).<sup>88</sup> It does not recognize the specificity of the kind of work migrant women undertake, issues such as the wage gap between men and women, or the

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<sup>88</sup> Another criticism has been that it does not grant the right to family reunification but rather only recommends states to take appropriate measures to facilitate it.

worldwide occupational segregation by gender. UN Conventions usually follow the “equal treatment” approach, which means the equality of treatment between indigenous and migrant workers. This approach does not recognize that domestic workers are generally not included in protective labor legislation at the national level. Further, the Convention does not deal specifically with sexual abuses such as rape and other forms of violence and harassment (See Lycklama 1994). Therefore, unless international instruments provide specific protection for them, female migrant domestic workers will remain as unprotected as the local domestic workers under the UN Migrant Workers Conventions.<sup>89</sup>

The Philippine government and international organizations such as the ILO have widely publicized the existence of these agreements. Given the weakness of labor laws in many receiving countries, these international treaties could provide the protection migrants need. During my fieldwork, however, migrant workers expressed a great deal of reluctance to the efficacy of international treaties. During the last week of my stay in the Philippines I was invited to attend the first Asian Migrant Domestic Workers Assembly held in Manila. Migrant domestic workers and non-governmental organizations from all over Asia gathered to discuss their situation and debate future directions for action. The ILO sponsored the conference, and one of its representatives, a Dutch woman based in Jakarta, attended it. During the first day, after a long morning of speeches, organizers suggested an ice-breaker that would consist of taking few minutes during which migrant women would write down human and labor rights that they considered relevant to their experiences as migrant domestic workers. The goal was to share them with the rest of the group and to discuss the extent to which international agreements and conventions covered these basic rights. Multiple issues were raised, such as the right to decent wages, the right to a safe work environment, the right to enough food, the right to rest, etc. Toward the end of the activity, an Indonesian woman working in Singapore mentioned the right to love. She nervously laughed while reading her piece of paper and the

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<sup>89</sup> Despite these shortcomings, it is important to emphasize that the UN Migrant Workers Convention embodies the first universal codification of the rights of migrant workers and their families. The Philippine government has abided, endorsed, and ratified it, as well as other conventions and recommendations, and has also pursued their incorporation into Bilateral Labor Agreements.

audience also responded with giggles and smiles. I was surprised by the fact that this idea came up and listened attentively while the woman talked about the emotional and physical isolation migrant domestic workers have to face. She was claiming her right to physical intimacy without coercion and her right to a humane treatment on the part of her employers. She was addressing some of the non-material aspects of women's migration, which in fact have important effects on their well-being and mental health. Migrant women in the audience nodded in approval.

When the activity ended the organizers announced that the next speaker was the woman from the ILO. She started her presentation by showing her disappointment and discontent for what she saw a waste of everyone's time. She explained that we could laugh if we wanted at jokes such as the "right to love," but, as if most women in the room did not know it, people were actually suffering due to serious issues such as abuse and lack of payment. Then she went on telling the women about the existence of multiple multilateral arrangements they could use to stand up for their rights. Nobody in the audience replied.

Her intervention struck me for three reasons. First, I found it extremely arrogant and it made me think about the irony of having a highly educated, professional White woman from a European country telling Asian migrant domestic workers what rights and violations were important to them and which ones were not. Second, I also thought she was approaching their experiences from a strictly labor perspective and did not take into consideration other gendered and racial dynamics taking place at the workplace that can be extremely important when working and living overseas. This reflects a benevolent imperialist attitude that erases historical subjects' ability to produce knowledge about their own experiences (See Mohanty 1988).<sup>90</sup> It also shows a hyper-masculine approach to labor that ignores emotional or not purely economic aspects in migrant women's lives. Third, although it is true that a multiplicity of multilateral legal bodies exist to address the conditions of migrant workers, based on my own fieldwork and readings, I felt her

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<sup>90</sup> Although I cannot reflect extensively on this issue here, I do not think that her attitude was unrelated to the fact that it was her organization who was paying for a substantial part of the conference expenses. It is not only her class, educational, race, and geographic background that is of relevance here but also the nature of her organization and its relationship to the migrant women in that particular context.

defense of these treaties was too optimistic and did not acknowledge the limitations of these arrangements.

During the break after her speech I hung out with few Filipino women working in Singapore. They were offended and insulted by the woman's remarks. According to them, "government people" usually talk about migrants' condition without having experienced it first hand. These women had no confidence in international conventions, and felt that it was up to them to protect each other and themselves.

The limitations of these conventions, I suggest, mainly respond to two interrelated factors: insufficient ratification on the part of receiving countries and lack of enforcement. While the UN Migrant Workers Convention was created in 1990 and became one of the most comprehensive legal bodies guaranteeing protections to migrant workers, it did not come into force until July 2003 due to an insufficient number of ratifications (Oishi 2005:180). The unwillingness of receiving countries to recognize and sign it, according to Guarnizo (2006), has rendered it "dead letter." Since it only obtained 20 ratifications- all of them from sending states- it only covers a small fraction of current international migrants (see Appendix E).<sup>91</sup> This was repeatedly raised during my interviews with government employees and non-governmental organizations in the Philippines, who expressed their frustration at the general lack of interest and political will on the part of the receiving countries.

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<sup>91</sup> The countries that have ratified the UN Convention are the following: Albania, Argentina, Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Burkina Faso, Cape Verde, Chile, Colombia, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea, Honduras, Kyrgyzstan, Lesotho, Libyan Arab Jamahiriya, Mali, Mauritania, Mexico, Morocco, Nicaragua, Peru, Philippines, Senegal, Seychelles, Sri Lanka, Syrian Arab Republic, Tajikistan, Timor-Leste, Turkey, Uganda, Uruguay. It is possible to find all information regarding this Convention at the United Nation's website:

[http://www.unhcr.ch/html/menu3/b/m\\_mwctoc.htm](http://www.unhcr.ch/html/menu3/b/m_mwctoc.htm). It is worth emphasizing the absence of any receiving country in its ratification. In terms of the International Labor Organization's Migration for Employment Convention, the ratifying countries have been the following: Albania, Algeria, Armenia, Bahamas, Barbados, Belgium, Belize, Bosnia and Herzegovina, Brazil, Burkina Faso, Cameroon, Cuba, Cyprus, Dominican Republic, Ecuador, France, Germany, Grenada, Guatemala, Guyana, Israel, Italy, Jamaica, Kenya, Macedonia, Madagascar, Malawi, Malaysia Sabah, Mauritania, Republic of Moldova, Montenegro, Netherlands, New Zealand, Nigeria, Norway, Portugal, Saint Lucia, Serbia, Slovenia, Spain, Tajikistan, Tanzania Zanzibar, Trinidad and Tobago, United Kingdom, Uruguay, Venezuela, Zambia. Although this convention includes several receiving countries, most of the major receiving countries of Filipino migrants are absent, such as the United States or most Middle Eastern and East Asian countries. More information about this convention may be found at the International Labor Organization's website: <http://www.ilo.org/>

According to Nana Oishi, receiving governments do not get political pressure from their domestic electorate to ratify migration conventions and therefore these do not become an integral part their political agendas. Since ratification does not bring political benefits to receiving states, these are not willing to sign the treaties. In addition, receiving countries show great reluctance to adjust their legislation following international requirements. Once a state has ratified any convention, it must often revise its domestic laws and report on implementation, which, due to the large numbers of migrant workers within their boundaries, would require a vast amount of resources. The ratification of conventions would also raise the expectations of sending states, which would criticize receiving states at international meetings if they failed to respect and implement the regulations.

Another challenge to the effectiveness of international conventions has been the lack of enforcement mechanisms. Currently, no international body can directly intervene in cases of violations of migrants' rights. A ratifying receiving state is the only actor that could punish local employers or recruiters in case of a violation. There are no consequences, however, if no action is taken. The worst possible penalty on the state for its negligence would only be the accusation of sending states at international meetings (Ibid.181). In addition, UN resolutions, such as the Resolution on Violence against Women Migrant Workers adopted in 2000, do not constitute legal instruments. Rather, they are political statements lacking any kind of enforcement mechanisms. Therefore, similarly to MOUs and MAUs, multilateral legal mechanisms to protect migrant workers currently only have limited effectiveness. Receiving states reject outside intervention regarding this issue, and insist that migration is a sovereignty issue. This situation resembles the complaints developing countries raise at the meetings of the World Trade Organization. In the past several years they have criticized the unwillingness of rich countries to eliminate their trade barriers while they impose this elimination on countries in the South. This position challenges the argument that states are no relevant in the era of globalization, since Western countries maintain considerable autonomy in relevant national political-economic policies. Free trade allows rich countries to access resources in the South. Nevertheless, they protect their own industries erecting particular trade

barriers (See Bello et al. 2004). Similarly, while receiving countries are interested in accessing workers from labor sending nations, they are not willing to let go of their sovereignty for the sake of migrant workers' rights. The elimination of borders- be it to capital, to people, or to international governance- is therefore selective.

#### **5.1.4. Challenges to Transnational Regulation**

In a nutshell, real cooperation among sending and receiving states remains to be forged. While RA 8042 projects the need for certain standards for the protection of Filipino migrant workers, once these workers leave Philippine soil their welfare is mostly beyond the control of their government. The limited leverage of the Philippines and the unwillingness of receiving countries to let go of national sovereignty are revealed in this process. Migrant workers' organizations also complain that, worried about maintaining good relationships with the receiving countries, the Philippine government is not trying hard enough to obtain better conditions for migrant workers. The pre-eminence of receiving countries' interests in the international labor regime needs moderation in order to achieve a reform of immigration and labor regimes and the creation and effective bilateral and multilateral agreements. As long as the international labor market remains a buyers' market, the Philippine government and other sending countries will remain limited in their ability to regulate their citizens' fate. This runs parallel to other power inequalities among countries, such as trade and aid relations, which I have reviewed in previous chapters. As a matter of fact, after sugar and coconut oil, labor has become one of the main export products in contemporary Philippines. The remittances workers send home have mitigated the critical situation of the national economy and its labor market. They have also been an important source of foreign currency. According to a UN Report in 2005, migrant workers sent \$240 billion to their families, \$167 of which went to developing countries. The amount was bigger than all combined international aid to these countries (See Javellana 2006). In the Philippines, the amount of migrant remittances, which hit 13 billion dollars in 2006, is more than 10 times greater than the net Official Development Assistance (Oishi 2005). Remittances were 8% of the Gross National Product in 2001 and 10% in 2005 (Espina 2006).

The fact that migration has such a central role in the Philippine economy often limits the bargaining power of the government or, in other words, its ability to affect the conditions, regional and international, under which migration takes place. However, no actor is ever powerless, and the Philippine government is no exception. While international relations and the Philippine economy are key factors in explaining the shape labor migration takes, policy choices and strategies also affect the migration phenomenon. These are, in turn, a reflection of political priorities.

## **5.2. Government Services**

In this section, I examine the articles in RA8042 that describe proactive measures the government should take to ensure migrant workers' protection.

Sections 14 to 22 of RA 8042 describe government services available to migrant workers: travel advisory/Information dissemination; repatriation of workers and the provision of an emergency repatriation fund; mandatory repatriation of underage migrant workers; establishment of a replacement and monitoring center; establishment of a shared government information system for migration; migrant workers loan guarantee fund; rights and enforcement mechanism under international and regional human rights systems (See Department of Labor and Employment 1997; Nuqui and Josue 2000). Several agencies provide these services. The Department of Foreign Affairs (DFA) is in charge of providing on-site protection and legal assistance to overseas Filipinos. The role of the Department of Labor and Employment (DOLE) is both to supervise the activities of POEA and OWWA and make sure labor and social laws in the receiving countries are applied to Filipino migrants. POEA regulates overseas employment and is in charge of the licensing and registration system of recruitment agencies. Finally, OWWA officers provide Filipino migrant workers and their relatives the support they need in the enforcement of employers and agencies contract obligations (See Philippine Migrants Rights Watch 2003:21).

Throughout subsections 5.2.1., 5.2.2., and 5.2.3 I discuss some of the shapes protection overseas takes. First, given OWWA's role in workers' welfare and protection,

I provide a description of some of its main tasks. Second, I discuss some of the problems OWWA encounters to fulfill these tasks and the strategies it follows to circumvent these.

### **5.2.1. The Overseas Workers Welfare Administration**

Government reports have repeatedly shown that female domestic workers are a great majority among Filipino migrant workers facing abuse. The fact that the women are often on work visas and do not enjoy permanent residency or citizenship in the country where they live and work often makes it difficult for them to have enough leverage to protect themselves or stand up for their rights (Anderson 2000; Parella Rubio 2003; Pe-Pua 2003; Ribas-Mateos 1999; Romero 1999). Racial and ethnic discrimination are often behind the abuse these workers suffer. In addition, the persistent view of domestic work as private and as non-work has excluded it from the labor laws of most host countries, often leaving domestic workers unprotected (Asis 2005a; Ezquerra 2006; 2007b; Hondagneu-Sotelo 2001; Mestre 2001; Parreñas 2005b; Romero 2003; Solè 2005; Domestic Workers United 2004).

OWWA is currently the agency in charge of guaranteeing “the protection of the rights of overseas workers and the promotion of their interests and general well-being” (OWWA 2003). The Philippines has been the first country to create a welfare agency among labor-sending states. Its welfare officers are part of the Embassy team abroad, and their main task is to assist workers arriving at the Embassy in need of help, as well as supporting them in finding a solution for their employment and immigration problems. In short, welfare officers respond to and monitor problems, complaints, and queries of overseas workers. The duration of their assignments overseas ranges from 2 to 5 years. After they finish their job overseas they return to the Philippines for 1 or 2 years and are then posted elsewhere. Due to these rotations I was able to interview several welfare officers in Manila, who were working there in between overseas assignments.

In early January 2007, citing data from OWWA, the Undersecretary of Labor and Employment declared that 80% of the welfare cases that OWWA handles involved female migrants working as domestics overseas (Uy 2007a). Table 3.1 summarizes the main problems Filipino migrant workers encountered between 1999 and 2004. It reflects

some of the situations that seem to be more common among Filipino domestic workers than among migrant workers in other economic sectors. Six out of seven of the categories are more frequent among female than among migrants and coincide with the kind of situations my interviewees in the Philippines reported to be recurrent among migrant domestic workers.

**TABLE 3.1. Welfare Cases<sup>92</sup>**

Overseas Workers Welfare Administration								
Welfare Cases and Repatriation Assistance 1999-2004								
Public Assistance	1999	2000	2001	2002	2003	2004*	TOTAL	Over 50% female in 05
Whereabouts/Non-communications	2,415	1,704	1,273	1,144	1,223	260	7,389	**
Unpaid Salaries	670	583	570	329	340	69	6,396	**
Substitution of Contract	485	742	1331	1156	1080	88	4,882	
Maltreatment	759	854	800	827	895	177	4,312	**
Stranded/Distressed	1,369	1,071	1,351	1,621	1,718	385	7,513	**
Rape/Sexually Abused	72	60	126	91	49	6	404	**
Run-Aways	277	570	793	960	982	10	3,592	**

Source: OWWA 2004

\* Data gathered in June 2004

\*\* 2005 data shows that these over 50% of the case in the category corresponded to female migrants.

Although this table is helpful in orienting us on some of the most frequent issues coming up during domestic workers' stay overseas, the findings stemming from my interviews with OWWA employees indicate these data are an undercount of the problems Filipino migrants overseas encounter. In fact, I was informed during an informal conversation with an OWWA employee that in 2006 in Kuwait alone there were 390 cases of sexual harassment and abuse. My informants identified "unofficial" ways of dealing with problems, such as the use of quit-claims to settle labor disputes,<sup>93</sup> different measurement techniques within the agency, and a tendency to underreport on the part of the workers, as some of the factors behind OWWA's underestimation. Nana Oishi

<sup>92</sup> The reason why the 2004 figures are lower is that the statistics only go through June of that year. Therefore 2004 is not complete in the table.

<sup>93</sup> I discuss quit-claims in subsequent sections of this chapter.

(2005:86) has established that, since it is common for state agencies to measure performance through numbers, they often inflate or deflate them in order to increase leverage or obtain higher resources within administrations. Confirming this, one of my interviewees, a former welfare officer, explained that one of the main targets in the foreign posts where he had worked was to settle cases as soon as possible so that in the performance appraisal it would appear that the case was resolved, even if it had not.<sup>94</sup>

I designed the following list of abusive situations Filipino domestic workers encounter based on 12 legal cases of distressed Filipino domestic workers and from interviews I conducted with distressed returned Filipino domestic workers at two migrant workers' organizations. I believe that the added detail of this list adds to the statistical information OWWA data provide and helps us understand that Filipino domestic workers do indeed face extreme and dangerous situations during their work overseas:

- food deprivation
- not allowed to talk to others/forbidden to use cell phone
- locked in room during night time,
- physical abuse,
- unjustly accused of theft;
- long working hours;
- overwork;
- sexual abuse;
- underpayment of salaries;
- physical abuse;
- attempted rape;
- rape;
- sexual harassment;
- not allowed to take a bath;
- not allowed to communicate with family;
- forced to work right after hospitalization;
- verbal abuse;
- locked inside the house;
- forced to eat spoiled food and leftovers.

Needless to say, all of these situations have negative impacts on the physical, mental, and emotional well-being of domestic workers. In combination with OWWA

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<sup>94</sup> Interview 15, Philippines, Government Employee, May 2006

statistics, they shed light on the limitations of the Philippine government in protecting domestic workers.

The Philippine government takes pride in being the only labor-sending country in the world that provides protection services overseas through OWWA. The presence of welfare officers in Philippine Embassies to assist Filipino migrants in distress is unique among sending countries. Welfare officers collaborate with the Ambassador and Labor Attachés under the “country team” approach to share information and therefore be more efficient in protection. For example, prior to a worker’s arrival, the Ambassador is supposed to approve labor contracts and verify the identity and location of employers in the country of destination. The goal is to prevent fraudulent or non-existent employers to hire Filipino domestic workers by fraudulent or non-existent employers and to blacklist abusive employers. This runs parallel to the protective functions of welfare officers at the Embassy:

Anything under the sun that the worker needs help in is a concern of OWWA[’s welfare officers]. [T]racking a worker’s whereabouts, problems with employers, problems with the host authority, the indication of illegal overstaying, and at times, family-related.<sup>95</sup>

This being said, the protection of Filipino domestic workers overseas is not an easy task. The difficulties women face provide a contrast between what RA 8042 states regarding protection and the reality in which women find themselves. In the following sections I examine some of the reasons behind these limitations. These include, again, the geopolitical positions of the Philippines as well as limited resources and corruption. There is also insufficient political will to alter these factors.

### **5.2.2. Insufficient Allocation of Resources**

I have observed that in the Philippines there are government employees who are really doing their job. They cannot do everything because their hands are tied because even though they want to provide the financial or legal resources there, they can’t...<sup>96</sup>

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<sup>95</sup> Interview 11, Philippines, Government Official, May 2007

<sup>96</sup> Interview 8, Philippines, Migrant Workers Organization, May 2007

Above I discussed the importance of Philippine geopolitical lack of leverage in achieving greater macro protection. Another factor behind lack of government protection, which I discuss in this subsection, are insufficient government resources. According to Nana Oishi (2005), public policy implementation in developing countries is often difficult due to existing budgets constraints (103). In the Philippines, as most of my interviews highlighted, budgets constraints had an impact on the ability of the government to provide protection to migrant workers.

Every time a Filipino migrant worker leaves on a new contract they have to pay a mandatory \$25 OWWA membership fee before their application is processed. The fees fund the services this agency provides, which are supposedly for “member contributors” only. Undocumented migrants do not pay this fee, and they are not considered beneficiaries of OWWA’s funds and services. The Philippine Migrants Rights’ Watch (PMRW) started a campaign in 2004 denouncing this fee. According to Letter of Instruction No. 537, signed by President Marcos in 1977, “in no way shall the fees be charged or collected from the worker.” The fee was initially going to be charged to employers, but it is instead routinely charged on the worker.<sup>97</sup> It is important to clarify that OWWA is actually a self-financing agency funded by the \$25 membership fee every documented migrant is mandated to pay every time they leave on a new contract, usually every two years. This means migrant protection is not part of the national budget.<sup>98</sup>

Despite the large amounts of money OWWA collects each year through membership fees, interviewees in that agency and in migrant workers’ organizations complained that the protection OWWA offers is insufficient. This is largely due, according to its own employees, to insufficient human and financial capability allocated for overseas workers’ protection. OWWA currently has 30 welfare officers in 23 countries all over the world, which, with corresponding administrative staff, comes to 100 OWWA employees overseas. Welfare officers tend to be in countries with high

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<sup>97</sup> PMRW’s campaign also demanded that *all* migrants be made beneficiaries of OWWA’s services instead of only documented Garcia, Liza S. 2004. "OWWA Membership Fee. PMRW Questions Legality of Collecting US\$25 from OFWs." *The Migrant Watch. Quarterly Newsletter of the Philippine Migrants Rights Watch*, pp. 1.

<sup>98</sup> Interview 5, Philippines, Migrante International, May 2007, Philippines

concentrations of Filipino workers. In Europe welfare officers work in Madrid, Milan, Athens, and London. In Asia they are present in Hong Kong, Brunei, Kuala Lumpur, Tokyo, Taiwan, and Korea. They have five posts in Saudi Arabia, since it has the highest concentration of Filipino workers. OWWA is also present in Dubai, the United Arab Emirates, Kuwait, Bahrain, Qatar, and Oman, among other countries.<sup>99</sup> Since in 2006 alone the Philippines deployed over a million workers to almost 200 countries, the resources in form of personnel allocated for their welfare is clearly insufficient. A welfare officer formerly placed in the Middle East and currently working in Manila explained:

[W]e have like a ratio of 1 welfare officer to 100,000 plus workers, although not all of them have problems. But even those who have problems on a statistically acceptable number... you are going to lack services for overseas Filipinos.<sup>100</sup>

Government employees, returned migrant workers, and representatives from migrant workers' organizations repeatedly reported that the Philippine government currently does not allocate enough resources for workers' protection. This results in teams of overworked welfare officers unable to provide good quality services and overcrowded Embassies with Filipino migrant workers in distress. A government employee recently returned from a foreign post in the Middle East, explained that most of the runaways arriving at the Embassies are domestic workers escaping from different kinds of grave abuse. The Embassy personnel often struggle to keep up with the number of these problematic situations.

[T]he cases handled in Kuwait is four thousand ... the year is only three hundred sixty-five [days]. Because my runaways are... like twenty per day. Imagine ... I haven't enjoyed a single rest day in Kuwait. And I start my day before eight o'clock, I end my day at eleven o'clock in the evening. And I have to drink after that. Why? To clear my mind. It was a hell of a time.<sup>101</sup>

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<sup>99</sup> Interview 11, Philippines, Government Official, May 2007

<sup>100</sup> Interview 4, Philippines, Government Employee, April 2004

<sup>101</sup> Interview 15, Philippines, Government Employee, May 2007

Maria, a distressed domestic worker returned from Lebanon, corroborated this:

[A]nd I get in [the] Philippine embassy. And they have a lot of household workers stuck here. They have also what you call this, babies Filipino women had ... I think when I was there [in the] Philippine embassy, more than two hundred household [workers were] there inside. And when we take a bath, in one bathroom, they have six persons take a shower and because they have only two comfort room[s]. Because they have loaded more person[s] inside the Philippine embassy when we take a shower ... you don't have clothes, dress, panty, bra, nothing. And they have a sick person inside the bathroom. When I was first time take a shower here, I don't shower because I'm shy. But the others told me, if you [are] shy here, you cannot shower.<sup>102</sup>

These two quotes illustrate that, far from facing a small number of cases of migrant workers in distress, Philippine Embassies in some areas of the world, especially the Middle East, often find themselves incapable of properly and efficiently handling the problems arising among Filipino migrant workers. Both the government employee and the Filipina domestic worker quoted above indicate the Embassies are overcrowded and their staff often overworked. One top official acknowledged this:

I guess... there are things that in working for the protection of our workers, have really worked against us ... In countries for instance that have certain norms of how you conduct yourself, the OWWA people is taught to be innovative. Innovative or creative ... We are lacking in resources not only in terms of manpower but also in terms of resources, financial for that mater. We cannot afford all the expenses that it will entail for us to be able to protect our workers.<sup>103</sup>

Given that government employees and officials, migrant workers organizations, and migrants themselves observe an insufficiency of resources allocated to service migrants overseas and that, as discussed earlier, the Philippine government, due to its geopolitical and diplomatic limitations, has not had much success in affecting receiving countries' and international legal bodies, what strategies do welfare officers resort to in order to protect workers?

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<sup>102</sup> Interview 9, Philippines, Maria, May 2007

<sup>103</sup> Interview 11, Philippines, Government Official, May 2007

### 5.2.3. Informal Problem Solving

The existence of formal barriers to workers' protection, such as insufficient resources and lack of political leverage, has forced the Philippine government to resort to informal problem mechanisms to attempt to provide protection. While the role of the Embassy staff, particularly welfare officers, is to assist Filipino nationals overseas, it has often proven unable or unwilling to do so. This is partially a result of the need to maintain the precarious balance between two different tasks: fulfilling their protective roles and contributing to the maintenance of good relationships with the country in which they are placed. This tension takes place, as discussed above, in a context of limited resources. Welfare officers, according to my interviewees, have resolved this dilemma following two mechanisms: the use of quitclaims and cultivating good relationships with local authorities. As I discuss below, while the use of these informal problem solving mechanisms allows both sending and receiving authorities, as well as employers, to manage this tension and to save face, it does not empower Filipino workers to stand up for their rights.

#### 5.2.3.1. The Use of Quitclaims

I was in one room that they locked me. Then I called the Philippine Embassy. I said "hello, sir, can you get me here in my house? I need your help. Please, help me." I gave the address of my employer. "Can you get me in this house? Please go. I'll wait here. The employee of the Philippine Embassy said "Shut up, that's enough, shut up!"<sup>104</sup>

One of the recurrently used informal mechanisms used to deal with labor conflicts overseas, vastly documented in my research, are quitclaims. These are standardized documents in which, in the context of a labor dispute, the worker exempts her employer and recruitment agency from any liability in exchange for her repatriation to the Philippines. Particularly in Middle Eastern Countries, where the worker needs her employer to sign her exit visa in order to leave the country, quitclaims have been a mechanism that Philippine Embassies' officials have adopted to settle labor disputes and

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<sup>104</sup> Interview 10, Philippines, Migrant Worker, May 2007

facilitate the worker's return to the Philippines. While this mechanism allows for a "peaceful" resolution of the conflict, it fails to provide an empowering and supportive framework of protection. Since it prevents the worker from filing a case against recruitment agencies in the Philippines, it indirectly promotes illegal migration as well.

Philippine Embassies all over the world, particularly in the Middle East and Asia, must deal with dozens of runaway Filipino domestic workers every day who have escaped from their employers. Sexual abuse and harassment, non-payment of wages, as well as other situations, force these women to flee. In many of these countries, when migrants decide to leave their employers, they automatically become undocumented, and often criminals, in the receiving country. Due to weak legal bodies and socio-economic constraints, it is often very difficult for them to fight legally their employer, and they see their Embassy as their only hope to redress their situation and/or to return to the Philippines. According to my interviews with OWWA employees and officials, once a worker makes it to the Embassy she shares her situation with the welfare officer or other administrative staff. The Embassy will usually call the employer and invite him or her to sit in a "friendly" meeting, during which the Embassy acts as a mediator. Depending on the nature and extent of the violation, the main goal of these meetings is to reach an agreement that allows the worker to return to her workplace. Former welfare officers told me that the main priority is to settle cases to free up space in the Embassy, avoid legal expenses, and meet yearly targets in terms of objectives and efficiency rates set for every Embassy team.<sup>105</sup>

Despite these pressures, the worker often does not want to go back to her employers' house and would either like to work for a different employer or be returned to the Philippines. In Kuwait, between 2005 and 2006, out of 4,527 cases settled, 1,588 workers were repatriated while 2,939 were reemployed.<sup>106</sup> In the context of a contract violation, the employer, according to POEA regulations, is technically responsible for the plane ticket.

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<sup>105</sup> Interviews 3, 4, 5, 15, Philippines

<sup>106</sup> Informal conversation with former welfare officer.

Philippine emigration law provides what is known as joint solidarity. In other words, if there has been a violation of a contract, such as underpayment of wages, once the worker returns to the Philippines she is entitled to sue the Philippine agency that recruited and placed her in the destination country. The Philippine agency may actually be held responsible for the violation that the agency or the employer in the receiving country committed. This is a way in which the Philippine state tries to address foreign employers' lack of accountability and receiving countries irresponsiveness.<sup>107</sup>

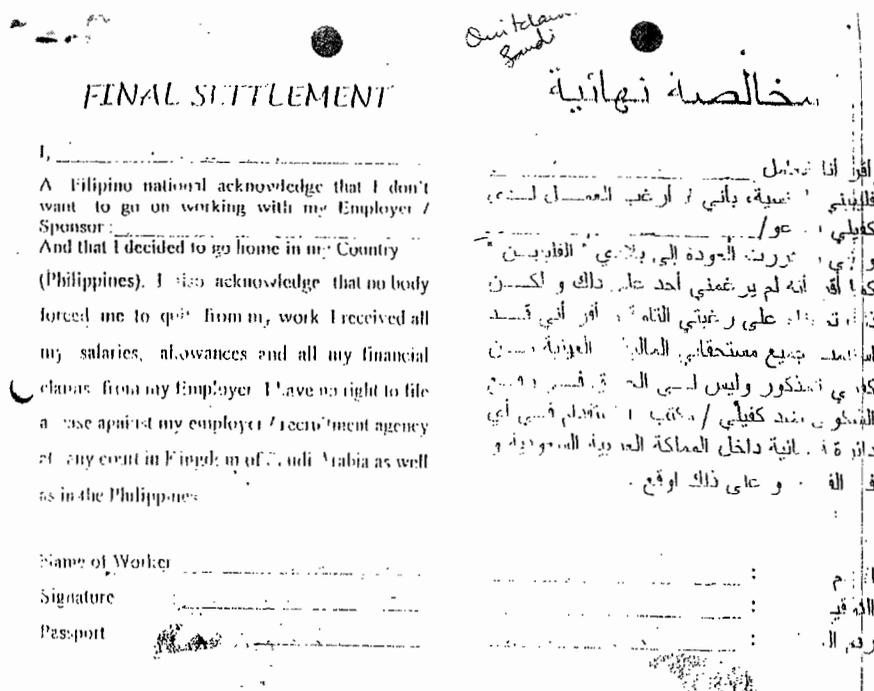
The use of quitclaims is meant to free employers as well as agencies from any responsibility. These are forms, often standardized, Philippine Embassies give domestic workers to sign in order to "speed up" their return home if need be. The signed form also indicates the worker waives her right to pursue legally her case once back on Philippine soil or, in other words, she quits her right to access joint-solidarity.

Figure 3.1 is a standard quitclaim from the Philippine Embassy in Saudi Arabia. It is worth emphasizing two main things about this document. On the one hand, the mere fact that a standard form exists points to the likeliness that quitclaims are commonly used. As my informants explained, quitclaims also exist, at least, in the Embassies in Lebanon and Kuwait. On the other hand, besides providing the identity of both the worker and the employer, the document included below fulfills three functions: 1) It presents the worker's exit from her workplace as a result of her own choice rather than from abuse; 2) It falsely states that the worker has been awarded all the monetary benefits to which she is entitled; and 3) It strips the worker from her right to pursue a contract violation in both the destination and the origin countries, since the document displays her "agreement" not to do so.

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<sup>107</sup> Ironically, this does not include different forms of physical abuse, including sexual abuse, but rather "merely labor" issues.

Figure 3.1



Standard Quitclaim from Philippine Embassy in Saudi.  
 Provided by Migrante International<sup>108</sup>

Ana, a 27-year old Filipino woman from Southern Luzon, signed a quitclaim at the Philippine Embassy in Lebanon prior to her return to the Philippines. Despite the abuses she suffered during her time in Lebanon, the Philippine Embassy staff forced her to use a quitclaim. Her story illustrates the use of this document in a Philippine Embassy as well as the Embassy staff’s priority to settle the case promptly without considering Ana’s needs or rights. By imposing a quitclaim on her, the Philippine Embassy failed to pursue illegal recruitment practices and grave violations of the labor contract.

<sup>108</sup> The Standard quitclaim says the following: “I, \_\_\_\_\_ a Filipino national acknowledge that I don’t want to go on working with my Employer/Sponsor: \_\_\_\_\_. And that I decided to go home in my Country (Philippines). I also acknowledge that no body forced me to quit from my work, I received all my salaries, allowances and all my financial claims from my Employer. I have no right to file a case against my employer/recruitment agency at any court [...] of Saudi Arabia as well as in the Philippines” [emphasis added]. While I did not include the totality of the quitclaim here, the document was dated in April 19, 2002 and sealed and approved by the Philippine Embassy in Saudi Arabia.

Ana left for Lebanon as a domestic worker in 2005. At that time, while agencies were only allowed to charge the equivalent of one monthly salary as a placement fee, Ana was charged three times that. In addition, she had to pay P20,000 (\$400) to process her migration documents, which included medical reports, passport, transportation to the airport, police clearance, pregnancy test, etc. In order to pay for the illegal placement fee, she had to work for free during her first three months in Lebanon. Ana's employer repeatedly verbally and physically abused her and locked her in a room for several days with no food and very little water. When she managed to escape she went to the office of the Lebanese agency and asked them to help her find another employer. But the agent sexually abused and beat her up while he forced her to watch pornography with him. Eventually he returned her to her abusive employer. Ana escaped again and went to the Philippine Embassy. There the Labor Attaché told her that she should go back to her employer and agent and apologize:

The labor attaché did not help me. She told me, you go back to the agency. We don't have a lot of money to take you to the Philippines. But I said to her, 'I don't want to go back to the agency. Look at what happened to me.' I took off my blouse, there were so many bruises on my back. And then she said, 'this is from the cold, this does not mean anything.'<sup>109</sup>

When Ana refused to go back to the agency the Labor Attaché said the Embassy would not give her food or shelter. She also refused to give Ana medical attention. After four days, Ana's employer went to the Embassy and asked them to send Ana back to the Philippines. According to Ana, since her body was full of bruises, the employer was afraid of being arrested and agreed to clear her exit visa. Before allowing her to leave Lebanon, however, the Labor Attaché forced her sign a quitclaim in which she changed her version of what had happened:

She told me to write that I was going back to the Philippines because of personal problems. I said, no, I don't want to change my way. 'So, if you don't change you stay here alone'. So I have no choice, if I want to leave Lebanon I have to change my statement. My statement was, I am returning to the Philippines because of

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<sup>109</sup> Interview 17, Philippines, Migrant Worker, May 2007

personal problems. I just thought, I will do it now and once I go back to the Philippines I will fight for my rights.<sup>110</sup>

During my examination of Kanlungan's legal files I discovered the cases of at least six other women formerly placed in Lebanon that had reported the same kind of treatment from the same Labor Attaché. Some of them involved severe sexual abuse and the use of quit-claims. Government employees and interviewees from migrant organizations mentioned that this particular Labor attaché has really good political connections, which have protected her from legal cases domestic workers have filed against her. Up to today, no disciplinary action has been taken against her. When Ana went back to the Philippines she filed a case under POEA against her employer for lack of payment and abuse. POEA dropped her case arguing that Ana had signed a form waiving her rights. After that, she filed the same case in the National Board of Labor Relations and a new one against the labor attaché for gross misconduct and neglect of duty. One of Kanlungan's paralegals is in charge of this case. The outcome remains to be seen.

Considering that quitclaims strip Filipino workers from several rights, why would the Philippine government need to use them? According to a government employee formerly placed overseas, quit-claims speed up the labor confliction resolution process and act to pressure the worker not to pursue a case:

In Kuwait [the domestic worker] cannot go out of the country without the visa having been cancelled by the employer. [S]ometimes the [employers will] say, 'we'll be very happy to cancel the visa so you won't have any more right to claim.' You see, ... You cannot overcrowd people [in the Embassy]. Yeah, because you will have health problems. Sanitation problems. ... [A]lthough it will make [the workers] lose their rights, we will do anything to close the case, so that in the performance appraisal, it will appear that the case is resolved. My suspicion is also that some of these people at the Embassy are working for the recruitment agencies. They are favoring the recruitment agencies because you would see some officials when they come home, they get treated to lunch, to drinks, and to women by the recruitment agencies. It's the whole recruitment agency manpower... Now, an industry is not supposed to be a service institution. It's stayed there for profit, see?<sup>111</sup>

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<sup>110</sup> Interview 17, Philippines, Migrant Worker, May 2007

<sup>111</sup> Interview 15, Philippines, Government Employee, May 2007

While I consider the successes and failures of government employees as directly responsible for workers' conditions, it is important to view their work in the larger context of the Philippine labor migration bureaucracy. Government employees' actions often respond to the expectations institutions set rather than to their own individual motives (See Young 2004). As the interviewee mentioned, within the labor migration system there is a great emphasis on statistics and efficiency. Different agencies compete with each other for limited resources on the basis of set targets. Regardless of individual behavior, and given OWWA limited resources, efficiency becomes a relevant goal in the context of a bureaucratization of migration and the services offered overseas. Quitclaims provide this efficiency.

The use of quitclaim illustrates the inability of the Philippine government to overcome the constraints the Embassies' limited leverage impose on worker protection and the limited resources provided for assisting workers overseas. There is a perception among government employees that shelters at the Embassies cannot handle housing migrant workers in distress for an extended period of time. In addition, quitclaims shed light on existing corruption and promote illegal recruitment through the limitation of anti-illegal migration procedures. As one government employee explained during our interview, with the quitclaim, the complaint is removed, and with no complaint, the agency is not accused of illegal practices. In short, while quitclaims may allow for a rapid repatriation, they prevent both the implementation and enforcement of RA 8042.<sup>112</sup> Rather than solving the problem they make it "disappear."

### **5.2.3.2. Cultivating Good Relationships with Local Authorities**

[W]e are the ones there to remedy things. Most of what I said is not official. There are a lot of things that we are doing in our posts which are not really part of the ordinary, we do things on the side. We offer them beer in exchange for favors... Or if ranking officers, military officers want to visit the Philippines, we take care of that. We en-ter-tain them. We give them what they like. They like women, we give them women, they like boys, we give them boys... It's unwritten. Things that we

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<sup>112</sup> Interview 15, Philippines, Government Employee, May 2007

do normally, but we are not supposed to admit. It's an SOP, Standard Operating Procedures, but not written, because you have to act fast...<sup>113</sup>

Another way in which Filipino welfare officers aim to circumvent the difficulties in protecting Filipino domestic workers, particularly in countries with restrictive laws on migrant women, is by cultivating good relationships with local authorities. This entails “under-the-table” exchange of favors that, while act to protect women in particular situations, do not work toward to establishment of a comprehensive protective praxis.

In many Middle Eastern countries, when a migrant domestic worker is raped she is usually put in detention. This is arguably done to protect her until the rapist is found. However, detention centers resemble jails. They are deteriorated and migrant women are often treated as criminals. A good relationship with local authorities becomes useful to persuade them to provide Filipino women softer treatment or even to rescue them from detention:

The police hold you up to a facility. It's their way of giving protection while the rapist runs around free. It's the raped woman who is detained. What we do as welfare officers, although I hope that this doesn't reach out, is to maintain a very cordial relationship with the police. So, they inform us, ‘we have a rape victim here, and she is about to detained. We take a bottle of whiskey or something and bring it to the police station and we say, here is the whiskey, give me my Filipina.’<sup>114</sup>

These arrangements become crucial in a context where local labor and immigration laws hardly provide any protections to runaways or victims of rape. When I asked an interviewee if the “gifts” were seen as a reward for local authorities, he responded:

It is more of a way of cultivating a relationship, so it sort of softens up the guy ... Sometimes we invite the police officers on a weekend trip to the Philippines. We call Manila and tell them ‘these guys are coming...’ And then it is three days of alcohol, wild women or whatever their preference is... If the guy wants fruits, send him a whole basket of mangoes, send him a bottle, we wait outside until he wants another bottle. They gamble, they drink, they fool around...<sup>115</sup>

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<sup>113</sup> Interview 4, Philippines, Government Employee, April 2007

<sup>114</sup> Interview 4, Philippines, Government Employee, April 2007

<sup>115</sup> Interview 4, Philippines, Government Employee, April 2007

When I asked him if Ambassadors, as heads of posts overseas, were aware of this, the interviewee responded: “I believe so, but he will never accept that this is happening, even if you point a gun at him...” This kind of procedures stems from the unavailability of legal mechanisms to support Filipino women and aims to actually protect them. However, they ultimately have perverse effects. Of special interest is the servile position in which the Philippine state ends up falling into to soften up local authorities in receiving countries. The use of prostitution, among other things, to soften up receiving authorities, is a symptom of the servile position that the Philippine state occupies. Also, paradoxically, in order to protect Filipino women’s bodies overseas, the government uses Filipino men and women’s- and boys and girls’ - bodies at home to bargain with authorities from receiving countries. While this allows both sending and receiving governments to save face, it acts as a perverse band aid fixing individual situations and undermines the development of a comprehensive legal framework that actually works toward a comprehensive and empowering protection of Filipino domestic workers. These unofficial mechanisms are indeed grave symptoms of the difficulties a country like the Philippines faces in protecting women overseas and of the double standards involved in labor export.

### **5.3. Illegal Recruitment**

I took a contract from the Philippine Embassy in Singapore and one from an agency and they were different. The Ministry of Man Power in Singapore will use the Singaporean contract ... They don’t respect the Philippine contract at all, some employers will ... and the worker will agree, because she is already there. There is also, quite often, a 6 to 8 month salary deduction exacted by the agencies. They give [the worker] sometimes \$20, sometimes not even a single centavo, during the first months ... There is a lot of unhappiness in terms of the domestic workers because, how can she manage 8 months without salary, without going out? And then, her family in the Philippines, how are they going to survive if she cannot send money? That is a common problem in Singapore.<sup>116</sup>

Although the Philippine government has as one of its main goals to end illegal migration, illegal recruitment practices are common in the Philippines. Private agencies

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<sup>116</sup> Interview 25, Philippines, Migrant Worker, June 2007

find multiple ways to circumvent government regulations in order to save costs. While punitive provisions for illegal recruitment have become harsher, there are different ways in which the government contradicts its stated discourse about ending it and contributes, in practice, to its perpetuation. The above discussion of the use of quitclaims is just one example.

POEA is the agency in charge of processing the different documents workers need in order to migrate legally. It is also the regulatory body of the migration apparatus, which means that it sets the standards under which Filipinos migrate. These regulatory efforts are meant to protect both the migrants and the employers in the destination countries. While RA 8042 requires certain standards of protection, POEA requires other things, such as training, minimum age, and proper documentation, at the request of employers and/or receiving governments. POEA has organized several campaigns against illegal recruitment in the past few years. These campaigns have been a response to public pressure and have aimed to protect workers from unscrupulous agencies and to guarantee receiving countries that Filipinos are really temporary workers.<sup>117</sup> It is in the interest of the Philippine government that Filipinos migrate legally since part of its prestige in the international labor market lies in the fact that, once Filipinos finish their contract, they go back home, as opposed to other nationals, who tend to remain in the country of destination illegally (See Rodriguez 2005).

In the previous two subsections I discussed how the Philippine government often needs to maneuver around limitations receiving states impose. The issue of illegal recruitment introduces a new actor the Philippine state needs to deal with in its regulation of migrant work and protection of migrants: the private sector or recruitment and placement agencies. Private agencies have increasingly gained pre-eminence in the Philippine labor migration business since its institutionalization. They are the ones usually recruiting the workers, obtaining job orders from other countries, processing

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<sup>117</sup> The anti-illegal recruitment campaign was reinforced by Executive Order No. 325, issued on 9 July 2004, with the creation of the Presidential Anti-Illegal Task Force (PAIRTF). Among PAIRTF's tasks are: surveillance operations of persons who are supposedly involved in illegal recruitment, investigations and speedy prosecutions of illegal recruitment cases, and coordination with other agencies involved in the campaign against illegal recruitment (See Asis 2005b).

documents, and even conducting training, assessment, and even medical exams. According to Asis (2005b), there are presently 1,234 licensed agencies in the Philippines handling the land-based sector and 342 agencies taking care of the placement of sea-based workers. The number of unlicensed agencies is not known but it is suspected to be significant (17).

Sections 6 and 7 of RA 8042 address the issue of illegal recruitment by private agencies. Some illegal practices mentioned in these sections include illegal exaction of fees; providing false or falsified information, notices, or documents; recruitment of workers in jobs harmful to public health or morality; contract substitution; and withholding workers' documents before departure in exchange for money or financial consideration (See Department of Labor and Employment 1997). Penalties for illegal recruitment practices range from 6 to 12 years of imprisonment and include fines no less than P200,000 (\$4,000) and no more than P500,000 (\$10,000).

While most of the situations RA 8042 characterizes as illegal recruitment came up during my research, I focus here on illegal exaction of fees and contract substitution for two reasons: First, they were the most mentioned in my interviews, and second, they were widely discussed in 2007 in the context of further regulation of migrant domestic work. I address this issue in Chapter IV. In addition, both illegal fee exaction and contract substitution raise important issues for the study of institutionalized labor migration in the Philippines, since they shed light on the existing tension, and often contradictions, existing between policy and practice.

### **5.3.1. Recruitment Fees**

DOLE Order 34 establishes the maximum recruitment fees recruitment agencies can exact at the equivalent of one month salary.<sup>118</sup> While there may be plenty of agencies that respect Order 34,<sup>119</sup> according to 1995 Philippine Migrants' Rights Watch report, the

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<sup>118</sup> Direct hires or POEA hires do not have a placement fee.

<sup>119</sup> It was a pleasant surprise to find FMW Human Resources International, a recruitment agency run by Jung Aguilar (a former migrant himself), whose main distinctive policy was not to charge migrants at all. Mr. Aguilar took pride in charging the employers instead. He was hoping that others would follow his model in order to ameliorate the excessive exaction involved in labor migration.

most recurrent problem Filipino migrants encounter during the pre-deployment period is the violation, on the part of the recruitment agencies, of the standard placement fee.<sup>120</sup> The report found that placement fees Philippine agencies impose on future migrants oscillate between 0 and P260,000 (\$5,200). My own research supports this, since migrant workers, NGOS, some government employees, and some recruitment agencies spoke of illegal exaction of fees as a generalized phenomenon.

Rosa's case illustrates the reality of thousands of migrant workers in the Philippines who are charged exorbitant fees despite what the law says. Rosa was a twenty-seven year old nanny working in the San Francisco Bay Area when I met and interviewed her in February 2006. She had left the Philippines two years before on a temporary contract as a janitorial worker in a resort in Georgia. She was initially going to be deployed to the United Kingdom. There was, however, a last minute change and she was offered a job in the United States. The final deployment fee she paid was P200,000 (\$4,000).<sup>121</sup> As I further show in Chapter VI, the job in Georgia never existed and Rosa became an undocumented caregiver as soon as she set her feet on U.S. soil.

Another illegal practice connected to exaction of illegal fees is salary deduction. Rosa paid part of the high recruitment fee upfront and agreed to pay a portion of her month salary for few months in order to pay the rest. While there are many migrants who are not required to pay an upfront fee to the agency, they are often charged salary deductions for an average of 1 to 4 months. Some non-governmental organizations reported during the interviews that salary deduction sometimes reaches 6 and even more months. Sometimes it is their whole salary for few months and other times it is a smaller monthly amount for a longer period of time. Many agencies have used salary deduction as a way to collect the fee money from the workers without directly violating the law. This "option," although abusive, is appealing to migrant workers as it "lessens" the burden of meeting the placement fee. However, it puts migrants in debt, and they are forced to work even under unfavorable conditions. In this sense, according to Asis

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<sup>120</sup> Other irregularities the private sector commits include premature collection of fees, non-issuance of receipts, acts of misrepresentation, and contract-substitution (see Asis 2005b).

<sup>121</sup> Interview 1, San Francisco, Rosa, February 2006

(2005b), salary deductions put migrants in situations akin to debt bondage (43). For example, Maria and Ana, two domestic workers placed in Saudi Arabia and Lebanon respectively, were both deducted three months worth of salary. This means they worked the first three months for nothing. Although both of them were victims of severe physical and sexual abuse in the workplace, for a while they were reluctant to leave, since they owed money to their agency due to salary deduction and did not want to go back to the Philippines empty-handed. They ended up fleeing without having ever received a penny. Apparently, theirs were not isolated cases:

Actually, in most Middle Eastern countries they are not charging placement fees immediately, it's more like a *fly now and pay later* plan. They don't have to pay anything but it will be deducted from their salaries eventually, that is the reason why many of our clients do not receive salary until the seventh month, when they have paid for everything that they had been charged for, even if they didn't know that they were going to be charged.<sup>122</sup>

### **5.3.2. Contract Substitution**

Another generalized illegal recruitment practice has been what is commonly referred as contract substitution. This consists in replacing the POEA-approved labor contract once the worker arrives in the destination country. The new contract usually grants a lower salary and provides lesser rights.

The Philippine Overseas Employment Administration created a standard contract all Filipino overseas workers need to have approved. When a foreign employer requires a Filipino worker, both the employer and the worker need to fill out the contract. The Philippine Embassy at the receiving country and POEA in Manila need to approve it. This contract sets minimum conditions such as salary, rest days, working hours, etc. The Philippines has been the only sending country able to implement a uniform contract across the board. This illustrates its higher negotiation power compared to other sending governments.

While the existence of a standard contract is a major achievement in terms of labor regulation and protection, its contents are limited to “strictly labor issues,” such as wages,

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<sup>122</sup> Interview 3, Philippines, Non-governmental organization, April 2007

living conditions, and time off. It does not address issues such as harassment or grievance procedures, which are particularly relevant in the context of domestic work. This is a problem considering that labor laws in receiving countries do not usually cover domestic workers.

The unilateral initiative on the part of the Philippine government to design basic conditions undoubtedly reflects its concern with workers' welfare. Unilateral action, however, is quite limited if receiving countries do not share a commitment to enforce the Philippine contract (See Abrera-Mangahas 1994; Constable 1997). According to Asis' report and my own findings, the Philippine standard employment contract is likely not to be respected and even likely to be changed when the worker reaches the destination country. Instead, workers are presented with new contracts with lower standards, and the Philippine contract becomes obsolete. For example, Francisca signed a contract in the Philippines that said she was to work eight hours a day for 665 SR (\$178) a month. When she reached Saudi Arabia, however, she earned 600SR (\$160) a month for 12 hours of work a day.<sup>123</sup> Government employees recognized contract substitution as a generalized practice and sarcastically summarized it as "you signed this but you end up receiving only this:"<sup>124</sup>

When she reaches the country of destination there is a... she is going to sign another contract. Now, the real salary will reflect the market. You are forced into it, because if you don't sign the contract you don't get hired, so you go back to the Philippines, but you just spend a lot of money to go there.<sup>125</sup>

The illegal exaction of fees, thus, makes it unlikely for the worker to oppose contract substitution since, after having spent large amounts of money to get to the destination country, her main priority is to start having an income as soon as possible. Several migrant workers' organizations corroborated the existence of contract substitution. They stated the typical salary for a Filipino domestic worker in the Middle East is between \$100 and \$150 a month or \$50-\$100 less than what POEA's contract

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<sup>123</sup> Interview 10, Philippines, Francisca, May 2007

<sup>124</sup> Interview 15, Philippines, Government Employee, May 2004

<sup>125</sup> Interview 4, Philippines, Government Employee, April 2004

establishes.<sup>126</sup> They specifically denounced the lack of monitoring and implementation as the main factor for contract substitution:

[T]he standard payment is \$200 a month, but the majority earns less than \$200. We have several clients who earn only about \$100 and they do not even pay them regularly. Most contract violations are really about salary, and they cannot even implement or monitor.<sup>127</sup>

As I learned during my fieldwork, contract substitution often stems from the foreign agency and employer's failure to respect the minimum standards the Philippine government sets. Sometimes, however, both a Philippine and a foreign agency are involved. Jaime, Pablo and Ronaldo, whom I met during my volunteer work at Kanlungan, were three men in their 20s and early 30s who decided to go to Saudi to work as janitors<sup>128</sup>. After spending P9,000 (\$180) each for processing their papers with POEA, they signed a contract with their recruitment agency for 300 SR (\$80) salary plus 200 SR (\$54) in food allowance, a total of 500 SR (\$134). The contract was written in English only and the employer had not signed it.

After going through the Pre-departure Orientation Seminar (PDOS) they found out the salary they were being offered was below the minimum POEA sets and the contract should have been written in both English and Arabic. They called the recruitment agency to withdraw the contract but were told they did not need to worry, since they were going to sign another contract the day they left for Saudi. On August 17<sup>th</sup> 2006 they stopped by the agency on their way to the airport to pick up their visas and flight tickets. Then they signed a new contract for 750SR (\$200) plus food allowance. The contract was in both English and Arabic and this time the employer had signed it. Instead of giving them a copy of the new contract, the recruitment agent told them it would be delivered to them upon their arrival to Jeddha. A representative of the agency accompanied them to the

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<sup>126</sup> Interview 8, Philippines, Non-governmental organization, May 2007

<sup>127</sup> Interview 3, Philippines, Non-governmental organization, April 2007

<sup>128</sup> While evidence of contract substitution was vast during my fieldwork I discuss the case of these three male workers because I was able to document more details about the contract substitution that took place in their case.

airport and carried all the documents. After POEA clearing at the airport,<sup>129</sup> where the agency representative showed the newly signed contracts, he gave the workers their passports and tickets and a sealed envelope they would need to give to the employer in Jeddha.

Once they got to Saudi Arabia they found out the sealed envelope contained the old contract, the one for 300SR, and the new contracts had remained in the Philippines. The recruitment agents had tricked them, and now their Saudi employer had a contract, signed by them, saying they would only make 300SR, which is below the \$200 (or 750SR) minimum set by the POEA.<sup>130</sup> One year later they returned to the Philippines and sued the Philippine agency hoping to obtain their unpaid wages. I accompanied them to two hearings at the National Labor Relations Board following the request of the paralegal representing them. According to him, having international (read Western/White) observers accompanying the workers usually ensures a more fair process. Despite all the preparation and the waiting, however, the recruitment agents never turned up (and suffered no penalty). Yet another case that remains to be solved.

Interviewees from non-governmental organizations explained that contract substitution on the part of private agencies is not the only problem. Sometimes POEA, the Philippine Embassies, and destination governments approve contracts that do not contain all the information POEA rules and regulations require. Thus, insufficient control and monitoring of contracts seems to be common as well. For example, a representative from a migrant workers' organization who had worked as a domestic worker in Hong Kong and Singapore for many years, explained that POEA sometimes approves contracts that do not include enough information about the employer:

[The governments] have the responsibility to ensure the conditions. For example, I always raise to [POEA] Administrator Baldoz that the contract is really important, and in it there is no such thing as the name of the employers, always the company, the foreign agency, in the contract, and in the address, you know, it's always a PO BOX. So they should put the name of the employer and the exact address of the employer ... We are having a hard time rescuing migrant workers who were raped

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<sup>129</sup> There is a POEA desk at the airport where migrant workers are checked to make sure they followed all the required legal procedures.

<sup>130</sup> Interview 19, Philippines, Migrant Workers, May 2007

because there is no address in the contract. And yet, the POEA approved the contract. So they should be accountable for this, because they are the ones who verify, testify that all the information is correct, but they are always... and not one legislator has taken up the issue.<sup>131</sup>

This is the case with the contract included in figure 3.2 which, rather than including the employer' address, it just provides a PO Box. Both POEA and the Philippine Embassy in Saudi Arabia approved this contract:

**Figure 3.2. Incomplete Contract**

**STANDARD EMPLOYMENT CONTRACT FOR FILIPINO HOUSEHOLD WORKERS IN SAUDI ARABIA** عقد التوظيف الرسمي للعمالة المنزلية الفلبينية في المملكة العربية السعودية

This employment contract executed and entered into by and between: تم إبرام هذا العقد بين كل من :

A. Employer: أ. صاحب العمل :  
 Authorized Representative الوكيل المفوض :  
 Address: العنوان :  
 P O Box 57681 Tel No 487 0444 ص.ب. 57681 هاتف 487 0444

B. Representative in the Philippines (Name of Agency / Company) ب. الوكيل في الفلبين : (الاسم المكتوب) :  
**RUBIES-INT'L MANPOWER SERVICES**

C. Worker: ج. العامل :  
 Civil Status الحالة المدنية :  
 Date of Birth تاريخ ومكان الميلاد :

1. Duration of Contract: Two (2) Years 1. مدة العقد : سنتان  
 2. Effective of Contract: 2. تاريخ العقد :

Provided by Migrante International. Quezon City, June 2007

Sometimes it is the receiving governments and Philippine Embassies the ones failing to verify information on standards that POEA requires:

[I] t is in the policy that the government needs to make sure, investigate, interview the employer, even to go to the employer's house to verify if the information written in the contract is true. For example, in our experience in Hong Kong there are over 240,000 households with domestic workers, and 121,000 are Filipinas at the present statistics. The Immigration Department of Hong Kong will not approve if there are not sleeping quarters for the maid, so the [agency] will forge the size of the room in the contract. Immigration is not really conducting investigation on all these contracts. But in most cases domestic workers in Hong Kong do not have

<sup>131</sup> Interview 5, Philippines, Migrant Workers' Rights Organization, May 2007

sleeping quarters, despite the regulation. They sleep in the bathroom, in the balcony, share with children, even with male members of the family. So even if they say that they are monitoring they are not doing anything. The verification of the conditions should be done by the [Filipino] Embassy. There is an obligation that the job orders pass through the Embassy and then they forward the information here, to POEA, but in many cases the recruitment agencies have already pre-signed contracts. There were cases in the Middle East where the contract was verified by the Embassy before the worker had actually applied for the job. So the Embassy is verifying contracts even without the existence of employers or employees. What kind of monitoring is that? Maybe they should have the monitoring [done] by outsiders or cleaning up the Embassy and POEA. Because even government officials are involved in these things.<sup>132</sup>

The solution to this practice lays in a meaningful implementation and enforcement of labor migration regulations. In other words, the government should make sure contracts are followed and there need to be consequences in the cases in which they are not. They should also make sure that contracts with misleading or insufficient information are not approved. They often fail to do so.

Illegal exaction of fees and contract forging and substitution cast doubt on the usefulness of the legal standardization of placement fees as well as the existence of standard employment contracts as a regulatory measure. In fact, both constitute significant legal cracks in legal labor migration. In 2003 there were 1,219 illegal recruitment cases, while the number of illegal recruiters arrested that year was 11, and the number of establishments closed was of 29. The numbers for 2002 had been 956, 18, and 29 respectively. The figures, which do not include many unreported cases, point to an enforcement gap, particularly in going after the wrongdoers (Asis 2005b:20-21). According to Immaculada Concepcion, a representative from the CFO, illegal recruitment has become a lucrative business, ranking in as much as P10-12 billion every year (\$20,000,000 to \$24,000,000). Since the mid-1990s only 10% of illegal recruiters have been prosecuted. In 2005 there were 4,486 cases lodged at the Presidential Anti Task Force for Illegal Recruitment. However, only 400 suspects were identified and of this number only 20 were arrested.<sup>133</sup> In addition, during my interview with Rosa in San

<sup>132</sup> Interview 21, Philippines, Non-governmental organization, May 2007

<sup>133</sup> <http://www.gov.ph/news/default.asp?i=12239>. Accessed 2/25/08

Francisco, who was herself victim of illegal recruitment, she explained that although the agency that recruited her had been closed, they soon opened again under a different name.<sup>134</sup>

This situation of under-enforcement is particularly serious given how common these practices are. During my interviews with government officials, they would usually refer to illegal recruitment as stemming from “unscrupulous” individuals. This word choice individualizes the problem blaming it on isolated and deviant persons. Further, it absolves the state from any responsibility in the process. This individualization is analogous to the “corruption discourse” I introduced in the previous chapter, in the sense that by blaming supposedly deviant individuals the problems that structures present are avoided. Rather than individualizing explanations, I suggest that, both weak state enforcement efforts, as well as lax state contract verification and approval procedures, are crucial factors behind the commonality of some illegal practices and have contributed to the creation and normalization of structural illegality. While the institutional framework for legal and orderly migration is in place, pre-departure problems are quite frequent, and the implementation and the enforcement of RA 8042 have been uneven (See Asis 2005b; Watch 2005; Watch 2003). According to Nana Oishi, in developing countries, where money allocated for public spending is usually quite modest, the enforcement of policies can be difficult (2005: 103). This has probably been one of the reasons behind weak enforcement of anti-illegal recruitment provisions in the Philippines. Recently renewed efforts of the government to attack illegal recruitment has required a larger budget and the adoption of measures such as the provision of free legal assistance to complaining workers and educational programs on illegal recruitment. This is expected to have a positive effect on implementation and enforcement in the next few years.

Migrant workers organizations, nevertheless, continue to worry about the involvement of public officials in the private recruitment industry and the resulting conflict between private and public interests threat the transparency of implementation and enforcement. Several interviewees raised the concern that government officials, despite the prohibition RA 8042 imposes, are often involved in the private migration

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<sup>134</sup> Interview 1, San Francisco, Rosa, February 2006

recruitment industry. According to them, this makes enforcement difficult. They shared, for example, how few times, when inquiring about a case at POEA, they were told it “was a difficult one,” since the agent was close to a ranking General, or to Malacañang, or “has good political connections.”<sup>135</sup>

During my interview with Francisca, she told me the case she filed against her recruitment agent had been delayed because the owner was running for Vice Mayor in Manila and his wife for Congresswoman.<sup>136</sup> The mid-term election took place around the same time her case had been scheduled for a hearing, so the agents asked her to delay it since they “were busy.” Other publicized controversies have involved former president Joseph Estrada’s friends owning large recruitment agencies or current Senator Mike Defensor’s wife possibly being a stockholder of an agency accused of conducting illegal recruitment.<sup>137</sup> Most of these cases, especially the ones involving high profile politicians, have never been proved. However, it is not difficult to imagine how the involvement of public officials in the recruitment industry presents a conflict between private and public interests, and this can have important ramifications in the implementation, but particularly enforcement, of POEA regulations and RA 8042 (Department of Labor and Employment 1997:36-37).<sup>138</sup>

Yet, far from merely being an issue of corrupt individuals, the existing tension between policy and practice also exemplifies the tension between the commitment of the government to protecting its workers and its interest in sustaining overseas employment.

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<sup>135</sup> Interviews 4, 5, 15, Philippines, Migrant Workers Organizations and Government Employees, April-May 2007

<sup>136</sup> Interview 9, Philippines, Migrant Worker, May 2007

<sup>137</sup> Interview 21, Philippines, Migrant Worker Organization, June 2007

<sup>138</sup> I have not been able to document most of the cases that I present here. I previously mentioned in a different section how I repeatedly ran into the difficulty of not being able to document controversial issues or themes, particularly when these involved politicians. My assumption is that this responds to the double filter of limited accountability for political corruption in the Philippines as well as media censorship. While I introduce these cases as stemming from conversations with non profit organizations and migrant workers, I am not able to prove their existence through newspaper articles or legal cases. I find it important to acknowledge this, since I must be responsible with the information that I present in my work. However, given the methodological and data gathering technical nature of this dissertation, people’s stories are often the “only” thing I have. While often difficult to be backed up, people’s perceptions are also helpful, I suggest, to provide a comprehensive scenario where Philippine labor migration takes place.

While the government embraces migration as a development strategy, is it willing to adopt all the needed measures to turn it into a safe process for Filipino women? Despite official discourses on protection, illegal recruitment continues to be common in the Philippines. It remains to be seen what measures the Philippine government will adopt to remedy this: it is not clear whether the government will pursue corruption and violation of RA 8042 more aggressively. In addition, it is not clear whether it will allocate more public resources toward migrants' protections. Recent events involving Filipino domestic workers in Lebanon, as I discuss in Chapter IV, point that this may not be the case.

#### **5.4. Deregulation**

Illegal recruitment practices run parallel to the perception in civil society that there is a need for increased government regulation of migrant workers' protection. This sheds light on another tension in labor migration in the Philippines. As private recruitment and placement agencies have progressively gained presence and control of the migration business (See Tigno 2004) they have also demanded laxer laws and deregulation of the business. Agencies have perceived overregulation as a problem for the labor export business, since it often makes it difficult for them to compete with agencies from other sending countries.

While RA 8042 came as a response to migrant organizations' demands for major regulation of the migration process, it also included two provisions ordering its gradual deregulation. Section 29 of RA 8042 states that "pursuant to a progressive policy of deregulation whereby the migration of workers becomes strictly a matter between the workers and his foreign employer, the Department of Labor and Employment, within one (1) year of the effectiveness of this Act, is hereby mandated to formulate a five-year comprehensive deregulation plan on recruitment activities [...]" Section 30 establishes a five year period for the deregulation of POEA's functions (See Department of Labor and Employment 1997:21).

According to Jorge Tigno (2004), while RA 8042 can be said to offer comprehensive protection mechanisms for Filipinos working abroad, these protections must be viewed in the context of the deregulation of the overseas employment sector. The

law seeks therefore to eliminate restrictive bureaucratic procedures and to simplify labor relations to a private issue (2). This means a reversal in the direction taken in 1982 with the creation of POEA and its establishment of standards, which included welfare protection. The inclusion of provisions on deregulation meant to many, as I discussed earlier, that RA 8042 was merely created to pacify discontent growing throughout the years and exploding into public outcry with the *Contemplacion* case. The emphasis on deregulation made the Act almost meaningless. Interviews from migrant workers' organizations stated it:

So, in order to pacify us, they enacted this law, saying that this will protect migrant workers. But, sections 29 and 30 are deregulation of Filipino labor, in five years, so it was 1995, so to be in 2000, the migration will only be an issue between employer and employee, and the regulatory functions of the POEA will be taken away from them...so meaning that there are no more, the responsibility of government is already passed onto the recruitment agencies and the employers, so there is no protection ... recruitment agencies are always using sections 29 and 30 that the government should not be involved in, you know, in problems of migrant workers that, as pertaining to their employment, it should be settled among the recruitment agencies and the employer ... When I was in Hong Kong I always referred cases to the Consulate and if they are terminated from their employment, OWWA of the Embassy or the consulate will always say go to your recruitment agency to ask for shelter and help, so meaning that the government is really washing their hands if the migrant worker is having problems, so we had this campaign...we wanted to scrap RA 8042 and replace it for a genuine OFW Charter, but, you know, it's very hard to do that. RA 8042 is serving the government and the recruitment agencies, but not the workers.<sup>139</sup>

The simultaneous evolution toward protection and deregulation in labor migration must be contextualized in the larger framework of Philippine economic policies favoring deregulation. Similarly to larger political-economic debates, the deregulation versus regulation debate has taken place within the migration context. While migrant workers' organizations have consistently looked at the Philippine state as the source of their protection through regulation, private recruitment agencies, and many within the government, argue labor migration can only proliferate if barriers - such as government-imposed minimum labor standards - are erased through deregulation. While the first

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<sup>139</sup> Interview 5, Philippines, Migrant Workers Organization, May 2007 and Interview 21, Philippines, Migrant Workers Organization, June 2007

argument includes protection as stemming from regulation, the second only talks about proliferation of migration stemming through deregulation. What is not obvious is the cost deregulation has on protection. The main challenge for the Philippine government in the next years will be to find whether it is possible to have both protection and proliferation. This proposition will be explored in the next chapter.

## **6. Conclusion**

Many organizations and politicians have seen RA 8042 as the first tangible step taken by the Philippine government to enhance the rights and welfare of Filipino migrant workers. Before 1995 no concrete comprehensive legal framework existed to protect their rights and welfare (Nuqui and Josue 2000; Tigno, Rye, and Macabiog 2000). Conversely, other migrant workers organizations have considered RA a “midnight act” and a token policy, passed to appease civil society outrage. While I have presented the importance of this policy, I have also emphasized here its ideological role to reinforce government hegemony in regards the labor export program. The Act has numerous gaps, and its language has not been able to alter the laws in receiving governments and corrupt and abusive behavior of recruitment agencies and some government employees and officials. The stories conveyed here repeatedly shed light on the failure of the Philippine state to protect its citizens abroad. As I have argued throughout this chapter, the main challenges have been the geopolitical position of the Philippines, insufficient government resources, insufficient political will, and corruption.

According to Jorge Tigno (2004), while public outcry over Contemplacion’s trial and eventual execution “can serve as a backdrop for the policy process,” it is also important to keep in mind that not too long after Contemplacion’s case the Philippines held a midterm election (3). Flor Contemplacion’s death served as a catalyst for reform in a context where civil society demanded policy makers’ quick action. Along with Tigno, I see the passage of RA 8042 as a political response to a situation of crisis, a context where public opinion was very important to the executive and the legislative, and in the context of increasing problems arising from labor migration since the mid 1980s. By the mid 1990s labor migration had already become an important electoral issue in the Philippines.

Although RA 8042 applies to all Filipino migrant workers, the fact that it stemmed from the death of a Filipino woman also reveals it as charged with gender ideologies. As Nana Oshi has argued:

Women's symbolic nature affects the emigration policies of many developing countries. It is because women are not a value-neutral workforce. They symbolize a nation's dignity (2005:100).

The public tends to be more sensitive to women's abuse and exploitation than to men's. Demands for protection, as well as the government "protection discourse," started to emerge as Philippine emigration started to feminize. The *Contemplacion* case accentuated this and involved much more than the death of a woman who might have been innocent. The crime against her was perceived as a crime against the nation's symbolic property and dignity vis-à-vis other countries. Given the limited enforcement and implementation capacities of the Philippine state, RA 8042 was a symbolic means for the state to buttress its own image as a protector of women. It was an expression of symbolic politics, where the state was demonstrating the public that it did not want to encourage female migration but rather to protect it. This was a crucial strategic change, because since Marcos the public had increasingly perceived the state as a promoter and exploiter of overseas migration. RA 8042 intended to change the image of the state from women's exploiter to their protector. Whether the government would be able or not to keep its promises was not relevant at that point, since the ideological function of the Act, at least temporarily, had been achieved. In fact, I have showed above how the implementation of RA 8042 has been deficient.

At the same time, the signature of RA 8042 legitimized the overseas employment program of the government and was an implicit admission that migration was here to stay (See Kaibigan 1996). While up to then the government had treated migration as something temporary to relieve economic strain, the Ramos administration started to perceive it as something permanent that needed to be managed. RA 8042, however, failed to do two things: It failed to foresee the political challenges to the enforcement of its provisions (such as limited resources, reluctance from receiving countries, etc.) and it failed to provide a long-term economic plan for the Philippines, so that one day it would stop needing to export its people,

both men and women. In short, RA 8042 reflects short-term policy making, which does not address the structural roots behind labor migration and the problems it creates.

**CHAPTER IV**

**TOWARD A FEMINIST POLITICAL ECONOMY OF PHILIPPINE  
LABOR MIGRATION**

**1. Introduction**

In Chapter III I provided the context in which RA 8042 was created, examined some of its provisions, and suggested that this law was a tool for hegemony of the Philippine government. Building upon that discussion, in the current chapter I examine recent events that shed light on the fact that, over 10 years after of passage of RA 8042, Filipino migrant women continue to suffer severe abuse and exploitation. This has created a new crisis of legitimacy for the Philippine state which, in response, has re-examined its protection efforts. The last reform the Philippine government has attempted has been the 2007 Household Service Workers Reform Package, which aims to increase the protection of Filipino migrant domestic workers. This Reform Package also emerged in a context of decreasing legitimacy of the Philippine government in protecting migrant women brought on by the 2006 Lebanon War. The Package introduces provisions aimed at improving working conditions and protection overseas, by enhancing Filipino migrants' training and skills. I argue the Reform Package mystifies social relations by making the worker responsible for her own wellbeing, thus ignoring the gender, class, and racial power dynamics that shape migrant domestic labor. In addition, an analysis of the motivations behind the package and its initial outcomes sheds light on the complexity of policy making and its contradictory effects.

My analysis of the motivations behind the passage of the Reform Package indicates that, while protection is its stated intention, the Philippine government may have actually designed it in order to retreat from the international domestic work sector in dangerous countries and reallocate Filipino women in higher skilled economic activities and safer

countries. Given the constraints the Philippine government faces to affect the organization and regulation of international labor migration, the Reform Package may actually be a creative move on its part to stop the abuse of Filipino migrant women by redirecting them to other labor sectors without offending the receiving countries. As such, an analysis of the Reform Package helps us understand 1) local forces in the Philippines that trigger policy making, 2) the ideologies shaping the design of protective measures for Filipino domestic workers and, 3) the maneuvers of the Philippine government within the international arena. While the Reform is expected to bring significant changes to Filipino labor migration patterns, it is too soon to provide a comprehensive assessment of its impacts. In addition, given the tendency of Philippine policy to reflect short-term goals and the inability of the government to move away from the neoliberal paradigm, it remains to be seen if the Reform Package will succeed in protecting Filipino migrant women in any significant manner.

## **2. Feminism and the Theorization of the State**

Socialist feminists have analyzed how class and gender subordination interact with each other. Hartmann (1981) presents patriarchy as an exploitative system parallel to capitalism that cannot be smoothly incorporated into Marxist social theory. According to her, women's unpaid work in the household not only serves the interests of the capitalist economy but also those of individual men. Joan Acker (1987) has provided the concept of distribution to encapsulate the role of the state in mediating class and gender relationships. She defines relations of distribution as "sequences of linked practices through which people share the necessities of survival and divide, usually unequally, the fruits of production" (Acker 2006:61). Distribution to non-wage earners takes place in capitalist societies through the family, welfare state programs, and other forms of wealth transfer such as stocks, rent, and subsidies, among others (Ibid.62). According to Acker, some state policies have the effect of perpetuating the division of labor in the household- as well as women's dependency on men's wages- while others lean more toward the commodification of women's labor, which often leaves them unprotected in the labor market. Both kinds of policy may reinforce women's subordination. Other state

distributive policies have the effect to reinforce class inequality through, for example, subsidizing businesses through tax breaks. All state policies, nevertheless, have particular class and gender effects that interact with each other. This complexity of the relations of distribution sheds light on how the state both contributes to creating conditions of inequality while simultaneously seeking to ameliorate them.

### **2.1. State Protection and the Contradictions of Commodification**

While Western feminists have found commodification as a desirable project, one of its effects on women has often been the addition of “public oppression” to the already existing “private” one, without necessarily making the latter disappear. Some women, because of their class position, can actually choose whether they want to stay at home or not. Most women, however, do not have this choice, since they need an income to support themselves and their dependents. For this second group – which includes a multiplicity of different experiences – entering the labor force has historically become the only way for survival. They face an insecure job market and mounting pressure to assume multiple roles, both as paid and unpaid labor. Although deregulation has opened up the labor market to women, there has been a trade-off: they are relegated to low-skill, low-pay jobs, which are often repetitive, a danger to their health, or reinforce gendered and racial stereotypes, such as domestic work and caregiving. They are trapped in positions with no upward mobility and are the first to lose their jobs during cutbacks.

While Western middle-class women have advocated for commodification as a way to denounce the inherent gender bias of the state, the market, and the family, working-class and women of color state they were long ago commodified, both through their obligation to work and through state intervention in their private lives.

### **2.2. The Commodification and Decommodification of Filipino Women**

As discussed in Chapter II, due to neoliberal policies, many Filipino women have been forced during the past few decades to abandon traditional means of subsistence and migrate either to the cities or overseas. As a result of insufficient survival opportunities in the Philippines, thousands of them have been part of a massive incorporation into the international domestic work sector. Their experiences of commodification have been

different from that Western Feminists have discussed for over a decade. Due to state inability to provide necessary services as well as to a local labor market offering very few opportunities to Filipino people, families in the Philippines are increasingly relying on women's migrant labor for survival. In that sense, women often replace both men and the state as providers. Instead of decommodifying women by offering public services and rights, the Philippine state relies on these women to fill the gaps (health, education, livelihood, etc.) that the lack of public investment and social policies, as well as a weak economy, create.

Their commodification, as a matter of fact, goes beyond the one women in Western countries suffer. Filipino women are commodified in particular ways, since their employers in many receiving countries see their lives as equating their labor power. They are often expected to not have a life outside her job (i.e. long working hours, movement restriction, etc.). The fact that these women are thousands of miles away from their families and communities reinforces the perception that their existence in the receiving countries is solely for labor. Further, the fact that their labor has such a crucial economic function- in the form of remittances and alleviation of unemployment, as well as the subsidy of their employers' productive activities- particularly commodifies and places them in a unique relationship vis-à-vis the Philippine state. Filipino migrant workers exist to labor. Their labor benefits their families, their government, the economies of receiving countries, and their employers. The argument for higher integration of women into the public realm as a means for emancipation does not fit these women's experiences and certainly does not encapsulate the extent to which Filipino women are dependent upon market forces, foreign employers' will, and geopolitical dynamics to provide for their families, preserve their own wellbeing, and keep the Philippine economy afloat.

Further, Filipino women's experiences also challenge dichotomous characterizations in Western theorizing. As discussed in the previous chapter, parallel to the feminization of Philippine migration and the uncovering of some dramatic effects of Filipino women's commodification through the labor export program, the Philippine government has introduced protective discourses and practices as central elements to its migration policies. I suggest that these protective efforts, independently from its

legitimizing functions, have aimed at a policy shift toward decommodification, since they have aimed at ameliorating the effects of commodification on migrant workers.

Consistent with Joan Acker's characterization of state distributive policies, I suggest that while the Philippine state has largely contributed to the conditions for commodification, it has also created programs to address some of their consequences. That is, it has attempted decommodification as well. However, it has done it by increasing the exchange value of domestic workers and, therefore, treating them as commodities. The state, therefore, creates conditions of inequality while simultaneously seeking to partially amend them.

Its last effort in this direction was the 2007 Household Service Workers Reform Package, which I analyze throughout the remainder of the chapter. I argue that despite the emphasis this policy places on protection, it is more sure deemed to fail for two interrelated reasons: First, similar to RA 8042, the Reform Package was a response to social discontent in the context of the 2006 Lebanon War. Its goal was to restate government hegemony. Second, while it introduces few decommodifying provisions in the sense that aims to protect female workers from an overexposure to market forces, it does by increasing their exchange value. In this sense, the state does not acknowledge that in the case of migrant domestic workers class, gender, and race dynamics intersect to shape their particularly commodification.

### **3. The Lebanon Crisis: *One Thousand "Contemplacion Stories"***

We know that even if they wouldn't really admit it, they are really listening to what the migrants are saying. Most of the new policies are a reaction... they have to listen to us.<sup>140</sup>

In this section I address how the war in Lebanon in 2006 showed the vulnerabilities Filipino domestic workers suffer overseas. This triggered social and political outcry and eventually led the government to increase efforts to protect migrant domestic workers in the form of the 2007 Household Service Workers Reform Package. On July 12, 2006 violence erupted again in the Middle East when the Lebanese Hezbollah guerrillas

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<sup>140</sup> Interview 3, Philippines, Migrant Workers Organization, April 2007

captured two Israeli soldiers during a cross-border raid. Not long afterwards, seeing this as an “act of war,” Israel retaliated, pounding Lebanon with artillery and air strikes. The guerrillas then started firing rockets into northern Israel. A new war had started in Lebanon (OWWA 2006).

At that moment, the Philippine government estimated that there were over 30,000 Filipino migrants, most of them domestic workers, in Lebanon (Contreras 2006). Of these, 2,000 were in Southern Lebanon, the focus of the armed conflict. Just before Israeli troops entered southern Lebanon, and after a Filipino domestic worker was wounded, the Philippine government made evacuation of Filipino workers to Beirut and other safer places mandatory (Cabacungan and Contreras 2006). Lebanese employers’ response was not uniform in this early stage. Some of them took Filipino women to safer areas, while others turned them over to the Philippine Embassy. Other employers, according to Philippine media, refused to let Filipino domestic workers leave because they had paid high recruitment fees for them (Corros 2006). Other workers were simply abandoned (Uy 2006d). As the conflict escalated, it became increasingly difficult to locate Filipino citizens in Lebanon, particularly those living in the conflict area.

Two weeks after the beginning of the bombing, and following the repatriation efforts of the Philippine government and international organizations, the first batches of Filipino migrant workers started arriving in Manila (Uy 2006c). Many resisted their return to the Philippines, since they had not been paid for several months and were not willing to leave Lebanon empty handed. According to an August 9 article in the *Philippine Daily Inquirer*, workers were reluctant to go back to the poverty and unemployment in their homeland (Dalangin-Fernandez 2006c; Dizon 2006b).

### **3.1. Filipino Women’s Stories from Lebanon**

There was one case in Lebanon where she was tied to the bed. She was imprisoned with the furniture so she had to jump stories just to... a lot of them were like that, those who came back, a lot of them had broken feet, with injuries... there were a lot of stories that they didn’t have anything to bring home because they weren’t given wages during their stay there. Even if their contracts are finished, they still weren’t

given wages. So, some went home without anything at all. Not even a single peso. There were a lot of cases of physical abuse.<sup>141</sup>

As the first Filipino domestic workers started returning home, the media began running their stories. Returning women were often in emotional shock, victims of post-traumatic stress disorder (Esguerra 2006a). According to physicians at OWWA, their stress did not only come from having experienced war, but also from the abuse they had received in their jobs. Newspaper articles and TV explained many of these women had hardly been fed and received very little salary despite heavy work. The \$200 minimum wage was being violated regularly. Other women shared how their employers had detained them (Esguerra 2006b). Some had been injured while jumping from balconies to escape (Dizon 2006a). Other returnees told they were made to sleep in little rooms with dogs, eat leftovers, and work until midnight. Newspapers also talked about Lebanese employers hitting and raping Filipino domestic workers (Corros 2006). These stories gradually stopped being treated as isolated cases, and reporters joined migrant workers' organizations in denouncing how domestic workers both in Lebanon and across the globe endure conditions similar to slavery (Dalangin-Fernandez 2006b).

On August 4<sup>th</sup>, the *Philippine Daily Inquirer* reported that on July 28, Michelle Tomagan, an undocumented Filipino domestic worker placed in Lebanon, had tied up bed sheets to escape from her employers' fourth floor balcony. As a result, she fractured her skull and died on the way to the hospital. A police report dated July 26 informed that Mary Jane Pangilinan, a Filipino domestic worker, died of a neck and leg fracture as a result of a "fall" from the fourth floor of her employer's building. These employers had prevented the women from joining the evacuation efforts. President Gloria Magapacal-Arroyo expressed "outrage" over these deaths, and ordered the full evacuation of the 30,000 Filipinos in Lebanon (Uy 2006e). As Filipino workers continued to be repatriated, more of them reported having been injured as they jumped off their employers' apartment buildings (Uy 2006b).

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<sup>141</sup> Interview 26, Philippines, migrant workers organization, July 2007

As discussed in the previous chapter, several countries, including Lebanon, require exiting migrant workers to carry an exit visa, which their employer needs to approve. This ensures that migrant workers will not leave Lebanon without their employers' consent. As a reaction to this, the Philippine government formally asked its Lebanese counterpart to help get Filipino workers out of danger. Among the Philippine requests was that Lebanese citizens employing Filipinas allowed them to leave the country (Dalangin-Fernandez 2006d) and signed their exit visas.<sup>142</sup>

In the Philippines there is a common understanding among government employees and officials regarding the varying degrees of difficulty involved in different foreign assignments. While Madrid or Rome, for example, are perceived as being easy assignments, Embassies in the Middle East are commonly called "hardship posts." During an interview at the CFO, I was told that the Lebanon Crisis, and its coverage by the Philippine, was a reminder to the Philippine public of what regularly happened at those posts.<sup>143</sup> It brought public attention to the wartime fate of Filipino migrant workers there, but, more importantly, it acted as a catalyst for exposing the exploitative conditions Filipino domestic workers suffered in that country, such as the case of a young Filipina, who appeared on national TV stating that war gave her a chance to escape from her "master," who had repeatedly raped her. Newspapers and migrant workers' organizations narrated the tragic Lebanon stories as glimpses of the hard conditions of the millions of women who had left the Philippines to work as domestic workers. Exploitation and oppression were at the center of the criticisms, and their systematic presence in labor migration, regardless of war, was denounced. The question migrant workers' organizations raised was: "What has the government been doing to protect Filipino domestic workers in Lebanon?"<sup>144</sup>

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<sup>142</sup> Interview 24, Philippines, Government Official, June 2007

<sup>143</sup> Interview 12, Philippines, Government Employee, May 2007

<sup>144</sup> Interview 26, Philippines, Migrant Workers Organization, July 2007.

### **3.2. The Role of the Government in the Crisis**

As different government agencies coordinated evacuation and repatriation efforts, there was also growing controversy over where the funds for these activities should come from. It was estimated that flying 30,000 migrant workers back to the Philippines would cost \$56,970,000 or P2,963 billion. On August 2, 21 days after the Israelis began their attack, President Magapacal-Arroyo approved Executive Order 551, which allocated P500 million from OWWA funds and P500 from non-identified sources for repatriation from Lebanon. The gap between the estimated costs and the money the President allocated was P1,963 million, and many migrant workers' organizations saw this as evidence of insufficient will of the government to save the nation's "modern day heroes" from the dangers of war (Fameronag 2006).

The Lebanon War also shed light on the fact that approximately two thirds of all repatriated workers from Lebanon were undocumented (Uy 2006a). By August 10, 57% of 2,404 repatriated Overseas Filipino Workers surveyed were not registered with OWWA (Dalangin-Fernandez 2006c), and this agency recognized that two out of three workers did not have proper working papers when they entered Lebanon (Dalangin-Fernandez 2006a). This was an alarming figure, since undocumented workers are usually more vulnerable to abuse. In addition, besides pointing to the fact that 20,000 workers had managed to bypass government control and regulations, therefore exposing the failure of the government to implement its own policies, the presence of such high numbers of undocumented workers in Lebanon posed other problems. OWWA asked POEA to prepare a master list of all migrant workers in Lebanon, including their addresses. RA 8042 mandates POEA to keep a database with the information on migrant workers overseas. After pressure from newspaper editorials, the agency finally sent the information to OWWA and DFA. This should have helped the Embassy and evacuation teams locate workers, but the list only included documented workers. Migrant groups and government officials also complained that most migrant workers' addresses included in POEA's list were PO Boxes or the addresses of the Lebanese recruitment agencies, which made it difficult to track the workers down (Balana 2006).

Besides shedding light on some important legal gaps and weakness in government

regulation of migration, the Lebanon crisis also brought public attention to government action which, according to migrant groups, was not as fast and efficient as it should have been. The main issue behind the tardiness of the government was financial, since it was not easy to allocate the funds to repatriate or even to decide where the money was going to come from.

While POEA provisions established Lebanese employers were responsible for worker repatriation, the government did not feel they were in a position to enforce the contract. Since OWWA is the welfare agency for migrant workers, both the government and migrant organizations thought the money should come from its funds. As explained in the previous chapter, the agency is funded through a \$25 fee documented migrant workers pay each time they start or renew a contract, which is approximately every two years. When the crisis in Lebanon exploded, total OWWA assets were P8 billion (\$160 million). However, OWWA officials said they could not access those funds. After pressure from migrant organizations and a series of Senate hearings, an internal auditor said that the total monies available from OWWA funds were only P703 million (around \$14 million). From the total fund of P8 billion, P3.4 billion had been invested in high-yielding securities and government bonds at the Development Bank of the Philippines and another P3.4 billion were in the Land Bank of the Philippines (Cabacungan and Tubeza 2006).<sup>145</sup> This raised issues among migrant workers' organizations around priorities involved in investment decision-making. The organizations also complained that, though those funds technically belong to migrant workers, the latter did not have any input into the decision over the use of the funds. The fact remained that there was no cash available to pay for the repatriation of mostly domestic workers stranded in Lebanon.<sup>146</sup> Other possible funds for this goal were the P100 million repatriation fund RA 8042 entrusted to DFA and the \$150,000 operational funds of the Philippine Embassy in

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<sup>145</sup> Interview 5, Philippines, Migrant Workers Organization, May 2007

<sup>146</sup> Interview 5, Philippines, migrant workers organization, May 2007

Lebanon. However, these were not sufficient, since the repatriation cost for each worker was calculated at \$3,000.<sup>147</sup>

As information was obtained that 20,000 of the 30,000 migrant workers in Lebanon were undocumented, the controversy around repatriation costs rose. OWWA was reluctant to use the funds for the repatriation of all workers since, according to them, the money came from the contributions from documented workers, and technically it could not be used to assist workers who had not gone through legal migration steps (Uy 2006a). This made migrant workers' organization and the public angry at what seemed a serious inability on the part of the government to act fast and find solutions in such a critical and sensitive moment. There was a strong impression that the government was failing to provide enough assistance to migrant workers (Corros 2006). Between July 22 and October 16, 6,282 out of the over 30,000 workers returned to the Philippines. The Philippine government only shouldered one third of the repatriation costs. The International Organization for Migration (IOM) took care of the rest. More specifically, OWWA sponsored the repatriation of 2,067 migrant workers (33%) and the IOM financed the flights of 4,201 (67%) repatriates (OWWA 2006).<sup>148</sup>

### 3.3. Threat to Legitimacy

Timing in media... Sometimes there are bloody events which need to be magnified. You focus on the issue. Like Lebanon. If it [hadn't been] zoomed in, the lens of the government into acting on working standards wouldn't be there and we would have gone into another direction ... In Lebanon, for example, because of the war, there were a lot of issues that could have appeared. But because the focus was on migrant

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<sup>147</sup> While I cannot expand here on this issue, the controversy over the OWWA funds went beyond whether they were in investment accounts. Two years before the Lebanon Crisis, a great amount of OWWA's health insurance money had been transferred to PhilHealth, another health insurance agency. I was shown documentation that showed that those funds had been used by the President to fund part of her political campaign in 2004, in a context where she had lost a lot of credibility. Gloria Magapacal-Arroyo delivered thousands of free health insurance cards with her picture on them. There were several hearings on these issues which, obviously were never resolved. Several migrant organizations and unions' members shared this story with me to show their discontent and sadness by what they perceived as a constant misuse of resources meant to be for migrant workers' protection and how corruption permeated all aspects of the migration institutions. This issue also reached the press and, again, raised questions about the administration's credibility and honesty.

<sup>148</sup> Out of the total repatriated migrant workers, 132 (2.16%) were men and 5,977 (97.64%) were women (OWWA 2006).

workers and then civil society also highlighted them, then you help the government shift its priorities ... You can look at the government as a seven-year-old kid with ADD. It can't concentrate... What we do is we go to them and show them that they have mass base. They will get votes, mass support of the people ... That is the role of civil society. You will shame them into action.<sup>149</sup>

As the constraints the government faced to protect domestic workers in Lebanon, as well as the government negligence and corruption involved in the process, became obvious, government officials saw the need to work to counter a loss of legitimacy, which was similar to the one suffered during Contemplacion's trial. The Lebanon War shed light on several controversial issues in need of government attention. These included the grave abuses domestic workers suffered; the constraints Lebanese immigration and labor laws imposed; the multiple cracks in the regulation and monitoring of migration the presence of so many undocumented workers indicated; the slow reaction of the government; concerns over political priorities and corruption the controversy over the existence and availability of funds raised; and the lack of preparation of the government to receive and employ the 30,000 returnees at home. These events took place less than one year before the 2007 Senatorial Election and in a context in which President Magapacal-Arroyo was rapidly losing credibility due to corruption scandals, increasing problems with migrant workers, and human rights violations. They made public opinion question the role of government in the regulation of migration and protection of migrant women. Using a vivid metaphor, an interviewee stated that when Israel started bombing its neighbor, "the Pandora's box of abuses to domestic workers in Lebanon opened."<sup>150</sup> The "Lebanon events" had a huge impact on public perception of migrant domestic workers. By unmasking the difficulties many overseas Filipino domestic workers faced, Lebanon became a trigger for change and constituted "one thousand Contemplacion stories."<sup>151</sup> I discuss in sections 4, 5, and 6 the strategies the government followed to regain hegemony.

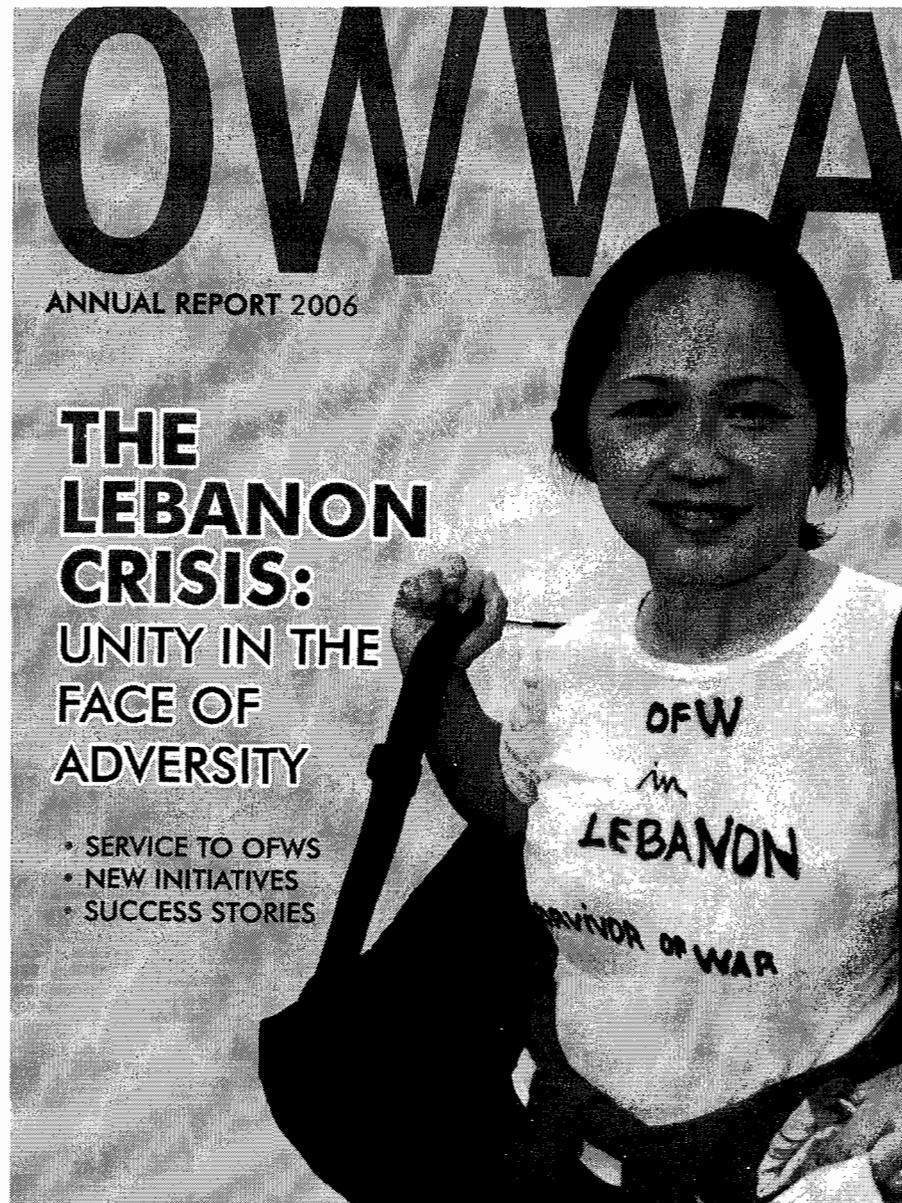
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<sup>149</sup> Interview 26, Philippines, Migrant Workers Organization, July 2007

<sup>150</sup> Interview 26, Philippines, Migrant Workers Organization, July 2007

<sup>151</sup> Interview 26, Philippines, Migrant Workers Organization, July 2007

Figure 4.1



Source: OWWA's 2006 Annual Report Cover Page.

#### 4. First Response: The *Supermaid* Program

Yeah, super... supermaid... The first time that we heard it, we thought [it meant] the maid should be all around. Supermaid means that you can do anything, everything... and they are expecting you to do all those things...<sup>152</sup>

In early August, when 90% of the 30,000 Filipinos were still expected to return from Lebanon, President Magapacal-Arroyo announced the government would put a training program in place to facilitate the re-deployment of the returnees and overseas employment for Filipino women in general. The President stated that with this training the country would be able to deploy abroad, not just ordinary domestic workers, but supermaids (Dalangin-Fernandez 2006b) who, with upgraded skills, would command higher salaries and better working conditions. Through the use of term supermaid, and the political campaign surrounding it, domestic workers would not only save the economy through their hard work and remittances but they would also become overachieving and professional domestic workers. Professionalization would help workers avoid abuse and exploitation and, therefore, end the unsafe working conditions in many countries, including Lebanon. While the President recognized domestic workers were often victims of abuse, supermaids would not be.

The hidden abuse of domestic workers was seen. If they hadn't had the chance to escape, we would have never heard their stories. But we want to commit into a larger perspective that *Lebanon is happening in most areas where we are deploying domestic workers*. What happened was that there was a war in Lebanon and we saw them jumping from the windows... that is very appalling for me, the treatment of domestic workers as part of property. That's why these are stories of abuse, they were locked with the furniture, or tied so that they wouldn't be able to escape, because they were viewed as non-human. They were viewed as slaves. What the [supermaid] branding is missing [is that] *you brand them, but even then they are still like indentured slaves*.<sup>153</sup>

Migrant workers' organizations expressed their outrage over the concept of supermaid, since they viewed it as a demeaning term and as a symptom of the insistence

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<sup>152</sup> Interview 7, Philippines, Migrant Workers Organization, May 2007

<sup>153</sup> Interview 26, Philippines, Migrant Workers Organization, July 2007 [emphasis added]

of the government in keeping Filipinas as servants. Radio and TV shows and newspapers discussed at length the connotations of the term *supermaid* and the implications of this new program:

It was at the headlines of the newspapers the first time that [the President] used that name. The commentators at the radio said, what did she really mean when she said supermaid? Does she mean that our women can fly now? Instead of jumping through the window [like in Lebanon] they can now be trained to fly so they won't get hurt? It's actually the irony of it.<sup>154</sup>

The spokesperson from a migrant workers' organization stated that, besides not addressing the root factors behind the hardships involved in migrant domestic work, the notion of the supermaid aimed to deflect attention from government inability to protect workers during their employment in Lebanon and to repatriate them efficiently.

It's a deflection. If you look at the *supermaid* training program, it happened right after the Lebanon Crisis. They tried to cover up what [was] really happening to migrant domestic workers, especially the part of government neglect, so they are trying to... in order that they will not be exploited, they will not be abused, they will not be raped, we will train them as supermaids. And supermaid training is just, you know, a change of name.<sup>155</sup>

Many of the women placed in Lebanon, as well as thousands of women migrating to other countries, were high school and college graduates. The "Pandora's box" of abuses Lebanon opened triggered growing criticism of the lack of well paid skilled jobs in the Philippines. The Philippine government was again criticized for continuing to export tens of thousands of women every year as servants, particularly to places where working conditions were exploitative and dangerous. The creation of the Supermaid Program was seen as another step toward the institutionalization and perpetuation of the labor export program:

The *supermaids* embody the domestic workers who are very skilled, very capable of doing their work, they are professional, they have language training and cultural training. That's the essence of the *supermaid*. But we do not want the term used, because we do not want Filipino women to be turned into maids, we are not

<sup>154</sup> Interview 3, Philippines, Migrant Workers Organization, April 2007

<sup>155</sup> Interview 21, Philippines, Migrant Workers Organization, June 2007

degrading the maids, but we can do more, in fact, we are very sorry that our professional women are getting into these jobs because of the lack of employment in the Philippines. It's actually very insulting that intelligent, good, beautiful Filipinas, that they really have to accept this job just to feed their children, to get to have a better future for their family. Why can't we have super teachers, super engineers, super nurses in the Philippines? Why do we have to be turned into *supermaids* abroad? And why do we have to leave our children in the charge of our husbands, our grandmas, our sisters to go and take care of other kids?<sup>156</sup>

### **5. Second Response: Toward Policy Reform**

The notion of turning Filipino domestic workers into supermaids did not have much social support. The term was perceived as a branding effort that, besides turning Filipino women into “model and elite maids,” did not address the structural factors behind women’s migration and their exploitation in their workplace. This discontent and criticism pushed the government to strategize other protections for migrant women. As early as August 2006, Mina Gabor, POEA’s women’s advocate, held a consultation meeting with different migrant workers’ organizations to discuss how domestic workers could be better protected. According to one attendee, skills improvement was raised as an important issue. While migrant organizations expected to be called again to continue the discussion, that was the first and last meeting held with them.<sup>157</sup>

Several weeks later, Labor Secretary Arturo Brion announced upcoming reforms in the regulation of deployment of Filipino domestic workers. The difference between the supermaid program and the new reforms was mainly its controversial name. The reforms would maintain the training emphasis of the supermaid program and would add some provision aimed to enhance protection and improve work conditions. Besides introducing compulsory trainings, Brion also announced POEA was deliberating a “no placement fee” policy to replace the “one-month salary” placement fee, and no salary deduction on site would be allowed for the payment or service of these fees. The new trainings would run parallel to a substantial salary increase for domestic workers to levels commensurate with their competency. After two decades of a \$200 monthly minimum wage, the

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<sup>156</sup> Interview 3, Philippines, Migrant Workers Organization, April 2007

<sup>157</sup> Interview 3, Philippines, Migrant Workers Organization, April 2007

minimum salary for domestic workers overseas was being raised to \$400 a month. In addition, the minimum age required for as a domestic worker was raised from 21 to 25 years old, since the government perceived younger workers as being more vulnerable to abuse. POEA administrator Rosalinda Baldoz said the new policy was part of a package of reforms that would “professionalize and empower” the hundreds of thousands of Filipino domestic helpers leaving each year to work overseas (Aning 2006b). According to her, the new rules, which would go into effect on December 15 2006, were meant to secure higher paying jobs for Filipino domestics in order to reduce welfare cases involving low paid workers. She stressed that greater skills in how to perform household work and use appliances would make domestic workers less vulnerable to abuse (Uy 2007b).

Recruitment agencies strongly opposed the salary increase, denouncing it as contrary to government overseas job generation agenda (Aning 2006b). According to them, a 100% salary increase would have negative impacts on deployment. Representatives from private agencies also argued the increase would encourage illegal recruitment and severely harm the legitimate recruitment business in the country, since the Philippine government was creating these reforms unilaterally (Aning 2006c).<sup>158</sup> Eduardo Mahiya, President of the Federated Association of Manpower Agencies (FAMA) added that, as a labor-supplying country, the Philippines could not afford to impose conditions on foreign employers. Victor Fernandez, president of PASEI, supported Mahiya’s claim expressing his concern that doubling the minimum pay could lead to “massive contract substitution, increased fake job orders, airport *brazo*,<sup>159</sup> and increase in illegal recruitment in general (Aning 2006b). Finally, the Federated Association of Manpower Agencies Inc. called the plan equivalent to a ban on the deployment of domestic helpers. In fact, by the end of 2006 there were already indications that employers in the Middle East had started to shy away from hiring Filipina housemaids (Salaverria 2006).

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<sup>158</sup> Interview 22, Philippines, Private Recruitment Agent, June 2007

<sup>159</sup> Immigration and airport officials bypassing legal procedures to allow departure of Filipino with questionable travel documents.

Recruiting agencies and aspiring domestic workers held rallies in Metro Manila, in which the latter protested the upcoming reforms and expressed their willingness to work for less than \$400 (Aning 2006a; 2007). Protests also took place overseas. Thousands of Filipino domestic workers in Hong Kong, for example, whose minimum salary was already set in \$450, opposed the required training and assessment, which were expected to bring additional financial burdens on workers waiting to be deployed (Mandap 2007; Rivera 2006). Facing increasing opposition, Arturo Brion defended the rules as part of reforms giving domestic workers better protection amid a number of high-profile cases of abuse against them, particularly in countries such as Lebanon, Saudi Arabia, and Singapore. Their implementation was for the long-term and was aimed to place domestic workers on a better footing against abuse and exploitation. According to him, the reform would not weaken deployment but rather set a favorable standard based on the global preference for Filipino migrant workers<sup>160</sup> (Uy 2007a). Nevertheless, after consulting with stakeholders, the POEA responded to recruiters and workers' discontent. Aside from lowering the minimum age for overseas domestic workers from 25 to 23, Brion declared that DOLE the implementation of the new Household Service Workers Reform Package would be delayed from December 2006 to March 2007 (Rivera 2006; Uy 2007a). I landed in Manila on April 6, 2007.

## **6. The Reform Package: From Supermaids to Household Service Workers**

Supermaid? [laughs] I think that it's just like our entertainers. They are called several names but actually their work is all hostessing work. So, maybe supermaid is, yeah... whatever you call it there is a maid there, right?<sup>161</sup>

[W]e have our... new policy with the reform package, we had policy reforms for our domestic helpers. I don't know if you read this in the papers lately, we call them now the household service workers.<sup>162</sup>

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<sup>160</sup> The Reform was designed exclusively on overseas employment and did not address the existing unemployment at home.

<sup>161</sup> Interview 7, Philippines, Migrant Workers Organization, May 2007

<sup>162</sup> Interview 1, Philippines, Government Official, April 2007

Despite opposition from private agencies and certain migrant workers' sectors, the Household Service Workers Reform Package was passed in early 2007. Similarly to RA8042, the Household Service Workers Reform Package is articulated around the notion of protection. While RA 8042 applied to all Filipino migrant workers, the Reform Package only concerns to migrant domestic workers. Its main objectives are to "ensure that only qualified, adequately protected and properly documented domestic helpers are deployed to pre-qualified foreign placement agencies and employers" and to "prevent the mental, physical and psychological abuses and maltreatment committed by employers" (POEA 2006c). Its provisions are divided into three areas of reform. The first concerns foreign recruitment agencies and employers and aims to implement upgraded verification and monitoring systems; the second concerns domestic workers and, besides raising their minimum salary from \$200 to \$400 a month and making it illegal to exact placement fees from them, it imposes age and skills restrictions on them. The third concerns receiving governments, but instead of reforms it includes suggestion for changes. In other words, while reforms targeting agencies, employers, and workers are, at least in theory, enforceable provisions, those addressing receiving states are not. I suggest here this Package precisely stems from the inability of the Philippine government to impose changes on receiving governments due to its disadvantaged and subordinate geopolitical position.

As the title of the new policy shows, domestic workers officially became service workers. The term "household service workers" aimed to clean the controversy the term supermaid created and to award Filipino women the same respectability and status as workers in other economic sectors. While it retained the connotations of professionalization contained in supermaid, it did not have the servile, overachieving connotations.

So, the term we use now is household service worker, not domestic helper or maid. Because in the past, whenever they talked of domestic helpers, the thinking is that all Filipinos are maids, and all they can do is to clean the house, nothing more.<sup>163</sup>

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<sup>163</sup> Interview 16, Philippines, Government Employee, May 2006

As I discuss in this section, however, although the government gave up on the use of the term supermaid to avoid its servile connotations, the servile substance remained.<sup>164</sup> In the following sections I critically examine some of the main provisions of the Reform Package. I begin with and concentrate most of my attention on the reforms targeting domestic workers and discuss their potential in providing further protection and higher work standards. Subsequently I briefly discuss the provisions targeting employers and reflect on the actual motives behind the Package. Given the inability of the Philippine government to protect its women overseas, I suggest that the eventual goal of this reform was to actually price them out of the domestic workers international niche and move them into higher skill jobs in safer countries.

### **6.1. Minimum Entry Salary of \$400**

The Reform Package introduced a new minimum of \$400 a month. While the salary increase is universal, the reform will not affect countries such as Taiwan, Hong Kong, European countries, Canada, and the United States because they are already paying above this new minimum<sup>165</sup> (see Table 4.2). The countries targeted are Singapore, which pays only \$220-\$250, and Malaysia, currently paying around \$200 as well, and most Middle Eastern countries (see Table 4.1.). While the tables show official salaries in several countries and regions, these minimums are not always respected. Nevertheless, the tables provide is a useful guide to pay differentials among across countries and regions.

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<sup>164</sup> While the use of the term “maid” (in Tagalog *katulong*) is still very common in the Philippines, it is not used officially.

<sup>165</sup> Interview 1, Philippines, Government Official, April 2007

**Table 4.1. Monthly Salary in Lowest Paying Countries**

Kuwait	-	200 US\$
Hong Kong	-	446 US\$
Lebanon	-	200 US\$
Saudi Arabia	-	200 US\$
UAE	-	200 US\$
Qatar	-	200 US\$
Jordan	-	200 US\$
Singapore	-	200 US\$
Oman	-	200 US\$
Cyprus	-	300 US\$
Taiwan	-	500 US\$

Source: POEA 2006b

**Table 4.2. Salary Ranges by Region (US\$)**

Africa	-	200-300
America	-	200-1,400
Asia	-	200-1,134
Europe	-	358-1,850
Middle East	-	200-785 (Israel)
Oceania	-	1,485
Trust Territories		272-300

Source: POEA 2006b

The rationale for the minimum salary increase was the enhancement of workers' welfare, since \$200 a month had not been changed since the early 1980s.<sup>166</sup> It also responded to a long lasting underpayment and lack of recognition of domestic workers:

[W]e should remember that they are not regular 8-5 workers with entitlement to overtime pay in excess of 8 hours of work. They are in a household setting and they are on call by their employers 24 hours a day and 6 to 7 days a week, without overtime pay (POEA 2007b).

The salary increase also needs to be understood in connection with the introduction of compulsory skills training and assessment. In one government official's words, "we

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<sup>166</sup> Interview 1, Philippines, Government Official, April 2007

are saying that if they want really skilled or qualified household workers, then they should pay the price.”<sup>167</sup> As I discuss in subsequent sections, since Filipino domestic workers were being improved through compulsory training, the resulting improved product deserved a higher price.

While the initial reaction of most migrant workers organizations to this wage raise was positive, they were skeptical to the ability of the government to actually implement it. As explained in Chapter III, the Philippine government has had difficulty in their attempts to implement some of RA8042 provisions, and illegal recruiting practices have been one of them. Even when the minimum salary used to be \$200 contract substitution was already a generalized practice. POEA decided that employers would be imposed a daily \$13 fine for failing to pay workers \$400 or paying them late. Because the Reform Package has only been passed recently passed, it is hard to predict what its actual impact is going to be on salary improvement for Filipino domestic workers. Nevertheless, I did not find indications during my fieldwork that the government had taken any concrete steps to facilitate enforcement. Besides statements of good intentions, the only measurable indicator of increased enforcement efforts would be an increase in resources toward these ends. But I found no evidence of this. Therefore, the skepticism of migrant workers’ organizations is reasonable.

While POEA employees acknowledged that it was too early to assess the success of the salary increase, they explained that up to May 2007 some employers were already willing to pay \$400<sup>168</sup>. Private recruiters responded that, due to the salary increase, deployment in the first quarter of 2007 had actually decreased and the government was manipulating the statistics to mask this fact:

They are again presenting it this way, ‘Oh! After we increased the salary, we have now been receiving job orders at \$400,’ and we said, no, we have about 546 job orders for domestic helpers at \$400 and I think one or two of my maids are actually in that statistic... But they are not presenting that it used to be over 11,000 or

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<sup>167</sup> Interview 11, Philippines, Government Official, May 2007

<sup>168</sup> Interview 13, Philippines, Government Employee, May 2007

12,000 job orders for the same quarter... But now, I am only presenting 500. So, for media purposes they are saying it's good, we have 500 job orders.<sup>169</sup>

This interviewee, who represented the largest recruitment agencies association in the Philippines, did not think that the “domestic workers deployment business” could prosper under the new minimum wage regulation. According to him:

[I]f you multiply \$400 by zero, what is your answer? Zero. But if you multiply \$200 by ten, you have \$2000. So, the point is, you cannot promise workers that they will have \$400 when nobody will pay you \$400.<sup>170</sup>

Later on the interview he acknowledged that private agencies would need to resort to contract substitution to ensure the continuation of the migration business, which is exactly the same worry migrant organizations have:

Many of the [job orders] the government is talking about will be false contracts. They will only be for purposes to go through POEA. [B]ut agencies do not have jobs due to the high salary. The workers are willing to take less in order to have a job. The agencies will make the offer and then they tell her, but you still have to sign the job order which says \$400 even if there is another contract for \$200. Even if it's against the law, the workers beg to be able to leave on fake contract because they need to support their families. They [will] sign everything. [Workers say:] ‘just give me a job’. So ... even if government is saying that they now have 500 [job orders], I am sure that not all of them are actually paying \$400. ... So, what Reform Package are we talking about? Who is [it] benefiting? Nobody. Instead of moving forward in order to meet competition, government is saying, ‘don't worry, there is now an increase in the deployment of the high end workers.’ Maybe there is, but please, what happens now to this particular maid who lost her job? Can we ask her now to become a construction engineer?<sup>171</sup>

According to the interviewee, the continuation of deployment would only be possible if agencies managed to circumvent the new rules. Workers were anxious that with such a high new minimum salary it would be hard to find jobs overseas. In other words, both workers and recruitment agencies had the perception that a regulation resulting in higher salaries would make Filipino domestic workers less competitive in the

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<sup>169</sup> Interview 22, Philippines, Private Agent, June 2007

<sup>170</sup> Interview 22, Philippines, Private Agent, June 2007

<sup>171</sup> Interview 22, Philippines, Private Agent, June 2007

global domestic work market. The only way to get around this was by breaking the law and continuing to accept jobs and deploy workers at the old rate of \$200, since this was all employers in many receiving countries were willing to pay.<sup>172</sup>

## 6.2. No-Placement Fee Policy

The Reform Package also states recruitment agencies can no longer collect placement fees from domestic workers. This change is meant to alleviate the financial burden recruitment agencies impose on domestic workers and “in recognition of the nature of their work and their vulnerability to exploitation and abuses, particularly at the worksite, household workers should be exempted from payment of placement fee, either collected prior to their deployment or on-site thru salary deduction” (POEA 2006c).

The no-placement fee provision has also been controversial. Private recruitment agents have expressed their discontent for the loss of revenue they will suffer because of this provision. Both migrant workers’ organizations and private agencies have argued that the government will not be able to implement this provision.

It’s very impossible. The government has this Department Order 34, it’s actually issued by [the] D[e]partment O[f] L[ab]or and E[m]ployment. It sets a ceiling of equivalent of 1 month salary for placement fee, but nobody followed that Department Order. Recruitment Agencies charge placement fees 4 or 5 times higher than that ceiling, so now they are saying that there is no placement fee, so if you are not critical on the policies, you will be very happy, you can work abroad without paying the fee, but it’s not true.<sup>173</sup>

This interviewee explained the existence of a law does not guarantee it will be respected, especially in a context where violations of the one-month placement fee had been recurrent. This was confirmed during my interviews with owners of recruitment agencies:

They don’t have any monitoring. We [Filipinos] are good at coming up with systems and procedures imposing, but the monitoring is nothing, because they also

<sup>172</sup> Private agencies suggested that the government could create a layered system in which, depending on the worker’s experience, there would be different salary categories: \$400 for a skilled and experienced domestic worker but \$250 or \$300 for a novel one.

<sup>173</sup> Interview 5, Philippines, Migrant Workers Organization, May 2007

have a ready argument... we are under... we don't have the budget, we are overworked.<sup>174</sup>

Another recruitment agent stated that the abolition of the fee was not realistic. There were already rules on placements fees and recruitment agencies rarely followed them:

Now, this is the problem: implementation of the rules. The POEA should do what they are supposed to be doing, OK? Look at Hong Kong. They know that in Hong Kong people are paying three months of their basic salary and they are not lifting anything out of it. In Taiwan nannies are paying more than P100,000 (\$2,000), and no one is opening their mouth about it. They have the rules. [Up to now] the rule is one month maximum. You cannot take one centavo more. It's very clear. It's always people in our government who are going to Taiwan, Malaysia, Singapore, and Hong Kong. Why aren't they doing their work? Why are they selective when there is a rule? You see, that is the biggest problem in our country. We never run out of rulers, laws, we have so many laws, believe me, we have better laws than in the U.S., believe me, but who is going to implement these laws?<sup>175</sup>

Both migrant workers' organizations and some private agencies criticized this reform since it did not acknowledge the difficulties of monitoring, implementation and competition in the international labor market. They argued that limitations on placement fees have not been enforced in the past and, particularly recruitment agents, recognized the government had never been inspected or monitored them. Despite the abolition on paper, according to them, agencies would continue to charge abusive placement fees and government would not do anything about it:

There is no way for the government to monitor because, like I said, [the government] sets the policy, and later on, [agencies will ask them] to look the other way. But government has acted well. That makes government a hypocrite.<sup>176</sup>

This trend fits the pattern, outlined in this and the previous chapter, of ongoing tension between the need of the Philippine government to establish itself as a protector of women and its ability or even willingness to actually do so. Low implementation and

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<sup>174</sup> Interview 22, Philippines, Private Agency, June 2007

<sup>175</sup> Interview 23, Philippines, Private Agency, June 2007

<sup>176</sup> Interview 22, Philippines, Private Agency, June 2007

enforcement resources and efforts, as well as corruption in the government, have rendered past protection efforts useless. The same will probably happen with the salary increase and the abolition of the placement fee for Filipino domestic workers.

### **6.3. Skills Provide Protection**

In the two previous sections I addressed two provisions of the Reform Package aimed to improve the standards under which Filipino domestic workers are deployed. In section 6.3 I discuss three provisions that set up conditions domestic workers need to fulfill in order to be deployed: compulsory culture orientation, required training, and minimum age. I suggest these reforms are rendered to fail to protect domestic workers since they do not recognize the fact that gender, class, and race power relationships shape their work conditions.

Since the creation of RA 8042, skills have been considered as the ultimate protection for migrant workers. The more and better skills they have, the easier it will be for them to find jobs and protect their rights (Department of Labor and Employment 1997). The Technical Education and Skills Development Authority (TESDA) has had a primary role in this process, since it is the main government agency in charge of training, assessment, and certification of both local and migrant workers. Working in collaboration with the POEA, TESDA specializes in worker training, which employers in the receiving countries often require. According to a TESDA employee:

[O]ne of the major mandates of TESDA is really the certification of workers, skilled workers. Not only household. We started in 1975. We had trained in automotives, electronics and then later on, there is a need in the industry, we started with the soft trades (...) We also have assessment and certification for caregiving and then household service workers.<sup>177</sup>

There are thousands of TESDA certified courses offered throughout the country (Rodriguez 2005). They include computer secretarial; computer technician; cosmetology; electronics technician, hair and beauty; mechanics; dressmaking; and caregiving, domestic work, among many others.

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<sup>177</sup> Interview 16, Philippines, Government Employee, May 2007

In the context of increased globalization of the labor force, the government trains and processes workers to be ready to go to practically any country in the world and to do practically any job well. Skills become key to provide jobs and are a distinct feature making the Filipino workforce attractive to employers. Filipino overseas workers are known in the international labor market for being educated and possessing high levels of skills. This is the basis of what I call the *Filipino Brand*. Filipino workers usually get higher wages than nationals from other sending countries. This pay differential is usually justified by their English proficiency, their high educational background, and their skills.

Equating skills to ability to find jobs, however, is problematic. Political, economic, gender, and racial dynamics constrain the structural location of Filipino migrant workers as service and domestic workers in the global labor market, and often place them in disadvantaged positions. Despite often being college graduates, for example, Filipino women tend to work as domestic workers overseas. While my interviewees at POEA did not provide me with statistics on the educational level of Filipino migrant domestic workers, I designed the following table from my interviews with Filipino domestic workers in Barcelona. As table 4.4 shows, the differences between formal training and the job occupied are striking:

**TABLE 4.3. Educational and Professional Backgrounds and Jobs in Spain**

	<b>Educational Background</b>	<b>Job in the Philippines</b>	<b>Job in Spain</b>
<b>Lili</b>	One Year of College	Student	Caregiver
<b>Elena</b>	College Graduate	Recent Graduate	Domestic Worker
<b>Daisy</b>	High School Graduate	Recent Graduate	Caregiver
<b>Concha</b>	High School Graduate	Business Owner	Domestic Worker
<b>Mari</b>	High School Graduate	Housewife	Cleaner by Hours
<b>Teresita</b>	College Graduate	Midwife and College Professor	Domestic Worker
<b>Nelly</b>	College Graduate	Teacher	Domestic Worker
<b>Corazón</b>	College Graduate	Teacher and Sales Manager	Domestic Worker
<b>Adelina</b>	Double College Graduate	Work Student	Domestic Worker
<b>Purísima</b>	Two Years of High School	Housewife	Domestic Worker
<b>Auxilio</b>	College Graduate	Nurse	Domestic Worker
<b>Marina</b>	High School Graduate	Housewife	Domestic Worker
<b>Delfina</b>	College Graduate	Business Owner	Domestic Worker
<b>Paulita</b>	College Graduate	Microchip Factory Operator	Domestic Worker
<b>Bernarda</b>	High School Graduate	Garment Factor Operator	Cleaner by Hours
<b>Paola</b>	Elementary School	Beautician	Cleaner by Hours
<b>Viviana</b>	Vocational School	Unemployed	Domestic Worker
<b>Coral</b>	One Year of College	Business Employee	Domestic Worker
<b>Raquel</b>	College Graduate	Teacher	Cleaner by Hours
<b>Violeta</b>	College Graduate; M.A., Law School	Lawyer; College Professor	Domestic Worker

**Source: Author's Interviews in Barcelona from November 2006 to March 2007**

As I discuss in Chapters VI and VII, these are the only jobs available to them in many countries. Although skills place Filipino domestic workers in a more favorable situation than nationals from other sending nations (e.g. Sri Lanka, Indonesia), this does not reverse the fact that hundreds of thousands of highly educated Filipino women are taking jobs far below their formal training. Their concentration in the international reproductive labor niche constitutes a racial, gendered, and national version of glass ceiling. They are not allowed access to professional or skilled jobs more in accordance with their educational level. In the international division of labor, it is not U.S.ers or Germans or Spaniards who are internationally known as ideal domestic workers, but Filipinas. Their concentration in domestic work stems from updated versions of colonial discourses that perpetuate the Philippines' servile and dependent position in the world economy. Given the high educational levels of Filipinos, the reason why they are not known as ideal engineers, doctors, or teachers is a mystery to many. The idea that Filipinos are favored in the international labor market for their possession of skills needs

to be considered in a context in which thousands of educated Filipinas are actually being demoted when they migrate overseas.

The government also sees skills, in the context of domestic work, as crucial to provide protection in the sense that they prevent abuse. In other words, if the worker knows how to do her job there will be no reason for her employer to maltreat her or, as a government official explained during our discussion of abuse of migrant domestic workers:

[A]nd many instances happen *because the girl doesn't know how to do the work*. So, if you can do your work, you are very comfortable with what you are doing, there is no reason for the employer to abuse you. Maybe she'll even love you because you are doing perfectly what she wants you to do, she'll be very happy with you.<sup>178</sup>

Perhaps there is some truth to this. One consistent pattern among the cases of abuse made public is that they often stem from some error the Filipino worker makes. Ana, for example, explained how her employer in Lebanon constantly complained about her way of doing things around the house and stated that "Filipinos are like animals."<sup>179</sup> One day she hit Ana when she failed to clean the oven properly. When Ana complained, her employer repeatedly beat her and pulled her hair. Her body was bruised and she was in a great deal of pain. Other testimonies I read in the legal office of a migrant workers' organization stated the women were constantly nagged, in front of strangers, for their "different way of doing things." Preci Padilla, for instance, also bound in Lebanon, stated she was always being yelled at for the little mistakes that she committed. Words such as "sharmuta," an Arabic term for whore, were often flung at her. One day, after asking for her seven-month salary, her employers shoved her to the ground and whipped her with a belt (Kanlungan, January 13th 2004).

While workers' inability is often the reason behind employers' abuse, this, as Preci Padilla's story shows, is not the only reason. Sometimes the reason has nothing to do with the worker's behavior. Sometimes there is no reason. In sub-sections 6.3.1 and 6.3.2 I provide what the skill provisions in the Reform Package have consisted of and suggest

<sup>178</sup> Interview 1, Philippines, Government Official, April 2007 [emphasis added]

<sup>179</sup> Interview 17, Philippines, Migrant Worker, May 2007

that since they fail to acknowledge the reason behind abuse of Filipino domestic workers (i.e. power inequalities) they are deemed to fail to protect them.

### **6.3.1. Attendance to the OWWA Language and Culture Orientation**

Upon the premise that skills equal protection, the Reform Package included two provisions which are specifically about skills as enhancers of protections. The first one required attendance to an OWWA conducted country-specific language and culture orientation. The second mandated the possession of a TESDA certified National Certificate for Household Service Workers (NCII) (POEA 2007b). As a condition for the processing of their contract and issuance of exist clearance, the workers or the agency must submit proof of fulfillment of the two requirements (POEA 2006b). In this section I discuss the first provision and I examine the second in section 6.3.2.

The new Reform Package mandates migrant domestic workers to complete a language and culture orientation. These trainings teach Arabic to workers going to the Middle East and Mandarin and Cantonese for those going to Singapore and Hong Kong. In addition, they also provide information on receiving countries' cultural traditions. The Mandarin language course lasts 14 hours, with 12 hours for language and 2 for culture orientation. The Arabic course has 20 hours for language and 4 hours for culture orientation. The trainings are compulsory and free, and once a woman obtains her "certificate of completion" she can submit it in POEA and process the rest of her papers to go overseas. Knowledge of Middle Eastern or Chinese culture is seen to help migrant women cope when overseas, as well as help them communicate with their employers.

These seminars mostly address steps that women need to take in order to take care of themselves. For example, the course description for the Arab language training and culture orientation program, the course description states:

The course has two distinct components: the first one is designed to impart the participants commonly practiced Arab culture which includes *manners and ethics*, with a spice of geography, which every Domestic Helper (DH) *should understand and respect* during their stay in the Middle East" (Octaviano 2007).

Emphasizing the need to become familiar with cultural and ethical habits in receiving countries in order to stay safe, OWWA employees explained that some of the

worst abuses happened because Filipino domestic workers failed to understand the culture in which they inserted themselves upon migration. This was particularly true in the Middle East:

[W]hat is more important is the culture and tradition, because it's very different, like in Saudi Arabia, for example, you cannot look into the eyes of male Arabs if you are a woman, especially if you are not Muslim or you are not the wife. Whereas us, Filipinos, we look directly in the eyes when we talk, and you cannot even touch anybody, Filipinos is a touching people, so these are the things that we try to tell them, the nuances in the cultural differences, because these are very basic things that you have to know so that you won't commit mistakes and you won't encounter problems being misunderstood by [your employers] because of cultural differences. [T]his is the very advice that we tell domestic helpers.<sup>180</sup>

Some cultural misunderstandings, according to government employees, can even result in physical abuse:

When you talk about physical abuse, these are... well Filipinos are, from the Middle East perspective, they look at Filipinos, by culture and habit. Filipinos are really hygiene conscious, you know. Before they go to work they take a bath in the morning, and before they sleep they take a bath as well. And the madam does not like that. Plus the culture says that if your hair is wet you are inviting the attention of your male employers.<sup>181</sup>

Consequently, Filipino migrant women are told at the culture orientation seminars that, in order to avoid sexually provoking their male employer, they should never bathe during the day or to blow dry their hair before starting work. I suggest this emphasis on norms of conduct makes the workers responsible for avoiding difficult situations and explains the abuse in terms of culture. As other cases illustrate, cultural explanations, in the context of labor relations, can be problematic. Ana's Saudi employers, for example, did not allow her to leave the house on her own. One day she left the house to go shopping with a Filipino friend and a policeman, thinking she was a runaway, arrested in the supermarket. After the police officer returned her to her employers' house, her employer physically punished her employer for having left without permission. While it is

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<sup>180</sup> Interview 2, Philippines, Government Employee, April 2007

<sup>181</sup> Interview 11, Philippines, Government Official, May 2007

considered normal for a Middle Eastern employer to keep her domestic worker within the house, the fact that the Philippine government warns future migrants of this does not change the fact that workers' seclusion and physical punishment violate fundamental human rights. Similarly, while it may be considered normal for Saudi women to blow dry their hair to avoid sexual tension, this does not change the fact that employers' sexual assault on Filipino domestic workers (and all women indeed) is wrong and illegal. Government discourse turns physical and sexual abuse into prominent manifestations of culture shock, where cultural, and implicitly racial, difference and workers' inability to adjust to the 'employers' ways,' are used to explain abuse. The violence is seen to be rooted in difference and cultural mistakes on the part of the worker rather than presented as stemming from the power inequality present in the labor relationship. The worker becomes both the victim and perpetrator of the abuse, since the solution for the problem is the improvement of the domestic worker, "who is tasked with the work of accommodating the difference(s) between her and her employer" (Tadiar 2002:275). This discourse reproduces the historical construction of women as inherently willing to serve the needs of others, and constructs Filipino domestic workers as products needing further processing before being exported to other countries.

Lack of language proficiency has also been a factor in situations of abuse. Government employees explained they often received reports from domestic workers who cited their own inability to handle their employers' language as the cause of employers' rage. This is why language seminars have been introduced in the Reform Package. Migrant women I interviewed emphasized that learning the language could be an empowering tool, since it would allow them to better negotiate their employment terms. I found however, that the curriculum included in language classes is far from empowering. Due to the time limitations, the classes focus on basic communication skills relevant to the domestic workers jobs. While the curriculum includes "expression of apologies," it does not say anything about assertion of the worker's rights or relevant sentences in case of an employer's sexual advances, or other critical situations. In fact, many of the sentences being taught in the course are full of servile connotations: "I am

very sorry;” “I did not mean to do it;” “Forgive me;” “Pardon me;” “I will not do it again;” “It was an accident;” “Thank you.”

Similarly to the culture orientation, intersecting gender, class, and race ideologies shape the language curriculum. Gender ideologies expect mothers and wives to be abnegated and unconditional carers. They act to reinforce a racialized class position, where subservient responses to conflict are presented as the ultimate, and only, means of protection. For example, during one of the culture orientation seminars for the Middle East, the facilitator told prospective migrants that if they wanted to finish their contract they had to do whatever their employers told them to do.<sup>182</sup> The emphasis on subservience is not new. While the language and culture orientation seminar is an outcome of the recently passed Household Service Workers Reform Package, its discourse has been part of government trainings for few years now. Concha, for example, explained that when she took the Pre-Departure Orientation Seminar back in the late 1990s, she was told “once they started to work they had to be kind, to be good and to put up with everything.”<sup>183</sup> When asked what kinds of things were discussed in that seminar, Corazón, another interviewee in Barcelona, explained that they were told to be obedient and not hard-headed.<sup>184</sup> Other interviewees in Barcelona reported they were told in the seminar that even if employers were not right, they should agree with him/her<sup>185</sup>. Such curriculums normalize and actually promote racialized and feminized models of behavior, where Filipino domestic workers overseas are encouraged (and expected) to show servile attitudes.

Knowledge of cultural traditions is undoubtedly important in order for Filipino women to adjust to living and working in different countries. The provision that makes culture and language orientation mandatory and implicitly equals them to protection, however, is oblivious to three facts: First, workers are often abused without “having asked for it” by violating some kind of cultural norm. Second, even when they do behave

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<sup>182</sup> Fieldnotes, Manila, July 2007

<sup>183</sup> Interview 4, Barcelona, Concha, November 2006

<sup>184</sup> Interview 8, Barcelona, Corazón, January 2007

<sup>185</sup> Interview 20, Barcelona, Paulita, March 2007

in a way their employers may misunderstand, they do not deserve to be abused. Third, no cultural difference should be a valid explanation for workers' abuse. Therefore, though the cultural element of the abuse is addressed by training Filipino women in cultural differences prior to their deployment, there is nothing in the culture and language orientation provision that addresses the fact that employers often feel entitled to harass and abuse Filipino domestic workers. Would not it be interesting the Filipino domestic workers learned how to demand the fulfillment of their contract in Arabic? Moreover, given the multiplicity of seminars they need to go through, would not it be great if the Philippine government offered compulsory self-defense classes? However, multiple power dynamics taking place within the household as workplace go unaddressed. These include, among others, her dependence on her employers' to keep legal status and to send remittances homes, her overexposure to employers' control in the live-in arrangement, as well as the isolation and limited autonomy that characterize domestic work. Further, domestic workers in many countries are still perceived as an updated version of slaves. When they are migrant workers, as it is the case with Filipino women, racial constructions in receiving countries devalue them even more.

Abuse in the context under study is an outcome of *power*, - based on class, racial, and gender- as well as *cultural* relations. These relations take different shape in different contexts. The bottom line is, however, the Filipino migrant domestic workers' experiences are characterized by dependency, subordination, precariousness, and even de-humanization. While consideration of domestic work as slavery can, in some Middle Eastern countries, be partially attributed to cultural and historical differences, a three day long seminar on cultural traditions does not change the fact the many Filipino domestic workers in those and other countries are treated as slaves. A better knowledge of the traditions in the destination country may be helpful to obtain a better understanding of the new surroundings, but such knowledge does not change the objective structural conditions in which the workers often find themselves: they are low wage and invisible subsidizers of the economy of dozens of countries. They occupy a subordinate class and gender position as domestic workers, which, in combination with their racialization as foreigners, makes them an easy target for abuse. Rosa, for example, was repeatedly

verbally abused by her second employer in San José, California. Her case presents a double paradox: First, her abuse took place in the United States, supposedly the world leader in democracy and human rights. Second, Rosa's employer was herself Filipina, which problematizes the notion of cultural difference as the only source of abuse. Rosa's employer seemed to think Rosa should be available for her 24 hours a day and 7 days a week. Rather than respectfully treating her as a worker, she expected Rosa to put up with verbal abuse and to let go of her limited labor rights.

A cultural orientation remains insufficient to protect Filipino migrant workers unless cultural, social, and legal differences placing them in disadvantageous positions in the receiving countries addressed and changed. Although it is true that gender relations, and the power differences stemming from them, vary by country, the fact is that Filipino domestic workers are often expected to behave subserviently, due to their different class and ethnic position, and they become easy targets of sexual and other kinds of abuse. Teaching them cultural norms as a protective measure does not recognize that power dynamics are systemic to domestic work, and casts the worker sole responsible for her own protection and abuse.

As the Philippine government often finds itself incapable of negotiating with receiving countries, it does not empower women to negotiate with their employers either. The Philippine state is close to powerless and unable to protect the workers it exports. It expects the woman to reproduce in the private home the same kind of subservient relationship it has at the inter-nation level. Global macro power inequalities are therefore reflected in the micro-cosmos of the private household where migrant Filipino women labor.

### **6.3.2. Professionalization of Migrant Domestic Workers**

Consistent with RA8042, the Reform Package also states that before a domestic worker can be deployed overseas, she must possess a Household Service Workers National Competency 2 certificate ( Hereafter NCII) (POEA 2006b; see also Appendix 4.3 ). The certificate attests to her possession of the following core skill competencies: house cleaning, laundry and ironing, preparation of hot and cold meals, and provision of

hot and cold food and beverage services. In order to obtain the certificate, the workers must go through a 3 to 4 hour long examination. Both private and TESDA assessors conduct the assessment, which costs approximately P1,000 (\$20). Because TESDA cannot service the high number of domestic workers requiring training and assessment every day, it is mostly private agencies the ones in charge of this task. According to TESDA data, as of May 2, 2007 there were 121 accredited assessment centers for household service.

In order to obtain the certificate, unless they have experience doing household work overseas, women are expected to go through compulsory training. Similarly to the assessment process, TESDA cannot offer all the trainings, and private agencies are increasingly specializing in this task. It is often the private recruiting agencies the ones offering the trainings. As of December 2006, there were 54 training centers on household work to prepare women for the NCII certificate, most of them private as well<sup>186</sup>. Although TESDA does not set the training cost, leaving this up to private training centers, the prevailing fee for the required 216 hours of training ranges from P10,000 to P15,000 (\$200-\$300) (POEA 2007). Some items included in the curriculum are the use of appropriate cleaning equipment, supplies, and materials or maintain a clean and sanitized environment (TESDA 2006).<sup>187</sup>

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<sup>186</sup> It was impossible for me to assess the exact number of legal and illegal centers since TESDA's data showed that many of these centers' licenses were expired. I was not able to verify whether a more updated data would show a renewal of licenses or whether TESDA was actually working with non-licensed agencies. In addition, for obvious reasons, I was not able to quantify how many illegal agencies- that do not appear in TESDA's lists- there are. I would venture to suggest that since the statistics on trainings centers date from December'06 and the Reform Package was approved in March 2007, many more agencies, both legal and illegal, have flourished since then.

<sup>187</sup> The following are the expected learning outcomes from the course: Use of appropriate cleaning equipment, supplies and materials; Clean surfaces, floors, furniture and fixtures; Make up beds and cots; Clean toilet and bathroom; Clean kitchen area, utensils/table appointments and kitchen appliances; Provide supplies for dining room, living room, bedroom and bathroom/toilet; Maintain clean and sanitize room environment; Check And Sort Soiled Clothes, Linen And Fabric; Prepare Washing Equipment And Supplies; Perform Laundry; Dry Clothes, Linen And Fabric; Iron Clothes, Linen And Fabric; Maintain Regular Housekeeping And Maintenance Of Laundry Area And Equipment; Prepare ingredients according to recipes; Check "Mise en Place"; Cook soup as per menu; Cook vegetable dishes as per recipe; Cook meat/poultry, fish/seafood dishes as per culinary method; Cook egg dishes as per client's preference; Cook pasta, grain and farinaceous dishes as per recipe; Garnish cooked dishes; Prepare appetizers as per requirement or client's preference; Prepare sauces as per recipe; Prepare cold desserts; Prepare pastry

During my visit to PASEI training and assessment center I was given a tour around the facilities and observed part of the assessment process. The building was divided into multiple fully furnished kitchens, living rooms, bedrooms, bathrooms, and so on. The different rooms contained furniture and appliances the workers encounter in households overseas. During few hours, the worker undergoing assessment is supposed to fulfill several of the tasks included in the TESDA's curriculum. During my brief tour I could see few workers being tested on cleaning the bathroom rapidly and using the right products or setting the table in different ways depending on the occasion (i.e. formal versus informal meals). One worker was asked to iron different types of fabric in a short period of time. The assessor tested both her ability to iron a piece of cloth rightly and quickly. The picture in Figure 4.2 was taken during my tour around the center while an agency supervisor explained the assessment process to me:

**Figure 4.2**



Domestic Work Skill Assessment

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desserts; Prepare sandwiches; Store dry and liquid ingredients; Prepare dining area; Set-up table; Serve food and beverage; Clear table (TESDA 2006).

### 6.3.3. State Protection

Several government officials mentioned during interviews that the idea behind implementing mandatory assessment is that improvement of workers' skills will help protect them in the worksite overseas. As two government officials put it:

[Domestic helpers] are subject to maltreatment and abuse simply because they cannot perform effectively the duties and functions of a domestic helper. It is especially true with recruits coming from the provinces. They don't know how to operate the washing machine, the vacuum cleaner, and everything, and usually the conflict will start there. But most of the trained qualified domestic helpers they don't encounter this kind of abuse. So, to prevent abuses, maltreatment, we have decided to train and assess them before allowing them to go overseas.<sup>188</sup>

[W]e thought the Philippine government should take steps to enhance their protection and welfare. The training requirement or their possession of the core competencies is a good tool to protect them, because if you know what to do in the household that you are going to serve, if you know how to go about doing your daily routine, you know how to operate appliances, there's no reason for the employer to abuse you. Many abuses have been committed against our women because they didn't know how to work ... They would iron the back of the girl because the girl didn't know how to iron the silk blouse ... of the employer and the... well... while she was ironing it got burned, and *of course*, the employer was so angry that she took the iron and ironed the back of the worker. And many instances happen because the girl doesn't know how to do the work. So, if you can do your work, you are very comfortable with what you are doing, there is no reason for the employer to abuse you. Maybe she'll even love you because you are doing perfectly what she wants you to do, she'll be very happy with you.<sup>189</sup>

The government argument about the need for training and assessment is twofold. On the one hand, the first interviewee explains that particularly Filipino women coming from the province lack sufficient knowledge on how to use certain appliances or fulfill tasks the way they are done in the destination country. Given that household work in the Philippines, particularly in the rural areas, is less "mechanized" than in many receiving countries, teaching migrant women how to use appliances enhances their ability to successfully complete their tasks according to their employers' expectations.

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<sup>188</sup> Interview 20, Philippines, Government Official, May 2007

<sup>189</sup> Interview 1, Philippines, Government Official, April 2007 [emphasis added]

On the other hand, by equating skill enhancement with protection, the interviewees state the lack of skills is the main reason why Filipino domestic workers overseas become victims of abuse. The second interviewee, in relating the case of the Filipino woman in Singapore whose back was brutally ironed as punishment for burning her employer's outfit tells that, had the domestic worker known how to properly iron a silk blouse without burning it, there would not have been any reason to punish her. This logic is highly problematic, since it does not consider the power relations taking place in the workplace. Gender, race, and class dynamics shape these power relations and often justify the arbitrary use of violence.

The argument equating skills with protection, in fact, intersects with the discourse promoting cultural sensitivity. Gender and racial ideologies viewed as roots of exploitation are masked behind cultural and technical explanations. Part of the curriculum to achieve a NC2 certificate is "right attitude." Similarly to the culture orientation, this unit teaches and encourages behavior based on compliance toward and understanding of employers' needs. Technical skills, cultural sensitivity, and submissive attitudes are all changes that the worker needs to make. All of them are skills workers must acquire in order to fit into the labor, gender, and racial expectations of the employer and to avoid situations that, due to the same expectations, may lead to abuse:

[W]e prepare them, we teach them the right knowledge and attitude that a household service worker must have. And we believe that if an individual is properly equipped, educated, she will not be subjected to exploitation ... If she is really capable and really competent, she will not be exploited by her employer ... [and the right attitudes are] that you should be patient, you should be loving, you should be understanding. Because we focus on cultural sensitivity in our training and assessment programs.<sup>190</sup>

The mandatory training that the Reform Package establishes reinforces the racial and gender logic of subservience and denies the important role power plays in this scenario. By correlating lack of skills with abuse, the government fails again to consider the brutality, maliciousness, and arbitrariness that characterizes thousands of employers

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<sup>190</sup> Interview 16, Philippines, Government Employee, May 2007

and which, in fact, are endemic to the very structure of domestic work (See Tadiar 2002) Furthermore, it contends the worker bears the whole responsibility to ensure her own protection through the acquisition of technical skills and the adoption of submissive attitudes. Exploitation is denied as a structural component to labor relations, since “patient,” “competent,” and “capable” workers will not be exploited. These traits characterize the ideal domestic worker as a hyper racialized and feminized being: it is her smooth and invisible efficiency, her unconditional loyalty and patience, her lack of complaints, and her multitasking what turn her into the ideal employee and grant them protection from employers’ anger at mistakes and challenges to the role. This resonates habitual arguments that tell women who suffer domestic violence to be quiet and keep their man happy as a way to avoid harm. It also reminds us of arguments telling colonized people to surrender to avoid imperial violence. In an early 20<sup>th</sup> century featuring a U.S. soldier to a Filipino indigenous leader after the Spanish-American War and the subsequent transfer of the Philippines from Spain to the United States, the U.S. soldier tell the Filipino man: “be good or you will be dead” (Ignacio et al. 2004). The only way to avoid or mitigated colonial violence was often a submissive attitude.

This provision, in a nutshell, is another version of blame on the victim and, therefore, of the award of immunity to the oppressor. This immunity is achieved by invisibilizing, as I said earlier, the central role of power, which adopts gendered and racialized shapes. Traits such as “loving,” “understanding,” and “patient” are all characteristics usually associated with good mothers and wives on the one hand, and model servants on the other. The message thus becomes that protection resides in workers’ ability to comply with gender roles, as well as with the racialized class position of the submissive servant. It illustrates a grave failure on the part of the Philippine government to acknowledge that labor relations are always shaped by power relations. As Pierrette Hondagneu-Sotelo states,

[W]orkers are subordinates in a relationship marked by asymmetries of race, nationality, language, and class, unaccustomed to expressing face-to-face criticism to a superior. In fact, they fear retribution for doing so” (2001:129).

Labor relations, particularly those that take place in a private household, always involve different and unequal access to power, resources, and support. In the case of domestic work these asymmetries are intensified, since these often target their physical, mental, and emotional wellbeing. Further, domestic work often involves the employer's dehumanization of the worker. This often translates into arbitrary maltreatment. The reason behind the maltreatment (i.e. the worker making a mistake) should be besides the point. What matters is that employers feel entitled to use it. Like the domestic worker quoted in the former chapter, right to love, to dignity, to respect, to physical safety, is often absent for many migrant domestic workers. Granting these rights, which involves recognizing their equality vis à vis their employers as well as their humanity, should come prior to any training or professionalization efforts. The feminization and racialization that turn domestic workers into the "inferior others" need to be addressed and, if needed, regulated, in order to convert workers, in the employers' eyes, into deservers of minimum human rights.

Culture and ideology based on gendered, racial, and class stereotypes also favor the view of domestic workers in many countries as non-productive laborers. As illustrated in the previous chapter, Employment Laws in receiving countries often do not cover domestic work. This triggers and encourages abusive and exploitative practices on the part of the employers. While, as I just discussed, it is important to address micro power dynamics taking place at the household level, biases happening at the state level, which are at the root of under-regulation of reproductive labor, also need to be contested. Lack of legal protection for immigrant domestic workers, thus, needs to be altered as well. Receiving states will not have any legal authority to ask employers to end their abusive treatment unless they accompany this request with legal improvements.

In a nutshell, the provision of skills as a means for protection does not address the inequalities present in the current scenario for so many Filipino women, both at the macro and the micro levels. It places the responsibility of the abuse on worker's inability to do the work as it is expected from her. It blames the victim, and does not address the employer's responsibility toward the woman working in their house neither does it discuss the failure of sending and receiving states to intervene.

### 6.3.4. State Exaction

A constant question throughout all my interviews with Filipino migrant domestic workers concerned the bureaucratic steps needed for them to leave the country legally as migrant domestic workers. It was not possible to analyze all of these in-depth. My inquiry about bureaucratic steps, however, provided me a good picture of the complexity of the process. In addition, it also shed light, as discussed earlier, on the financial cost that each of the steps imposes on migrants and showed that labor migration is indeed an expensive process. Table 4.4 is a summary of the average expenses migrant women incur prior to their deployment. It is based on data gathered in Spain, the United States, and the Philippines. Besides each item I specify whether the expense women incur in results in private or public revenue:

**TABLE 4.4. Migration Expenses**

Medical Examination:	<b>P1,500-P3,000 (\$30-\$60)</b>	[Private Sector]
Birth Certificate:	<b>P150 (\$3)</b>	[Government]
Passport:	<b>P500 (\$10)</b>	[Government]
National Bureau of Intelligence Clearance:	<b>P70 (\$1,40)</b>	[Government]
OWWA membership:	<b>P1,250 (\$25)</b>	[Government]
PhilHealth:	<b>P900 (\$18)</b>	[Government]
POEA Fee:	<b>P5,000 (\$100)</b>	[Government]
Pre-Departure Orientation Seminar:	<b>P100 (\$2)</b>	[Non-profit Sector]
Flight Ticket:	<b>P50,000 (\$1,000)</b>	[Private Sector]

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**TOTAL: P59,470-60,970 (\$1,189.40-1,219.40)**

The training and assessment requirements of the Reform Package add even more expenses to this list. Training fees run between P10,000-P15,000 (\$200-\$300) and assessment usually costs P900 (\$18). According to interviewees from migrant workers organizations, and as domestic workers' protests upon the passage of the Reform Package illustrate, the new training and assessment requirement imposes additional cost on the worker. It also slows down her deployment, since rather than migrating right away, she needs to go through several-week-long training. These difficulties become particularly burdensome when potential migrants and their families must go into debt to pay all these

expenses. This means they need to reach their workplaces as soon as possible in order to start sending remittances to their families. In many cases, the employers are not willing to wait for Filipino workers to end their training and they hire women from other countries instead:

[T]he main feature of that policy is actually ... another state exaction, because another feature is requiring migrant workers to undergo training, retraining, and assessment, and TESDA, which is the main attached agency of the DOLE, responsible for training workers applying abroad, is collecting P 10,000, now. [They] only have 21 training centers throughout the country, so [they gave opened] up to the private companies, so private agencies putting up training centers, and the agencies collect more than P10,000 ... So, the whole thing of the new policy guidelines is actually how they can raise more revenues from the migrant workers.<sup>191</sup>

Regardless whether raising revenues was one of the motivations behind this reform, it has been one of its outcomes. This favors both the government and the private sector, since both of them have been collecting money through the newly approved training and assessment. Thus, while workers' protection is the explicit motivation behind the skills provision, this serves other interests as well. The additional taxation stemming from compulsory training and assessment takes place in a context in which abuse is not addressed as the employers' responsibility. According to the interviewee from a migrant workers' organization, the training and assessment provision is not only blaming the victim but is also further "taxing" her.

#### **6.4. Minimum Age**

The last reform the Package introduced is a new minimum age of 23 to be deployed overseas as a domestic worker.<sup>192</sup> A document produced to inform parties involved about the Reform reads:

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<sup>191</sup> Interview 5, Philippines, Migrant Workers Organization, May 2007

<sup>192</sup> POEA's 1994 Governing Board Resolution No 2 prescribed a minimum age of twenty-five years for female household workers. In 1998, Governing Board Resolution No 5 lowered the minimum age to 21 for all genders. This was further amended in 2001, when Governing Board Resolution of that year set the minimum age of all workers deployed overseas to 18 (POEA 2006a).

The increase in age is expected to provide employers with better skilled and physically and psychologically prepared HSW. It will ensure a higher level of maturity and sense of responsibility of the worker in dealing with her employer and toward her work. This will effectively reduce incidents of homesickness and psychological unpreparedness of the worker which are often the causes of “runaways” and contract pre-termination (POEA 2007a).

Several interviews with government employees and officials posited a correlation between young age and vulnerability to abuse and exploitation. The older and more experienced a worker was the more aware she would be of her rights and the more patient she would be to put up with difficult situations.

The first problem with this rationale is that it makes a satisfactory work experience dependent upon the skills, physical, and psychological preparedness, and the responsibility of the worker, and does not address the role employers’ actions and attitudes may play. According to interviewees from migrant workers’ organizations, by presenting age as one of the factors behind overseas abuse, the government is indirectly blaming abuse and runaways on workers’ immaturity and inexperience rather than on the employer or the government of the destination country.<sup>193</sup> Regardless of age and experience, however, the fact remains that overseas Filipino domestic workers find themselves very frequently in difficult and even dangerous situations. These abuses and dangers are often the result of unreasonable and exploitative employers and weak and exclusionary labor laws in the destination country. To identify age as a factor behind their difficulties overseas without addressing the private (employer) and public (government) sectors in the destination country is insufficient and falls again into the trap of blaming the victim. As I discuss below, this is one indicator that any political move the Philippine government makes to protect its overseas workers needs to consider employer-employee relations, the legal framework, and the political will in the destination country in order to be effective.

Other opposition arguments against the age reduction provision have been regarding the effects it will have on young Filipina’s migration. While interviewees from migrant workers’ organizations welcomed the efforts to protect young women from the

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<sup>193</sup> Fieldnotes, Manila, June 2007

dangers involved in migration, they also complained that this provision would make it impossible for young workers to migrate as domestic workers. This would translate in a loss of economic opportunities for thousands of women, which in many cases would have grave impacts on their households' economies. Consequently, given the prohibition and similarly to what happened during Aquino's ban, migrant workers' organizations argued that the age reduction would only promote undocumented migration in the long run, since young women (aided by some agencies) would fake their age in order to work overseas.

Finally, the age requirement stems from the gender differentiated policy making of the Philippine government, since it only applies to domestic workers and these are always women. Except in the case of civil wars and natural disasters, male Filipino migrants are free to go to any country, and the minimum age required is 18. As Oishi (2005) has argued, "state officials often explain this is because women need to be "mature" if they are going to work abroad, in order to be able to protect themselves from abuse and harassment" (61). Gender specific age requirements, therefore, assume women are not as mature as men simply because they are women (Ibid.78). Even women with education are considered "less mature" than younger men with no education. In forwarding a "protection argument" to support this provision, the Philippine government infantilizes Filipino women. While male migration is seen as purely economic, the regulation of female migration is also based upon non-economic values and reproduces gender stereotypes that fail to analyze the real roots of the abuse.

### **6.5. Targeting Employers and Receiving Countries**

During my time in the Philippines public discussion about the Reform Package centered on the changes imposed on migrant domestic workers. When I met with government officials and representatives from non-profit organizations, they spoke about these. When checking POEA website and newspaper articles, these were also the Reform changes that were highlighted.

The only time a government interviewee mentioned reforms targeting was when she told me of the introduction of stricter verification mechanisms to assess employers'

trustworthiness and likelihood to treat domestic workers properly. The Reform Package requires that all future employers have to hold an interview with the Philippine Labor Attaché in their corresponding Embassy. Personally meeting employers and assessing certain criteria such as track record, family income, number of family members to be serviced, and compliance with the provisions of the contract, the Labor Attaché should be able to determine whether the household would be safe for the domestic worker.<sup>194</sup> I also learned through migrant workers organizations' documents that employers would be required to take the worker to the Philippine Embassy and to appear themselves when so required. In addition, they are not allowed to keep workers' passport and are expected to provide them with a separate sleeping room and a continuous 8-hour rest period.<sup>195</sup>

The Reform Package imposed similar pre-qualification conditions on foreign placement agencies. These included attendance at an orientation seminar on Philippine culture and policies, and on their responsibilities. They were also to commit to allow workers to communicate freely with their families and the Philippine Embassy, reporting, upon request, on the whereabouts or condition of domestic workers, taking, when required, domestic workers to the Philippine Embassy, allowing the Philippine Embassy to visit workers, and assisting the Philippine Embassy in resolving problems (POEA 2006c; Fieldnotes, Manila, June 2007).<sup>196</sup>

Only one change affects Philippine recruitment agencies, but I find it particularly relevant to understanding the motivations behind the Reform Package. POEA issued a moratorium "in the issuance of new license using Domestic Work as its new market" (POEA 2006c). This means that POEA decided to stop issuing licenses to agencies to deploy domestic workers overseas. While other reforms in this package indirectly impeded the deployment of domestic workers, such as the salary increase, this was the only change that directly limited the deployment within the sector. I comment more on

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<sup>194</sup> Interview 1, Philippines, Government Official, April 2007

<sup>195</sup> Fieldnotes, Manila June 2007

<sup>196</sup> I never had the chance to ask any government representative about the reason behind imposing a culture sensitivity orientation on the foreign placement agency and not to the employer, since the latter is who the domestic worker is going to spend most time with and the Filipino worker herself is expected to go through a culture orientation to facilitate the relationship with her employer.

this issue in subsequent sections. In addition, POEA said it would cancel licenses of agencies found in violation of any regulation of the package (POEA 2006c). While this provision was important, it did not add anything to the already existing language on illegal recruitment in RA 8042. Nor did it specify mechanisms to be followed detect agency or employer violations. Despite these shortcomings, though, reforms targeting employers and recruitment agencies constituted important steps toward guaranteeing more control over the whereabouts of migrant domestic workers and they demanded a major commitment from both employers and foreign agencies to preserve workers' well being. They also aimed to regulate privacy issues and to provide a minimum of non-interrupted resting time.

Migrant workers organizations raised concerns about the ability of the government to enact these changes on employers and agencies. During the Asian Domestic Workers Assembly, which took place in June 2007 in Pasig City (Metro Manila), a representative from the Center for Migrant Advocacy (CMA) presented the main elements of the Reform Package to domestic workers and non-profit leaders from all over Asia. According to her, while the Reform takes positive steps toward the improvement of Filipino migrant domestic workers, her group had concerns about its outcomes. First, the group felt strongly about the exclusion of migrant workers' organizations from the design of this policy. While the Package was going to affect directly migrant workers, these were excluded from the decision-making process. Their exclusion from bilateral agreements deliberations has been common (Rodriguez 1999) and, according to the representative from CMA and several of my interviewees, the same has been true with this Reform Package. The second concern CMA presented was that country specificities, such as local laws or customs, would increase the difficulty in implementing the Reform Package. In fact, as discussed in the previous chapter, receiving governments and employers have consistently neglected and ignored some of RA 8042. The fact that the Reform Package did not involve receiving countries in the deliberations either, created some questions around whether it would be honored. The last concern CMA raised, and connected with the one just mentioned, was in regards the Reform Package implementation and enforcement. Given their limited resources, it was not clear how

different government agencies, both within the Philippines and in receiving countries, were going to coordinate to make sure employers respected the new rules and, in the case of violations, were penalized.

The Reform Package also included some recommendations for receiving governments. These were the inclusion of domestic work in national labor and social legislation, bilateral agreements on terms and conditions governing recruitment, selection, and hiring of Filipino workers, adoption of a jointly approved Standard Employment Contract, sharing of a database of workers' information, and the adoption of the alternative "corporate servicing scheme" or live-out arrangement (POEA 2006c).

The first three of these recommendations (receiving countries regulation of domestic work, creation of bilateral agreements, and approval of a standard contract) were part of RA 8042 since its inception birth and, due to an uneven playing field in the international labor market, as well as illegal recruitment practices, did not translate into comprehensive protection of migrant Filipino domestic workers. It is not clear how the Reform Package will change this trend.

The other two provisions (creating a new data base and the adoption of live-out arrangements for Filipino domestic workers) may be departures from the already existing protective approaches and may offer potential for comprehensive protection of domestic workers overseas. Sharing of a data base between the Philippines and the receiving countries may facilitate the sharing of information and speed up government intervention, particularly in a crisis context such as the Lebanon War. Success, however, will depend on the existence of political will in the Philippines, but even more in receiving countries. Finally, general adoption of "live-out" arrangements could address some of the inherent problems of domestic work. Issues of lack of privacy, control of movement, lack of adequate food, unreasonably long hours, and workers' maltreatment, could be drastically ameliorated by allowing workers to work for a clearly stipulated amount of time. This would allow a clearer boundary between work and non-work time and deal with the conception of workers as slaves or property. In addition, and partially stemming from these factors, it would recognize the domestic worker as a real person with her own private time and space and, consequently, in control of her own existence.

In sum, a shift away from live-in toward live-out domestic work would substantially contribute to the decommodification of Filipino domestic workers. The challenges of enacting this shift, however, are considerable.

### **6.6. Current and Projected Outcomes**

Once I moved beyond questioning interviewees about the particular provisions contained in the Reform Package and started asking them about the outcomes and motivations behind its passage, I sensed a qualitative shift in their responses. While a higher protection of domestic workers explained all the provisions, the issue of protection actually played a smaller role in the interviewees' discussion of both the motivations and outcomes of the Reform Package. In this section I discuss some of the current outcomes of the Reform Package, which were an increase of illegal recruitment and an overall decrease of domestic workers migration. In the next section I discuss that, while the state intent of the Reform Package was to enhance domestic workers' protection, the actual motivations of the government to create it were more complex.

The first outcome I observed was the use of contract substitution and illegal recruitment in general to avoid fulfillment of provisions such as the new minimum wage. According to the representative of the Center for Migrant Advocacy, since the enactment of the Reform Package, recruiters continued to deploy Filipino domestic workers using other job categories (i.e. dressmakers) to avoid the minimum wage and the non-recruitment fee provisions. Agencies also continued to deploy domestic workers using tourist visas,<sup>197</sup> which triggered an increase in undocumented and illegal migration.<sup>198</sup> In addition, *Asian Migration News* wrote in November 2007 that some agencies had been hiring cleaners with a monthly pay of US\$268 who actually ended up as domestic workers. Agencies had also been violating the government no-placement fee for household service workers.<sup>199</sup>

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<sup>197</sup> Fieldnotes, Pasig City, June 2007

<sup>198</sup> Interview 5, Philippines, Migrant Workers Organization, May 2007

<sup>199</sup> Asian Migration News, Philippines Section, November 15, 2007, <http://www.smc.org.ph/amnews/amnarch.htm>. Accessed 2/29/08

The second outcome I registered was a decrease in job orders for domestic workers. In late April 2007 POEA reported an 11% drop in the deployment of Filipino migrant workers for the first quarter of the year, compared to deployment in the same period of 2006. This decline was particularly notable in Taiwan and Hong Kong, which were resisting the policy eliminating placement fees. Labor Secretary Arturo Brion attributed this drop to the Reform Package, though he maintained that the decrease would only be temporary. The recruitment industry responded that unless the new rules were removed or revised, they would lead to virtual closure of the market for Filipino domestic workers.<sup>200</sup> They claimed the new minimum salary would price Filipinas out of the market, since very few employers would be willing to pay \$400 a month.<sup>201</sup> According to a Migrant Workers Organization's representative:

I talked to some recruitment agencies and their recruitment was lowered to 50%, so the host countries decided to divert their recruitment to Indonesians, Bangladeshies, and it's more cheap than Filipinos.<sup>202</sup>

A couple of months after the implementation of the Reform Package *Asian Migration News* continued to report a decrease in the deployment of Filipino migrant workers. According to an anonymous recruitment industry leader, the deployment of domestic workers in 2007 was not expected to reach even 50,000 due to the new policy.<sup>203</sup> In fact, only 6,602 domestic workers were (legally) deployed from January 1 to August 13 of 2007. This figure equaled a little bit more than one-tenth of the 57,923 domestic workers deployed in the corresponding period of 2006.<sup>204</sup> Further, Victor

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<sup>200</sup> *Asian Migration News*. Philippines Section. April 30. <http://www.smc.org.ph/amnews/amnarch.htm>. Accessed 5/14/07

<sup>201</sup> Interview 4, Philippines, Government Employee, April 2007; Interview 22, Philippines, Private Agent, June 2007

<sup>202</sup> Interview 5, Philippines, Migrant Workers Organization, May 2007

<sup>203</sup> *Asian Migration News*. Philippines Section. July 15. <http://www.smc.org.ph/amnews/amnarch.htm>. Accessed 2/28/08

<sup>204</sup> *Asian Migration News*, Philippines Section, August 15, <http://www.smc.org.ph/amnews/amnarch.htm>. Accessed 2/28/07

Fernandez, president of PASEI, predicted that the Reform Package would displace over 100,000 domestic workers in 2006 alone.<sup>205</sup>

While official deployment statistics are relatively easy to access in the Philippines, the same is not the case with undocumented migration. This is not a problem unique to the Philippines. Consequently, it is not possible to state whether the data indicating deployment reduction represent an absolute decrease in domestic workers migration or rather their resort to illegal migration. In my view, though it is very likely contract substitution and misrepresentation have been one response to the higher standards the Reform Package imposed, it is not likely that over 100,000 women left the country bypassing government control in only few months. It is reasonable to conclude, therefore, that within the first year of its passage the Reform Package led to a decrease in deployment.

The generalization of illegal recruitment defeats the purpose of protection, which was the main goal of the Reform Package. While it remains to be seen to what extent the package will be effective in protecting migrant domestic workers, I have already stated that it responded more to the need of the government to regain hegemony after the Lebanon Crisis than to actually provide comprehensive protection. Also, the decreasing deployment of domestic workers seems contradictory to the economic role migration has had in the country and government promotion of migration in the past few decades. If, as I have consistently argued, labor migration has a crucial role as a development strategy, how can we make sense of a policy whose effect is the reduction of migration? Is this a miscalculation of the Philippine government? Is the drop in the deployment an unintended consequence of the package? What was the actual motivation behind the passage of the Reform Package?

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<sup>205</sup> *Asian Migration News*. Philippines Section. November 15.  
<http://www.smc.org.ph/amnews/amnarch.htm>. Accessed 2/28/08

### 6.7. Motivations Behind the Reform Package

As argued above, the main stated motivation behind the Household Service Workers Reform Package was women's protection and further regulation of their deployment through higher wages and elimination of placement fees. However, I suggest that protection was not the only or even the main motivation behind the Reform Package. The real motivation behind this reform was instead to gradually retreat from such a problematic and controversial labor niche as domestic work, particularly in those countries where abuse is more generalized. Given past experiences with deployment bans, the government aimed to achieve the retreat without offending receiving countries.

Members of both migrant workers organizations and government employees told me they were convinced the Reform Package responded to a clear intention on the part of the Philippine government to "price itself out of the market because nobody will 'touch you' with the \$400."<sup>206</sup> In other words, it aimed to make Filipino domestic workers so expensive that no foreign employer would hire them.

When I asked a top DOLE official about the consequences of the Reform Package in terms deployment of workers, his response was that the government was "preparing for the disadvantages. Surely the deployment of domestic helpers will go down, but we are not alarmed because I think that this is a positive thing."<sup>207</sup> When I asked him if this meant the Philippines was gradually retreating from the domestic worker global market, he responded that the intention was to retreat from those countries where there are low wages and abuse is high. My next question was, why did the Philippine government not ban deployment to those countries instead? At that point the interviewee asked me to turn the recorder off and said the government was afraid that a ban would trigger a backlash from receiving countries. These, like in the past, could stop issuing visas for all Filipino migrants or provoke trade disruptions. Given this history, the Reform Package was an indirect way of exiting the domestic work market. Similarly, a top official from DFA implied during our interview explained that the goal of the package was to price Filipino

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<sup>206</sup> Interview 4, Philippines, Government Employee, April 2007; Interview 5, Philippines, Migrant Workers Organization, May 2007; Interview 15, Philippines, Government Employee, May 2007.

<sup>207</sup> Interview 20, Philippines, Government Official, June 2007.

domestic workers out of the market and rechannel Filipino migration into more skilled work. This was to be done without using bans and without offending receiving countries.<sup>208</sup>

Informal conversations with government employees who had previously been stationed in foreign posts as welfare officers confirmed that the government was trying both to move domestic workers away from “difficult countries” and redirect them into higher skill occupations. They commented on how they had obtained information, right after the Lebanon Crisis, that the President wanted “these domestic workers’ welfare cases” to end and that the government was making a shift toward deployment of skilled workers overseas (Fieldnotes, Manila, June 2007). In addition, tired of the bad press female abuse cases had been getting for decades and perhaps finally recognizing its inability to stop them, the government was attempting to gradually stop the deployment of domestic workers to countries where abuse and exploitation were more common. Rather than banning their deployment, the government thought that substantially increasing the minimum standards for the hire of Filipino domestic workers would selectively maintain it both in countries that were already paying well above the minimum (some Asian countries, Canada, Europe, and the United States) and countries willing to raise domestic workers’ salary to \$400. According to a private recruitment agent:

As far as my understanding is concerned, it is that [the Reform Package] is one way, this is our government’s way of saying no to deploying household workers. Because they cannot use it the way they have used before a ban, because when you ban, that’s... you know, it’s very undiplomatic, but when you rate... when you rate or you impose regulations like that, which is mandatory, it is something that foreign governments cannot say that it is undiplomatic. But the objective is really to cut or to even stop deployment of household workers in the Middle East particularly.<sup>209</sup>

As a result of the minimum wage increase, countries unwilling to pay higher salaries and accept the other conditions would most likely stop hiring Filipino domestic workers. This would be their own decision rather than a reaction to a ban. The Reform

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<sup>208</sup> Interview 24, Philippines, Government Official, June 2004

<sup>209</sup> Interview 23, Philippines, Private Agency, June 2007

Package is thus expected to achieve a double market shift. It is meant to re-direct domestic workers to better paying and more “fair” countries, such as Canada, Spain, and Japan, and it aims to shift, as much as possible, away from domestic toward higher skilled labor sectors. According to a government employee, this would resolve the multiple image problem of the Philippine government: It would save face with Philippine civil society presenting itself as always working to safeguard migrant women’s wellbeing. This became particularly relevant in a context of a mid-term election, held only two months after the full implementation of the Reform Package. Migrant workers were allowed to vote from overseas for the first time in Philippine history. It would also save face with receiving countries in Asia and the Middle East, since the Reform was presented as a generalized protective and regulatory measure, without pointing the finger at particular countries. Laughing, this interviewee explained that saving face is an Asian thing and that “saving face is saving power.” According to him, “for a country like the Philippines, you cannot dictate to the world, you need the world. We are a poor people. So we have to bend.”<sup>210</sup> His words were both a beautiful and a sad expression of power and hierarchy in the current world order. As I argue in the next section, more than being an “Asian thing,” saving face may be, at the political and diplomatic level, the only way poor countries can achieve gains or have leverage in the international arena.

## **7. Analysis and Conclusion**

In early June 2007, the Philippine press published several articles warning of a potential negative impact of the Reform Package. The Recruiters Committee of Cooperation Council of the Arab States in the Gulf (GCC) announced after a meeting that they would recommend their respective governments stop importing Filipino workers until the new Philippine labor laws were clarified.<sup>211</sup> While they acknowledged

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<sup>210</sup> Interview 15, Philippines, Government Employee, May 2007

<sup>211</sup> The GCC is a trade bloc involving six Arab Gulf countries with many economic and social objectives, including the formulation of similar regulations in various fields such as economy, finance, trade, customs, tourism, legislation, and administration. They also seek to encourage the cooperation between their different private sectors. Created in 1981, the Council comprises the states of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates. A common market was launched by its members on January 1, 2008. The GCC area has one of the fastest growing economies in the world, mostly due to a

the Philippine government salary raise was intended to improve the standard of living of its citizens, they protested the \$13 daily penalty on foreign employers who would not pay their workers on time and at the new minimum of \$400 a month.<sup>212</sup> While the minimum salary regulations were not binding in any of the GCC six member countries, they were a requisite these countries had to follow in order to continue to hire Filipino domestic workers. GCC declarations acted as a reminder of the danger of political and economic retaliation from receiving countries. The message it was sending was that if the Philippine government insisted on raising the labor standards of Filipino domestic workers they would stop hiring Filipino workers altogether. This threatened not only domestic workers' jobs and remittances but also those of professionals and workers in other sectors. One private recruitment agent expressed concern over the GCC declarations:

In the surface [the Reform Package] is good, because it says that the government is really looking after the welfare of domestic helpers. But if you look at the backlash that there is going to be... it's going to be very difficult for some of our people. Have you seen the news last Friday? The declaration of GCC? To even consider banning the influx of *all* migrant workers in the Middle East... This is the backlash that I am talking about and that my country has not studied well. Because that kind of statement sends a very strong indication to our government, and I don't know how tough the government will be if they are put to test. I am sure that they are going to back down (...) How many millions of Filipinos work in the Middle East? Now, tell me, can the government afford to lose millions of jobs? Where are they going to put these millions of people?<sup>213</sup>

The interviewee's comment underscores the inability of the Philippine government to impose labor standards on receiving countries. While the Reform Package constituted a diplomatic way to regulate Filipino workers' overseas labor conditions without

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boom in oil and natural gas, a building and investment boom, and oil revenues' savings. While the 2004 GDP per capita in the ASEAN region (to which the Philippines belongs) was of \$4,044, it was of \$14,949 in the GCC area. To put these figures in perspective, their equivalent in the European Union and the NAFTA area were of \$24,235 and \$35,491 respectively (see CIA World Factbook 2005, <https://www.cia.gov/library/publications/the-world-factbook/index.html>, accessed 3/5/2008).

<sup>212</sup> According to POEA data, the six GCC member-states, as of December 2006, employ 435,190 Filipinos. This breaks down into 223,459 in Saudi Arabia, 99,212 in UAE, 47,795 in Kuwait, 11,736 in Bahrain, and 7,071 in Oman (see <http://www.migrantnews.blogspot.com>, accessed 11/15/07).

<sup>213</sup> Interview 23, Philippines, Private Agent, June 2007

imposing a ban, it seemed the outcome would resemble the effects bans had in the past. Although government officials acknowledged the government didn't impose a direct ban to prevent retaliation, they trusted that conversations with foreign agencies and officials could convince them that the Reform Package was about protection and skill levels. The latter, which are unique to Filipino domestic workers, should be rewarded with a higher salary and other advantages. By the end of June of 2007 *Asian Migration News* reported that labor officials in the GCC countries had not supported the GCC recruiters' committee request for a ban on all Filipino migrant workers. But DOLE undersecretary Arturo Brion also acknowledged that recruitment agencies in those countries were checking out countries like Indonesia and Sri Lanka, where salaries are much lower.<sup>214</sup>

While the long-term effects of the Reform Package remain to be seen, events up to end of the 2007 prove those who predicted that the Philippine government would have to back down wrong. The Philippine government appears to be standing strong against the pressures coming from both Philippine and foreign recruiters and employers to revise the salary and fee provisions of the Reform Package. This is undoubtedly good news for labor sending countries, and may set a precedent whereby countries like the Philippines have a say in their migrant workers' labor conditions. Despite its limited political and economic power in the international arena, the Philippine government has managed to find an effective way to influence the working conditions of its citizens overseas by acting in a diplomatic way and using its bargaining power. This mainly resides in its availability of tens of thousands of well-trained, English speaking, responsible, and loyal domestic workers. In this sense the Reform Package *decommodifies* domestic workers through further protections and rights while it simultaneously *recommodifies* them, since the regulation is justified with the "added value" of skills<sup>215</sup> that Filipino domestic workers present in comparison with their counterparts from other sending countries.

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<sup>214</sup> *Asian Migration News*. Philippines Section. June 15, 2007.  
<http://www.smc.org.ph/amnews/amnarch.htm>. Accessed 3/5/08

<sup>215</sup> Interview 24, Philippines, Government Official, June 2007

Nonetheless, the Reform Package does not address the structural factors behind Filipino domestic workers abuse and hardships. Of this the Philippine government is silent. The Reform Package does not discuss the issues of power and arbitrariness and the way skills are introduced re-create racial and gender stereotypes and discourses in problematic ways. They say Filipino women will make more money and will avoid maltreatment by becoming more skilled and culturally sensitive. They also say that higher paying jobs are safer and less likely to create abuse. Is this true, however? Why do Filipino migrant domestic workers suffer abuse in the workplace? What are the power dynamics taking place within the household that often trigger arbitrary violence and dehumanization of the workers? What is the responsibility of receiving governments in protecting migrant women through more comprehensive laws?

In addition, while the package constitutes a diplomatic way to end a migration pattern that has brought vast harm to Filipino women and, consequently, has put government legitimacy on the spot, numerous question marks about future responses to a decreasing deployment of Filipino domestic workers remain. If the decrease in the deployment of domestic workers continues, and given that the Philippine government does not seem to be able to increase local employment opportunities in the short term, what will happen to all the domestic workers returning to the Philippines due to the new rules and to all those who will never be deployed in the first place?

As mentioned earlier, government employees and informants from migrant workers organizations explained that “in a dialogue that we had with [POEA] administrator Baldoz, she told us that they are reducing the number of domestic workers. The trend now is to encourage Filipinos to work in a more high care skill, like nursing aid, and caregivers...”<sup>216</sup> Ranking officials shared that the hope was “high profile” markets, such as Japan and Spain, would reabsorb the workers who lost their jobs in the Middle East and Asia. These two countries, as well as Canada, were expressing a need for caregivers, and the Philippines had many chances to provide them with these workers. Recently

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<sup>216</sup> Interview 21, Philippines, Migrant Workers Organization, June 2007; Interview 18, Philippines, Government Employee, May 2007

signed agreements, such as *Proyecto Piloto* with Spain,<sup>217</sup> work toward the formalization of these transactions. The Philippine government perceived these new markets as being safer for workers and as providing more remittance revenues, given the higher salaries.

Migrant workers' organizations and private agencies, however, received this argument with skepticism. There are hundreds of thousands of Filipino workers in the Middle East, and the restrictive nature of Spanish and Japanese immigration laws, as well as the small size of these countries, will render the total relocation of Filipino domestic workers formerly employed in the Middle East and Asia to Spain and Japan unlikely. In fact, the hiring of caregivers in these two receiving countries has only taken the shape of pilot programs limited so far to few dozen workers. In addition, both Spain and Japan require Spanish and Japanese language proficiency and strong educational backgrounds in caregiving. While Filipino domestic workers often present a high educational profile, they have not necessarily been trained for in health and care. While TESDA offers six-month long courses in caregiving, Spain and Japan have expressed their preference for midwife, nursing, or physical therapy college graduates.<sup>218</sup>

As a consequence, I found a generalized perception among migrant workers' organizations that the Philippine government actually is more concerned with the maintenance and increase of remittances than with the preservation and creation of good quality jobs. Although the Reform Package will bring a deployment decrease, if it translates into more qualified better paying jobs, the deployment decrease will not affect the remittance level. In other words, while the Package may have the effect of *reducing jobs* it may *increase income*. Some evidence suggests this is occurring: despite lower deployment in 2007, the Bangko Sentral ng Pilipinas reported remittances for the first eight months of the year reached US\$9.3 billion, a 15.3% increase compared to the same period in 2006.<sup>219</sup> While the Reform Package does not seem as if it will alter the inflow

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<sup>217</sup> *Proyecto Piloto*, is a Memorandum of Agreement signed in June 2006 between the Spanish and the Philippine governments to pave the way for the entry of Filipino caregivers to Spain.

<sup>218</sup> Interview 23, Philippines, Private Agency, June 2007

<sup>219</sup> *Asian Migration News*. Philippines Section. October 31, 2007. <http://www.smc.org.ph/amnews/amnarch.htm>. Accessed 3/5/08

of remittances, it is not clear what its effects on Filipino women's overseas employment are going to be. In addition, migrant workers' organizations have repeatedly complained that the Reform Package will be ineffective in raising labor standards and provide protection to Filipino domestic workers unless the Philippine government considers the structural factors behind migration and migrant women's abuse. This would require three major political actions:

First, the deployment of domestic workers to those countries where workers' rights are frequently being violated must be stopped. Typically, these are countries where domestic labor is not legally or culturally considered "real" work. This, as I discussed, is easier said than done. Banning migration may have the effect of increasing undocumented migration and therefore increasing the number of workers in precarious and vulnerable situations. In addition, based on past experiences, the Philippine government fears the political and economic consequences stemming from such a ban, which could translate into the cancellation of visas for *all* Filipino workers, as well as trade, investment, and economic aid retaliation. This again illustrates how the Philippine government must consider whether any effort to protect its workers may backfire in such ways. Whether it can stand up to external political and economic pressures will be a political decision based upon a clear definition of priorities.

Second, the Philippine government must aggressively and openly advocate for major changes in labor and immigration laws of receiving countries. A great deal of the Reform Package has been made into an issue of the personal responsibility of the domestic workers and indirectly blames them for their own maltreatment and exploitation due to their lack of maturity or skills. Factors in both the employer-employee relationship and the legal bodies of the destination countries, however, create and reproduce power differentials based on, class, race, and gender. Reproductive labor is not considered real work and domestic workers are often not treated as real workers entitled to certain rights and regulations. Therefore, governments subsidize the cost of reproductive labor, which I see as the keystone of the productive economy, through allowing low wages and insufficiently protecting the workers' rights and welfare. Any attempt on the part of the Philippine government to address this must include

negotiations with both the private and public sectors in the receiving countries. Since they are currently part of the problem, they should also be part of the solution. The Philippine government should also collaborate with other sending countries currently deploying domestic workers. If all supplying countries raise the standards as a block, receiving countries will not have a choice but to make improvements. Raising the standards of all main providers of paid reproductive labor would prevent any nationality from being excluded from the sector and would slow down the “race to the bottom.” Rather, than increase the value of its women, thus, the Philippine government should be working for the protection of and respect for *all* migrant domestic workers. All these efforts could take the form of bilateral agreements as well as multilateral treaties that do provide actual protection and are a result from a serious commitment of all governments to improve the conditions of migrant women.

Third, it does not make political sense to make Filipino women overseas employment difficult when the Filipino government is not in a position to provide jobs at home. The Philippine government must plan for economic development and job creation so that the Philippine economy becomes less dependent on migrant workers’ remittances to stay afloat. This may actually require a shift of economic paradigm and would not be easy to do unilaterally, but it would not be the first time an underdeveloped country takes a stand against the international capitalist order. The current paradigm, based on austerity programs and dependent trade and economic relations with other countries, has failed to create jobs in the country and to raise Filipino people’s living standards. By adopting this paradigm, the Philippine government has become dependent on the economic and political decisions of other countries and has consistently failed and deceived its citizens through the lack of a sound economic policy that favors the creation of good quality jobs, attends people’s basic needs, and makes, overall, the Philippines a desirable place to live. This has provoked the migration of millions of Filipino people, the majority being women.

In order to halt Filipinos’ tendency to migrate overseas, the Philippine government will need to think and act outside the economic and political paradigm that forced it to export its people to begin with. This may involve deep reforms in the countryside and

economic policy that emphasize food crops for local consumption and a more just distribution of land ownership. This should run parallel to substantial public investment to update farming techniques and make local agriculture more productive. It may also involve a major shift in its investment priorities. Rather than supporting the U.S. in its global war on terror, the Philippine government should be allocating more resources to public services and infrastructure and supporting local economic initiatives which, besides energizing the Philippine economy, could lead into the creation of local jobs. People currently leave because there is no hope for them in their country. As I have discussed throughout the past two Chapters, they usually pay a high price for leaving. If the Philippine government really wants to protect its women, it should seriously start thinking about better and more sustainable ways to keep them home. Save-facing reforms and token policies to save hegemony will not do.

## CHAPTER V

### ENTERING THE COUNTRY I: SPANISH AND U.S. IMMIGRATION LAWS AND FILIPINA MIGRATION TO THESE COUNTRIES

[With immigration] the government saves resources that should be allocated towards solutions for families: assisting those with dependent relatives, promoting women's incorporation into the labor market, guaranteeing the reconciliation between work and family life, women being able to take care of their children... of the elderly... Many women have to leave their job after certain age to take care of their parents or grandparents in their own home. Somehow, immigration has served to cover these social services that should have been guaranteed by the government to begin with. If you have a dependent relative, the government should provide you with a person that goes to your house to take care of them. It should not be you who has to hire an Ecuadorian to take care of the elder; there should be vacancies in public retirement homes if you cannot have your relative in your own house. But public homes are overcrowded and the private ones are excessively expensive. In this sense [immigration] has a palliative function for the government, since, as long as there is undocumented immigration, they do not need to allocate resources. I think that all this is very related ... Maybe this was not the intended goal, but if it happens, then the government takes advantage of it, right? Regarding women's incorporation into the labor market, since someone needs to do the housework... the patriarchal model has not changed. The only way for Spanish women to join the labor market is that non-European women do the tasks that the former used to do. This is because the system does not allow for conciliation between labor and household tasks. We do so by importing other women who do the [house] work of Spanish women who want to work... all is part of the same package... and obviously the state is saving money, resources that should be going toward social welfare. And at the same time, the [the government] justifies that lack of resources saying that immigrants are using them up... If you see the "other" as a danger for your welfare, for your cultural identity, for your language, for whatever it is, it is easier to accept that they have more restrictive conditions, that they are legally inferior, that they cannot vote, because if things are like this, there must be a good reason, right? I mean that all this is a quite complex ideological construct. Regarding immigration, discussions are always posed in terms of black and white,

too simple, too simplistic.. But the issue is so complex that we need to be more reflective...<sup>220</sup>

## 1. Preface

In the first three chapters of this study I undertook an analysis of some of the political-economic conditions in the Philippines that help to explain the generalization of labor migration in that country. I also discussed some of the most recent political reforms the Philippine state has made, and reflected on the consequences of these for Filipina migrant workers. The institutionalization and increase of Philippine migration needs to be understood in a context of long-term colonial relations with Spain and, particularly, with the United States and the neoliberal reforms enacted in the Global South in the past few decades. Despite that Philippine migration in the early 20<sup>th</sup> century was almost exclusively to the United States, POEA reports that Filipino migrant workers are currently in more than 190 countries in the world. My in-depth interviews with Filipino women in both Spain and in the United States indicate that they have relatives working in the following countries: The United States, England, Canada, China, Saudi Arabia, Japan, Italy, Israel, Australia, Germany, Austria, Hong Kong, United Arab Emirates, Nigeria, Singapore, France, and Spain. My interviewees' responses illustrate the important dimension of current Filipino and Filipina migration, both in terms of its numbers and its variety.

Another goal I had in the first chapters was to discuss some of the difficulties the Philippine government has had to provide protections to overseas workers and the resulting legitimacy crisis of the government migration program. Yet, an analysis that challenges Philippine massive labor migration, must also question the reasons behind their departure and the role the government has in this process. So far labor migration has not proven a sustainable development strategy, and its continuation sheds light on the stagnation of the Philippines economy, as well as the inability of the government to come up with political proposals not based on the export of cheap local resources, including

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<sup>220</sup> Interview 7, Barcelona, Union Representative, November 2006. Original interview conducted in Spanish. My translation.

labor. I predict, along with many of my interviewees in the Philippines and critical scholars of Filipino migration, that Philippine migration will not end unless the government takes responsibility to conduct people-centered policies and end its dependency and sub-alternate position to (neo) imperial countries. Although this is not an easy endeavor, it will be a crucial factor for enacting profound change on the Philippine socio-economic structure and its rampant inequalities.

As important as the “sending context” is, however, it is not possible to reach a holistic understanding of Filipino women’s migration without examining what takes place in their destination countries. In the following four chapters I focus my analysis on the U.S. and Spanish political context. My goal is to elucidate some of the ways in which these two states shape three social scenarios I think are key to understand Filipino women’s migration there: 1) the role of the U.S. and Spanish states vis-à-vis an increasing “care void” that creates a need for paid reproductive workers; 2) the role their immigration policies have in transferring reproductive labor from the Philippines to these two countries and; 3) the degree of protection Filipino domestic workers have under employment law in both countries.

By focusing on these scenarios I suggest a transnational approach to immigration studies cannot be limited to understanding the social networks migrants establish across borders in the form of remittances or civic participation, or what I see as micro-transnationalism. While I definitely think that migrants’ transnational practices are worth our attention, I am particularly interested in understanding what transnationalism looks like from above or, in other words, how sending and receiving states shape migrant women’s experiences. Thus, I ask what is happening at the state level that Filipino women both in Spain and the United States often find themselves with precarious legal status and occupying marginalized and vulnerable socio-economic positions. Chapters V, VI, VII, and VIII aim to answer this question.

Also in Chapters II, III, and IV I illustrated and discussed the main challenges the Philippine government faces in regulating Filipino women’s entry and work in Asian and the Middle East. Immigration scholars have classified these regions as the most restrictive in terms of immigration and employment laws. During my time in the

Philippines, government officials, as well as most migrant workers' organizations, insisted that neither Spain nor the United States present significant problems as destination countries for Filipino women. While there was a generalized acknowledgment of the restrictive nature of Spanish and U.S. immigration laws, according to most interviewees, once a Filipino manages to enter Europe or the United States, the problems end:

The challenges for [domestic workers] in Europe [are] ... how to get in to Europe [laughs]. But when you are there there's no problem there. Even if you work as a domestic worker your life is happy, your life is protected, even if you work illegal[ly] you can earn money there. So that's the reason why everybody wants to go to Europe, because of that, because even if you are illegal, you can still earn, with the promise that sooner or latter you will be legal or documented, or even Spain will give amnesty, you have this amnesty... for foreign workers.

In the United States is the same thing. [Although they have no amnesty] but then you can work as a TnT,<sup>221</sup> you know? They can manage; they can send a lot of money to the Philippines. Even if they are TnTs, they are better off than in the Middle East. [It's better to be a TnT in the United States than to be] in the Middle East with a contract. [In the Middle East it is easier] to be exploited, to have a harder time. The challenge is to enter Europe or the United States.<sup>222</sup>

A comparison of U.S. and Spanish immigration and employment laws with those in Middle Eastern countries sheds light on more comprehensive protections for labor, including female labor, in the two Western countries. Filipino workers migrate to Middle Eastern and Asian countries as flexible laborers on contracts of limited duration. They are seen as merely labor and their incorporation into the receiving societies is not expected and, often, not even allowed.

I do not challenge the fact that Filipino migrant workers find the most difficulties in countries such as Saudi Arabia. Yet, the fact that the U.S. and Spain recognize more labor and social rights for immigrants should not lead us to romanticize Filipino migrants',

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<sup>221</sup> TnT stands for *Tago nang Tago* which, in Tagalog, means "always hiding." This is a common term among Filipinos in the United States to refer to undocumented Filipinos. I want to kindly thank Maria Hwang and my interviewee and friend Maria for their help with translation and Tagalog classes.

<sup>222</sup> Interview 2, Philippines, Government Employee, April 2007

particularly women', experiences in those countries. Western countries, including Spain and the United States present increasingly restrictive immigration policies, which substantially limit the legal entry of non-nationals. In addition, while it is true that labor law in these countries tends to be more comprehensive than in Asia, an examination of their regulation of reproductive labor, particularly when migrant women conduct it, reminds us that reproductive workers enjoy less rights than workers from other labor sectors.

## **2. Introduction**

Both Spain and the United States have found themselves in need for reproductive workers in the past few decades. Since Spanish and (often White) U.S. women are unable and/or unwilling to conduct these tasks, and because both governments fail to support the "care void" that women's absence from the household has created, both Spain and the United States have resorted to the cheap work of poor immigrant women of color. In this chapter I outline Spanish and U.S. immigration law in the past few decades in order to answer the following question: How are the Spanish and U.S. governments regulating the transfer of reproductive labor from the Third World, particularly the Philippines, to their countries?

The attitudes of receiving states toward immigration are key to understand the conditions under which immigrant incorporation in the destination society occurs. Thus, an examination of Spanish and U.S. immigration policies is essential to shed light on how immigrants enter receiving countries and the conditions under which they join the new labor market (See Cachón 1995; Parella 2003). According to Calavita (2005a; 2005b), with regards with immigration regulation, the state acts following contradictory interests. While on the one hand it works to provide the economy with the flexible labor force it needs, on the other hand it must seek legitimacy among the public and avoid excessive competition between the foreign and national workforces. My research suggests this often results in contradictory and unrealistic policies that, rather than having at their heart the interests and well-being of immigrant people, place them in marginal and vulnerable situations.

After reviewing U.S. and Spanish immigration law I give a historical account of Filipino migration to these two countries. As my analysis shows, the colonial relationship the Philippines has had with Spain and the U.S. has shaped Filipino migration flows to these two countries. Even after formal colonial ties ended, Filipinos and Filipinas have continued to provide them with cheap and flexible labor. Both my policy analysis and my description of Filipino historical migration to both receiving countries create the context for Chapter VI, which focuses on how Filipino women currently experience immigration law in the United States and Spain.

### **3. Socio-Economic Context: The Creation of a “Care Void”**

While I perceive institutional processes as having an essential role in the configuration of migration dynamics, these need to be understood within a larger social context, which includes changes in the labor market and in family relations. In this section I overview the social context in which we need to understand U.S. and Spanish immigration law and Filipino women’s migration to both countries.

Feminist authors argue that gender relations organize immigration patterns. One way in which this happens is when a country has a significant demand for “female.” As women have joined the paid workforce, they have increasingly refused- or been unable- to continue to be responsible for reproductive tasks in the home. This has resulted in an externalization of reproductive responsibilities and, given insufficient state support and the refusal of many men and business to participate in reproductive work, women have resorted to the market- and more often than not to immigrant women- to make sure reproductive tasks continue to be fulfilled. Spain and the United States present many similarities, as well as some differences, in how this has occurred.

First, for the past three decades, the incorporation of Spanish women into the labor market has taken a place in the context of the rapid aging of the Spanish population, one of the lowest fertility rates in the world, and the decline of the traditional Spanish extended family (See Boyle 2002). In comparison to other European countries and in the context of neoliberal calls for fiscal surplus, Spain has a weak welfare state that expects families- and within them women- to cater to the needs of children, the ill, and the elderly

(Esping-Andersen 2000) and to be in charge of housekeeping tasks. When women have started to join men in the paid labor force, the Spanish government has generally not provided support through services to fill the “care void” created at home. Instead, it has *privatized the solution*, by facilitating the market substitution of Spanish women’s reproductive labor with the remunerated work of immigrant women.

Second, in the past few years, cities like Madrid and Barcelona have seen the upper-classes go back to hiring live-in domestic workers as a status and ostentation symbol (See Misra and King 2005; Phizacklea 1998). In the past it was rural Spanish women who used to do these jobs. More recently, these have shown a preference for factory or other kinds of service work (See Castelló 2007; Martínez Veiga 2004).

These two processes have created “an increasing structural reliance on mostly female domestic and care workers from poor countries” (Misra and King 2005: 22). The presence of immigrant women as domestic workers has been one of the main features of migration flows toward Southern Europe, including Spain (Zontini 2002; 2004). Immigrant women constitute a flexible and cheap labor force for the domestic service sector and have occupied the lower echelons of the Spanish labor market, which is becoming increasingly racially segregated (Anthias and Yuval-Davies 1992; Arango 2007; Escrivá 2000). Whether due to demand by the Spanish urban upper classes or to replace working and middle class working women at home, immigrant women have responded to the demand for reproductive laborers in Spain. This trend has created opportunities to migrate to Spain and has resulted in the feminization of migration flows to this country. Immigrant women’s reproductive labor in Spain masks, and therefore leaves unresolved, the sexual division of labor within Spanish households.

The situation in the United States is very similar. An increased employment of women has paralleled an aging of the population and a scarcity of childcare centers in the country (Hondagneu-Sotelo 2001). Economic restructuring since the 1970s has created the emergence in “global cities” such as New York of a highly remunerated professional class which needs low skill service workers to cook for them, take care of their children, on clear their office buildings (Sassen 1991). While the former require paid reproductive labor to avoid or mitigate the “double shift,” the latter want to obtain more free time for

leisure and other activities. Both groups have resorted to immigrant women of color to fill their different needs. While Spanish immigration law has explicitly recognized a need for this labor and facilitated the immigration of reproductive workers, the U.S. government, for the most part, has not. Despite this, it is mostly immigrant women who conduct remunerated reproductive tasks in both places.

A key difference between Spain and the United States is the role race has had in the replacement of local women's reproductive tasks with immigrant women's labor. Spanish poor rural women used to do domestic work in that country. They would move to the city at a young age and work as live-in domestic workers until they married. Since the 1960s these women have moved into other labor sectors, such as factory or service work. In this way, Spain has witnessed the racialization of the domestic work sector. While this racialization is a relatively recent phenomenon in Spain, in the U.S. women of color have historically occupied positions in reproductive work. Initially conducted almost exclusively by African American women, domestic work in the U.S. has also been conducted by Mexican and Asian immigrant women (Glenn 1981; 1985; 1992). More recently, undocumented immigrant women have severely concentrated in the domestic and care work sector in the United States (Hondagneu-Sotelo 2001).

Despite these differences, immigrant care and domestic labor has strong similarities in both countries: precariousness, flexibility, invisibility, and low wages, among others. The fact that immigrant women of color have such a strong presence within reproductive labor makes it necessary to undertake an analysis of its regulation, both by immigration and employment legislation. In the current Chapter and in Chapter VI I do this by addressing the following questions: What legal framework does the state provide to facilitate the commodification of reproductive work? How does the state regulate the entry of the reproductive labor force? How do these regulations differ between Spain and the United States?

This Chapter provides the policy and historical framework to help answer these questions, and Chapter VI focuses on how policy has affected immigrant Filipinas and the strategies they have followed to enter both countries.

#### 4. Spain and the Import of Domestic Workers

After a century of emigration toward America and Northern Europe, Spain has recently become an immigrant receiving country<sup>223</sup> (Battistella 1995; Escrivá 2000; Misra and King 2005). The shift took place in the 1980s (Kofman 1999), and immigrant flows have multiplied since then<sup>224</sup> (Arango 2000; Baldwin-Edwards 2002). Spain has recently received the second largest number of immigrants in the world. Only the U.S. has higher figures. In 2006 the number of immigrants in Spain was 4,226,000. This presents a marked contrast with the 1999 figure, which was of 801,332 (Castelló 2007).

Some of the main traits of migration to Spain have been 1) the heterogeneity of immigrant nationalities, 2) gender asymmetry, where, depending on the country of origin, flows have been predominantly male or female, 3) increasingly feminized immigration flows, and 4) high numbers of clandestine or undocumented immigration. Due to the large informal economy in the country, as well as some challenges Spanish immigration policy poses, immigrants have been concentrated in low-skill and informal labor sectors (Arango and Jachimowicz 2005). These include agriculture, construction, industry, tourism and catering, and domestic labor. All these sectors consist of low-paid, marginal, and exploitative jobs that lead to social exclusion (Misra and King 2005; Pascual de Sans

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<sup>223</sup> According to a 1968 article in *La Vanguardia*, one of the main Spanish newspapers, that year there were almost 2,500,000 Spanish migrants in several destination countries: 86,000 in Switzerland, 121,000 in Germany, 18,000 in Holland, 36,000 in Belgium, 18,000 in England, 800,000 in France, 22,000 in Canada, 60,000 in the United States, 120,000 in Cuba, 300,000 in Venezuela, 31,000 in Chile, and 1,000,000 in Argentina. Ironically interesting for the discussion that I conduct in this chapter, there were 22% more of Spanish female migrants than men. The majority of the overall flows were concentrated in the construction and domestic work sectors (*La Vanguardia*, November 30, 1968, by Carmen de las Casas). Thus, as I discuss below, in a couple of decades Spain shifted from being an “exporter” of domestic workers to “importing” them.

<sup>224</sup> The official number of legal immigrants in Spain at the end of 1997 was 610,000. The equivalent figure at the end of 1993 had been 430,000 and 500,000 at the end of 1995 (see Arango 2000). According to Baldwin-Edwards (2002), the figure for 2000 was nearly one million. The number of legal foreign residents in Spain rose from fewer than 250,000 in 1985 to over 1.2 million in 2002 to more than 1.6 million by 2004. In addition, with just 11% of the EU population, Spain currently receives an estimated 22% of its immigrants (Calavita 2005). The Spanish media currently talk about the presence of 4 million immigrants, both legal and illegal, in the country. 20% of these are in Barcelona.

and Solana 2000). Conversely, Spaniards tend to concentrate in the formal sector characterized by higher paid and skilled jobs<sup>225</sup> (Moreno 2005).

#### **4.1. *Ley de Extranjería*: Only Immigrant Workers are Real Immigrants**

Immigration legislation in Spain almost preceded immigration itself. Basic immigration policy was created only in the mid 1980s, before immigration started attracting the attention of institutions and the public.<sup>226</sup> The first immigration law (*Ley de Extranjería*) was crafted in 1985 in the context of updating the 1978 Constitution and, more importantly, was a requisite European countries imposed for accepting Spain into the European Economic Community (EEC) in 1986. According to Arango (2000), European countries had been erecting migration barriers since the mid 1970s and were worried about the laxity of Spanish immigration controls. Given the geographic location of Spain, the *Ley de Extranjería* “placed [it] in the role of gatekeeper of the EEC’s Southern border, leaving unresolved the issues arising from the presence of a growing immigrant population living and working in Spain” (Moreno 2005:12). In addition, while the incorporation of Spain into the European Community opened the doors to European goods, capital, and people, it closed them to non-European Union citizens.

The initial *Ley de Extranjería* was limited in scope and restrictive, focusing particularly on administrative issues such as entry, residence and work permits, and repatriation, disregarding other issues such as integration or family reunification (Íbid., 265; Moreno 2005). Immigration was mainly seen in terms of national labor needs, and only those workers that the economy needed were allowed to enter the country (Battistella 1995). According to Mestre (1999), the regulation of the entry of a foreign labor force rather than facilitating their integration has characterized Spanish immigration law since the beginning. Immigrants are supposed to fill gaps in the labor market and their stay in Spain was initially thought to be temporary.

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<sup>225</sup> Spanish underground economy is among the largest in the context of the European Union. In 2003 it constituted 22% of the country’s GDP and was only overcome by Italy (27,1%) and Greece (28,7%) (Moreno 2005).

<sup>226</sup> *Ley Orgánica 7/1985 sobre los derechos y libertades de los extranjeros en España* (LOE).

Since its enactment in the mid 1980s, the guiding principle of the law has been the preference for natives in the filling of vacancies and the protection of the domestic labor market against foreign job seekers (Aguelo Navarro 2003). This principle is both politically and socially relevant given the high unemployment rates in Spain in the 1980s and 1990s (Cornelius 2004; Pascual de Sans and Solana 2000). Although the unemployment rate has recently decreased and was 8.3% in 2007, it had been as high as 21.6% in 1986 and 24.2% in 1994 (Stoyanova 2006). High unemployment rates have made it necessary for the state to adopt measures to protect “Spanish labor.”

It is important to keep in mind that the labor sectors immigrant workers occupy, demand labor not because there are no people available in Spain for these jobs but because, due to their precarious conditions, Spaniards are not willing to do them. Immigrant workers, thus, are complementing, rather than replacing, Spanish laborers (see López Sala 2005), and are associated to certain jobs, such as agriculture and domestic work. Given the close ties between immigration policy and the Spanish labor market, it is reasonable to suggest that this segregation and marginalization have been state sanctioned.

The *Ley de Extranjería* requires immigrants to obtain a work and a residence permit of limited duration. Residence permits are initially valid for one year and can be renewed twice into two-year-long residence permits. After five years they can eventually become permanent. It is only upon the acquisition of permanent residence that an immigrant can take any job without a work permit. Renewal of the residence always requires a work contract, which, in turn, is required to obtain a work permit. I include in table 5.1 the three different categories of work permits. They have certain limitations based on economic activity and geographic location:

**TABLE 5.1. Work permits**

<b>Work Permits</b>	
<b>Type B (Initial)</b>	One year. Limited as to economic activity and geographic location
<b>Type B (Renewed)</b>	Two year. No limitations on economic activity or geographic location
<b>Type C</b>	Two year. No limitations on economic activity or geographic location
<b>Permanent</b>	Five years. Equality with Spanish workers

**Source: Aguelo Navarro (2003)**

The possession of a work contract is essential since an immigrant's presence in Spain is justified because he or she is productive rather than a burden or a potential cause of social conflict. Immigration law in Spain is built upon the same premise as its welfare state, which gives social rights only to those who work and pay taxes. While in the context of the welfare state this has had an important impact on women, in the context of immigration it dramatically affects immigrants (Mestre 2001). Given the high concentration of immigrant workers in the informal economy, where there is usually no formal or written contract, immigrant workers in Spain face difficulties maintaining legal status (See Mestre 1999).

The law also expects immigrant workers to obtain a job offer when they are still in their country of origin so that they can obtain a residence and work permit as soon as they enter Spain. This mechanism is rarely followed, however. Rather, immigrants usually enter Spain on a tourist visa or clandestinely. The law, however, did not initially provide any mechanism for workers to acquire legal residence once they found themselves in Spain with undocumented status. The obligation of continual possession of a work contract in order to maintain legal residence and work permits and the requirement to have a job offer before arriving in Spain yet have triggered an increase of the undocumented immigrant population in Spain since the 1980s.

By the late 1980s and the early 1990s government officials realized Spain was becoming an immigration receiving country and saw the need for a comprehensive immigration policy that addressed the existence of an increasing pool of undocumented

immigrants (Parella 2003). In 1991 the government enacted an amnesty or regularization process for immigrant *workers* only, which resulted in the award of over 100,000 work and residence permits to undocumented workers already residing in Spain. This process revealed growing diversification of immigrants in terms of their country of origin. In addition, the fact that the largest number of work permits granted to legalized migrants went to domestic service providers also showed the important presence of working immigrant women, many of them independent and unaccompanied by relatives<sup>227</sup> (See Arango 2000; Cornelius 2004).

Also in 1991 the government established a yearly labor entry quota allocating visas to specific labor sectors and nationalities. The quota systems was aimed at satisfying the demand in domestic service, construction, and agriculture sectors and halt a mismatch between work permits and unfilled vacancies. The goal of the quota was also to ameliorate undocumented immigration. It allowed for an annual allocation of 20,000 to 40,000 work permits. While this was meant to provide visas to immigrants still residing in their countries of origin and who had a job offer from a Spanish employer, it was undocumented immigrants already residing in Spain who used this venue to become documented. They would find a Spanish employer willing to offer them a job and would use the quotas to legalize their status. The quotas ended up becoming a non-official legalization mechanism. According to Moreno,

This system did not accomplish its original objective of regulating and controlling the inflows of immigrants, but it provided the unskilled labor demanded by certain sectors of the Spanish economy, while it simultaneously helped to gradually bring to the surface the stocks of undocumented immigrants otherwise condemned to work in the underground economy (2005: 19).

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<sup>227</sup> In 1999, out of 199,753 work permits issued to foreigners in Spain, 116,814 were given to the service sector. This constituted 58.5 % of the total work permits issued that year. In addition, the number of work permits granted to regularized immigrants in domestic service was 23,289 (21.2% of the total) in 1991 and 2,814 (21.6% of the total) in 1996. These figures shed light on the importance of the service sector within the Spanish economy and, most importantly, on the relevance of domestic service, mostly done by immigrant women (Cornelius 2004).

Despite the efforts toward legalization, however, the difficulties many immigrants have faced maintaining legal work contracts have led to their failure to renew their work and residence permits. They have constantly been falling back into illegality instead.

In 1996 the government finally recognized the existence of stable immigration into the country. New reforms included the creation of a permanent work permit achievable after five years of legal work in Spain (see Table 5.1). This measure aimed to move the law beyond the view of the immigrant as a transient laborer. The government also regulated the right to family reunification for migrants who had stable residence permits and with adequate resources (health insurance, income, housing, etc.). Another legalization program was enacted in 1996, which granted a residence permit to any immigrant who had previously been in possession of a work permit. The number of regularizations was over 200,000 (Moreno 2005).

Four years later, LO 4/2000 introduced language on integration and granted immigrants - regardless of legal status- similar rights to Spanish nationals.<sup>228</sup> However, it did not change the need for a work permit to be able to work and reside in Spain. In addition, similar to what happens in other European countries, the acquisition of work permits continued to be limited by the so-called “national preference in employment” (Parella 2003:201).<sup>229</sup> Finally, this law granted reunification rights after the first year of residence in Spain. The existence of the LO 4/2000 was ephemeral, however, and, after the political consolidation of the right-wing *Partido Popular*, a new law was approved. LO 8/2000 limited the above mentioned rights to legal immigrants (except in the case of health services) (López Sala 2007 ). In addition, it limited provisions for family reunification. Finally, it limited the use of the quota system to people still residing in their country of origin. This meant that undocumented immigrants already residing in Spain could no longer use the quota system as a regularization venue.<sup>230</sup> LO 8/2000 re-

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<sup>228</sup> Some of the main rights that they obtain are: right to reunion and protest, right to organize themselves and join organizations, right to unionize and to strike, right to health assistance, and right to basic social services.

<sup>229</sup> Nevertheless, through the establishment of the legal concept of rooting or *arraigo*, the 2000 Law opened a *permanent regularization mechanism* available to any foreigner who can prove uninterrupted stay in Spain for two years and a job offer.

<sup>230</sup> Interview 7, Barcelona, Union Representative, November 2007

emphasized border control and the view of immigrants as labor by weakening the provisions on integration. The last immigration reform took place in 2003, through LO 14/2003. The main goals of this reform were the control of immigrant flows and immigrant integration. This law also further curtailed undocumented immigrants' rights.

Despite the fluctuations described above, Spanish immigration law has been based on the premise that only those authorized to work within the narrow parameters immigration law establishes are deemed legitimate immigrants. The imperative of managing the labor market has superseded immigrant integration. The main effects have been the concentration of foreign workers in specific economic sectors, mainly characterized by poor working conditions. The connection between immigration and needed labor has been reflected in the recent conversion of the Ministry of Work into the Ministry of Work and Immigration.<sup>231</sup> The requirement of a work contract to enter legally the country poses unrealistic expectations that often result in illegal entry. In addition, immigrants are not allowed in economic sectors where local workers are available, which tend to be professional, well-paid jobs (See Moreno 2005; Parella 2003).

#### **4.2. On the Feminization and Racialization of Immigration Flows**

Spain does not welcome people but rather, facilitates the transfer of labor deemed necessary. Given the labor shortages the Spanish labor market presents as well as the ways in which Spanish immigration law works to fill these shortages, I support other authors' arguments that the *Ley de Extranjería* shapes the gender and racial composition of migration flows into Spain (Escrivá 2000; Parella 2003; Ribas-Mateos 2000).

The Office of Initial Labor Residencies at the Foreigners' Office in each Spanish provincial capital receives applications from Spanish employers with job vacancies. These employers supposedly cannot find candidates in Spain and they make a job offer to a foreign person still in her home country. These authorizations are always dependent on the employer paying the employee's social security. Other requirements are that the contract be 40 hours a week for at least one year and that the annual income of the

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<sup>231</sup> Immigration used to be under the jurisdiction of the Ministry of Social Welfare.

employer is above 50,000 Euros a year (\$77,000).<sup>232</sup> Once an application is approved, the job offer is sent to the potential worker in her country of origin so her visa can be processed. Upon her entry into Spain, she obtains her work and residence permits.

The 2004 *Reglamento de Extranjería* introduced the *Catálogo Trimestral de Ocupaciones de Difícil Cobertura* (Trimestral Catalogue of Difficult to Fill Occupations). Public employment offices update this catalogue every three months, and this determines what sectors present labor shortages. The *oficina de extranjeros* uses the information in the catalogue to grant work authorizations. This serves to guarantee that the employment of a foreign worker does not have a negative impact on the indigenous labor force. The existence of the catalogue makes it unnecessary to limit the number of permits that can be allocated each year. As long as there is a need for a particular kind of labor, permits will continue to be awarded. Around 12,000 work and residence permits were allocated following this procedure in 2005.<sup>233</sup> It is unknown how many undocumented immigrants entered that year. Except from early 2006, domestic work in the province of Barcelona has always been listed in this catalogue (See Rius 2008).

The fact that Spanish immigration policy regulates the entry and/or legalization of workers the local economy needs makes the quota system dependent on domestic service, since this presents the highest labor shortages. Domestic work constituted 72% of the 1993 quota, against the 2% of agriculture, 20% in personal services, and 0% in the building sector (Ribas-Mateos 2000). This has contributed to the feminization of migration flows (see Oso 1998) to Spain through two different, though interrelated mechanisms. First, through the recruiting “from origin,” that the law prescribes. Given ideological conceptualizations of domestic work as inherently women’s labor, both in Spain and the sending countries, the recruited workers are usually women. Second, since women from other countries know of the availability of jobs in the domestic sector, even

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<sup>232</sup> Although I cannot assert the motivations behind these conditions, they have certainly had, in the context of domestic work, that only upper class families can afford to legally sponsor an immigrant domestic worker from origin. This modality usually involves a live-in job. This, however, does not mean that immigrant women are filling jobs in middle and even working class households. When they gain permanent residence they usually tend to work by hours in homes. In addition, it is mostly undocumented immigrant women who end up working for families making less than the above cited income.

<sup>233</sup> Interview 7, Barcelona, Union Representative, November 2006

if they do not have a job offer, travel to Spain with a tourist visa and seek a job with work contract to legalize their situation.

Thus, according to Parella (2003), Spanish immigration law makes domestic work as the easiest entry venue into Spain. Since employers, migrants, and the state itself perceive reproductive work as women's work, female labor migration is being indirectly and implicitly promoted institutionally. Official recognition of a demand for domestic workers, geographically organized in provincial units, selects immigrants according to the work they will fulfill, the area in Spain where they will labor, and their sex. This shapes both "the composition of the flows and the migration strategies, acting as a pull effect, and stimulating feminine migration of "independent" character" (Íbid. 207). This means that women do not migrate following a husband or a parent but are rather the pioneer, breadwinner migrants in the family. Although Spain does not have a program promoting the entry of women, the close connection between immigration policy and the local labor market prioritizes their entry and stay. This explains the marked feminine and racialized character of migration flows to that country.

It is worth noting that while the quota system relegates immigrant women, regardless of their educational background, to domestic work, it also offers them a legal entry access and the possibility to regularize their situation. In this sense, Spanish immigration law makes it easier for women to immigrate than for men. However, an easy access to domestic work does not equal labor integration and recognition of rights, given the precariousness and vulnerability of the job. As Ruth Mestre argues, while immigrant men in Spain access to jobs that could be in the formal (e.g. construction), immigrant women, particularly in the domestic and care work, access irregular and under-regulated jobs" (2001:363). Even when work contracts are formalized, these are particularly vulnerable and precarious jobs that offer less social protections.<sup>234</sup>

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<sup>234</sup> In addition, as I further develop in Chapter VI, it is discriminatory to demand women to possess a work contract to be entitled to rights since domestic work's labor regulation does not follow the same principles as "masculine sectors" and often leaves the worker unprotected by, for example, not demanding the existence of a work contract. This leads to either a difficulty on the part of the immigrant domestic worker to obtain a work contract and regularize therefore her situation or, in the case of having the contract, she does not enjoy the same rights.

In the past few decades the European Union has allowed for the free circulation of European nationals across EU borders. This has resulted in an increasing mobility of professional and skilled workers, as well as tourists and students within the European Union. Immigration law in Spain, thus, does not apply to European nationals and it is aimed instead to regulate the entry, work, and residence of non-European foreigners. The acceleration of immigration flows into Spain has had a dual component. First, First World, White, middle-class professionals, retirees, and students can easily cross the borders and access labor and social rights, and enjoy sunny weather and beautiful beaches.<sup>235</sup> The entry of Third World workers, however, is heavily monitored and restricted. These workers see their labor opportunities, regardless of their human, social, and cultural capital, limited to informal and precarious economic activities. Spanish immigration law racializes migration flows in two different ways. On the one hand, it treats non-European (read non-White) people as objects of restrictive regulation. On the other hand, it channels them into the lower echelons of a segregated labor market which, as non-European immigration becomes more predominant, is increasingly characterized by its racial and ethnic divisions and hierarchies (See Calavita 2005a).

Immigrant options, consequently, are limited by “field of possibilities” the labor market offers (See Parella 2000), since immigrants will only obtain work permits in those sectors facing labor shortages. Both the state, through the law, and the market, through families who need to hire domestic workers, look at international female migration as the solution to the void left in the reproductive sphere. This has dovetailed with a promotion of female migration on the Philippine side. While the recruiting process aims to hire workers while still in their countries of origin, and therefore act as a regulator of immigrant entry, it often acts as an –illegal- legalizing mechanism for workers who are already in but undocumented. These workers most likely entered the country with tourist visas or fell from documented status after losing their job.

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<sup>235</sup> Many Northern Europeans move to Spain upon their retirement due to the country’s good weather, numerous beaches, and lower living costs.

## **5. U.S. Immigration Policy: A Shifting Balance between Family and Employment Migration**

### **5.1. Historical Background**

Immigration law in the United States has historically defined “what the United States should look like as a nation-state” (Park and Park 2005:9) and has shaped the contours of the nation along class, gender, and racial lines. Reforms such as the Page Law of 1875 severely limited the entry of Chinese women into the U.S. This restricted the family formation in the Chinese American community, which in turn had an impact on the racial configuration of the United States. Up to the 1960s, U.S. immigration policies explicit excluded people of color- particularly Asians- for both admission and naturalization (Ong Hing 1993; 2004).<sup>236</sup> In addition, although post-1965 legislation has limited the entry of immigrants of low socio-economic status and suspected of becoming a financial burden to the U.S. government. In section 4.2 I discuss relevant legislative reforms enacted since 1965 and turn to the pre-1965 policy changes particularly affecting the Filipino community in the United States in section 4.3.

### **5.2. From Family to Labor Migration**

The 1965 Immigration and Nationality Act inaugurated a new era in the history of U.S. immigration. Its main feature of the 1965 Act was the abolition of the national-origin quotas that had been in place since the Immigration Act of 1924.<sup>237</sup> An annual limit of 170,000 visas was established for immigrants from the Eastern Hemisphere, with no more than 20,000 per country.<sup>238</sup> The limitation for the Western Hemisphere was set at 120,000. Another relevant feature of the 1965 Act, which in principle contrasts with Spanish immigration law, was the centrality of family reunification mechanisms. While

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<sup>236</sup> The Naturalization Act of 1790 restricted naturalized citizenship to “free White persons only.” This principle in law lasted until 1952.

<sup>237</sup> The Immigration Act of 1924 or Johnson-Reed Act excluded immigration of Asians into the United States. The 1952 McCarran-Walter Act was also discriminatory toward Asians. For instance, under this Act, while the quota for European immigrants was 149,667, the quota for Asian immigrants was 2,990, and the African quota was 1,400.

<sup>238</sup> The 20,000 visas limit was allotted regardless of the size of countries, so that, as Hill Ong Hing (1993; 2004) has repeatedly argued, mainland China had the same quota as Tunisia.

employment-based visas were included in the Act, most of the permanent visas were intended to be used to petition relatives of immigrants already residing in the U.S.<sup>239</sup> The distribution of permanent residency visas was organized into the following manner:

- First Preference: Adult, unmarried sons and daughters of U.S. citizens. Up to 23,400 a year.
- Second Preference: Spouses and unmarried sons and daughters of lawful permanent residents. Up to 114,200 a year.
- Third Preference: Members of the professions or those with exceptional ability in the sciences or the arts. Up to 40,000 a year.
- Fourth Preference: Married sons and daughters of U.S. citizens. 23,400.
- Fifth Preference: Siblings of U.S. citizens. Up to 65,000 a year.
- Sixth Preference: Skilled or Unskilled workers of which there was a shortage of employable and willing workers in the United States. Up to 40,000, 10,000 of which could be allotted to unskilled workers.

In addition, an unlimited “immediate family” quota allowed for the petition of U.S. citizens’ spouses, and minor children. This, and the fact that only one of the four family preferences corresponds to permanent residents’ relatives, puts U.S. citizens in a much better position to petition for family reunification than permanent residents. This has acted in the past decades as an incentive for many permanent residents to naturalize. Despite a more inclusive definition of kin categories than that Spanish immigration law provides, U.S. law gives priority to nuclear families, particularly those of U.S. citizens. Similar to Spain, gay couples are not granted the right of family reunification.

Employment preferences aided the entry of professionals and other potential immigrant workers who filled jobs for which qualified U.S. workers were not available. For the first time workers entering the country as skilled or unskilled laborers were required to have approval of the Secretary of Labor. This restriction has survived to the present and, similarly to the Spanish context, it protects the jobs, wages, and working

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<sup>239</sup> As it becomes clear throughout my analysis, these include both Permanent Legal Residents and immigrants who have become U.S. Citizens.

conditions of U.S. labor (See Ong Hing 2004). While there is no evidence that immigrants take U.S. citizens' jobs away, pressure from labor unions has made this restriction a necessary, and popular, political decision.

The 1980s saw important immigration reforms aimed at undocumented immigrants, particularly those working in agriculture, and to increase border controls. The 1986 Immigration Reform and Control Act (IRCA) legalized over two million undocumented immigrants and established punitive sanctions for undocumented workers and employers hiring them. Despite the initial emphasis on family immigration, the second half of the 1980s and the early 1990s saw efforts to increase employment, and particularly professional-based versus family, visas. Prior to 1990, besides the unlimited category of immediate relatives of U.S. citizens, 80% of the worldwide preference system of 270,000 was reserved for kin. However, reports showing pending shortage in U.S. skilled workers resulted in an increase in the number of visas allotted to skilled immigrants and a decrease the number of family immigrants.<sup>240</sup> The former were seen as contributing to the U.S. economy, while the latter were considered likely to become public charges (Park and Park 2005).

The 1990s Immigration Act tripled the number of visas for professional workers and reduced the number for unskilled workers. While the Act did not reduce the number of family immigrants, it signaled the beginning of a "shift toward a policy of importing skilled workers" (Ong Hing 2004:109). This also resulted in the implementation of the H-1B program. H-1B allows for the entry of professionals the U.S. economy needs. It limits the workers' stay and makes it dependent upon continued employment and renewal. As some of my interviewees in San Francisco put it, H-1B constituted a "guest professional worker program."<sup>241</sup> Other temporary visas include the H-2A and the H-2B programs, which allow for the entry for temporary and seasonal unskilled labor.

The 1990 Act did not reduce family reunification visas. However, the idea that family immigrants, particularly the elderly, tended to rely on public services, prevailed.

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<sup>240</sup> As well as the category of brothers and sisters of U.S. citizens.

<sup>241</sup> Field notes, August 2006, San Francisco

Other legislation, such as Welfare Reform in 1996, limited non-U.S. citizen access to welfare programs and curtailed the number of non-U.S. citizens who could receive public benefits (See Espenshade and Huber 1999; Freeman 2001b; Fujiwara 1999a; 1999b; Gerstle 1999; Martínez Veiga 2004; Singer and Gilbertson 2003). In addition, the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) made family immigration sponsors financially liable through an affidavit of support for any public services their petitioned relatives consumed and made them prove they were not public charges themselves (See also Fujiwara 2005).<sup>242</sup> These provisions clearly defined acceptable immigrants in terms of their class position and were likely to disqualify large groups of immigrants. In fact, their only likely outcome was, according to Park and Park (2005), to discourage family migration, particularly among low-income people. Some of the harshest provisions of 1996 Welfare and Immigration Reform were repealed. Nevertheless, family migration has become a smaller fraction of total migration to the United States<sup>243</sup> since then and the number of employment-based preferences, particularly for professional workers, has consistently increased.<sup>244</sup>

### **5.3. Immigration Legislation and Reproductive Labor**

An aging baby boom generation is entering retirement, while simultaneously an increasing number of working- and middle- class women are joining the workforce. Despite the resulting high demand for care and domestic workers and their importance for the maintenance of the capitalist economy,<sup>245</sup> the U.S. government has not established

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<sup>242</sup> In addition, through this Act, Congress authorized immigration officials to assess all immigrants under these five criteria: age; health; family status; assets, resources, and financial status; and education and skills (see Park and Park 2005).

<sup>243</sup> 213,331 in 1997, 191,480 in 1998, 216,883 in 1999, 230,000 in 2000 and 2001, and 187,069 in 2004 (Park and Park 2005).

<sup>244</sup> By 1995, five years after the Act of 1990 increased employment-based visas to 140,000 per year, the fraction of employment-based visas rose to 26%. By 2002, immigrants admitted under employment-based preferences were admitted at about the same rate as immigrants coming under family reunification preferences (Park and Park 2005).

<sup>245</sup> According to the US Census, services in private households were of 718,000 in 2000, 757,000 in 2002, 764,000 in 2003, and 779,000 in 2004. Thus there has been a steady increase of this occupation. The increase has probably been more accentuated if we take into account a lot of these jobs are done by undocumented women. Of these workers, 92.2 percent are female.

an immigration program to regulate the entry of care workers and provide them with protections. New employment visa programs have usually targeted the technology and health care sectors, as well as other professional occupations (Green 2002). These facts need to be understood in the larger context of government discouragement of low-income and unskilled immigration, both within family reunification and work-based immigration.

A key factor behind the lack of an immigration program for care and domestic work has been the failure of the U.S. Department of Labor to recognize the shortage of local workers in this sector. This takes place despite the publication of a Health and Human Services Department report in 2003 indicating that the U.S. demand for caregivers would multiply from 1.9 million workers in 2000 to 6.5 million in 2050. In marked contrast, the United States, has long recognized a shortage of nurses and has put into place an immigration program facilitating non-U.S. nurses' entry and establishing a legal route for them to achieve permanent residency. In my interviews with legal experts and government officials, I tried, unsuccessfully, to find an explanation for the absence of such an immigration program for caregivers and domestic workers. One of my interviewees suggested an answer: "[The] nurses lobbying group- hospital owners and managers- is quite strong, while there is not a lobbying group for immigrant groups or elderly in need for care."<sup>246</sup>

I forward three additional reasons for the U.S. failure to establish an immigration program for reproductive workers resembling that of nurses: 1) unwillingness to facilitate the legal entry and permanent residence of non-skilled workers,<sup>247</sup> 2) availability of a pool of 12 million undocumented immigrants already residing in the country who can (and do) perform these jobs for low wages and have limited access to social rights and services (See Park and Park 2005), and 3) government failure, due a gender bias, to recognize the value reproductive work has for the U.S. economy and the welfare of U.S. society in general.

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<sup>246</sup> Interview 46, San Francisco, Filipinos for Affirmative Action, August 2006

<sup>247</sup> Whom, often wrongly, policy makers identify as low income immigrants.

## **6. A History of Filipino Migration to Spain: From Maids in the Colony to Maids in the Metropolis**

According to a *Jaume Bofill* Foundation study (GESES 2007), two main traits characterize the Filipino community in Spain: It is one of the oldest immigrant communities, and it was markedly feminine from its origins. It also has the reputation among Spaniards of being well organized and relatively stable (Pe-Pua 2003).

Historical ties between Spain and the Philippines go back to the beginning of Spanish colonization of the Philippines in 1565. Colonial occupation and dominance lasted until the Philippines achieved independence in 1898. The colonial connections between these two countries created long term trading bonds and cooperation between them. It is common, for example, to run into newspaper articles from as late as the 1960s and 1970s citing Filipino officials referring to Spain as the “Mother Land” (EFE 1970c). During the 1970s, the Philippine and the Spanish government signed several economic, political, and cultural cooperation treaties. In 1970 the Spanish government gave a 10 million dollar loan and other development aid funds to the Philippines (EFE 1970b). Trade treaties during that decade were based on Philippine agricultural exports in exchange for Spanish manufactured goods (EFE 1970a). Cooperation initiatives between the two countries emphasized their common Catholic identity as a source of historical and contemporary alliances.<sup>248</sup> The Spanish media presented economic cooperation with the Philippines as efforts to restore the “virtues of the Spanish race” in its old colony at a time when the United States seemed to be losing moral influence in the region (EFE 1970b).

After independence, a handful of Spanish families with businesses in the Philippines returned to Spain and took their Filipino domestic workers with them. Throughout the second third of the 20<sup>th</sup> century these women brought their relatives, sisters, cousins, etc. (GESES 2007) to work in Spain as domestic workers as well. Beginning with this initial migration, Filipinos started to arrive in Spain at significant rates at the end of the 1970s. Women were a key component of this flow from the

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<sup>248</sup> Ironically, the Catholic religion was brutally imposed by Spain in the Philippines starting in the 16th century.

beginning, making their community into one of the most feminized within Spain (Cornelius 2004; Misra and King 2005; Ribas-Mateos 1999).

Given the colonial history, until 1985 Filipino nationals were given preferential immigration treatment. They did not need to apply for a tourist visa in order to enter Spain and they could exchange their tourist status for an employment visa very easily. This changed with the 1985 *Ley de Extranjería*, which required Filipinos to apply for tourist visas at the Spanish Embassy in Manila and made the obtainment of a work permit more bureaucratically complex (Pe-Pua 2005).

In the early 1990s government statistics showed there were around 25,000 Filipinos in the country, 75% of which resided in Spain illegally. During my research in Barcelona's historical archives I found a 1995 issue of *La Vanguardia* that estimated the number of Filipinos in Barcelona of that year to be 8,000.<sup>249</sup> This number increased in after the 1991 and 1992 legalization and quota programs, which many Filipinos used to legalize their situation. By the mid 1990s the Filipino community in Spain numbered 50,000 members (Pe-Pua 2003; 2005). As with the pioneers, Filipino women continue to be concentrated in the domestic work sector (Ribas-Mateos 1999).

During the past decade the number of Filipino men has increased substantially due to the improvement in family reunification mechanisms<sup>250</sup> and an increasing demand for English-speaking workers in the tourism sector. Despite this, women continue to be the majority in the community. They constitute 57% of the Filipino community, which, only in Barcelona, has over 6,000 documented members. This number does not include undocumented immigrants or Filipinos who adopted Spanish citizenship. While I do not have data on nationalization rates, 10 out of the 20 Filipino domestic workers that I interviewed had become Spanish citizens.<sup>251</sup> This indicates that, counting residents, naturalized, and undocumented immigrants, the Filipino community in Barcelona may

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<sup>249</sup> *La Vanguardia Revista*, October 9, 1995, by Eugenio Madueño

<sup>250</sup> As well as female migrants' better leverage to petition their relatives.

<sup>251</sup> The Spanish Census does not include information on racial background. Since citizenship is the only way to identify immigrant populations in the census, and given relatively high rates of naturalization among Filipinos in Spain, it is reasonable to expect the community to be much larger than what official numbers show.

well have over 20,000 members. An interview conducted with a Filipino consular official in Barcelona indicates there are about 19,000 documented Filipino immigrants in Catalunya and Aragón alone, most of them concentrated in the city of Barcelona.<sup>252</sup>

Currently, 90% of Filipinos in Spain work in the domestic sector, in retirement homes, and in tourism. A small percentage are factory workers or teachers and professionals (Pe-Pua 2005). The domestic and care sectors, however, continue to be the main destination for women, and to a lesser extent men.<sup>253</sup> While in the 1970s and the 1980s it was quite easy for Filipino women to work as domestic workers, more recent immigration of other nationalities has intensified the competition for these jobs.

Filipino women, however, continue to have a relatively easier time finding jobs than their male counterparts and even than women from other nationalities. As my research, as well as that of other authors shows (See Oso 1998; Ribas-Mateos 1999), family, friendship, and community networks have played a crucial role in promoting Filipino migration to Spain and in helping new immigrants find jobs. While it may take longer than it used to, Filipino women today continue to find jobs in Barcelona and, due to the more limited job opportunities offered to men, women often become the breadwinners for their families in the Philippines and in Spain. High unemployment rates among Filipino men are one of the main problems of the Barcelona community.<sup>254</sup>

According to various studies, and to the responses of my interviewees, Filipino domestic workers are in high demand in Barcelona and are preferred over other nationalities. This is due to their good reputation as skilled workers, their extensive professional experience, and high educational levels (Pe-Pua 2003; Pe-Pua 2005; Ribas-Mateos 1999), and is in line with findings of studies about Filipino domestic workers in other countries (See Parreñas 2001). The fact that Filipinas have high English proficiency makes them candidates for the upper classes in Barcelona who, besides hiring them as domestic workers, expect them to teach their children English and help them with their

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<sup>252</sup> Interview 27, Barcelona, Philippine Consular Official, March 2007.

<sup>253</sup> Interview 2, Barcelona, Elena, November 2006

<sup>254</sup> Field notes, Barcelona, March 2008

homework. According to a community member, they “do both things for the same price. [The employers] take advantage of that.”<sup>255</sup>

The higher prestige of Filipino women has translated into higher salaries and it is mostly upper class families who hire them as domestic workers. Historically used as a synonym for “maid,” the word Filipina has class and racial connotations in Spanish society. The following is an excerpt from an article published in *Combate*, a Catalan newspaper, in March of 1986:

To have a Filipina maid has been a sign of distinction among the Western high bourgeoisie, the Spanish one in particular, for many years.<sup>256</sup>

Even today, “Filipina” means a refined maid who works for a wealthy family in urban Spain. Filipinas have become a “status symbol” whose characterization is defined around racial and colonial discourses. I further discuss this in Chapter VII.

While there are a variety of labor incorporation strategies Filipino women follow upon their arrival to Barcelona, my interviews show that women tend to start working as live-in domestic workers (*fijas*). Live-in jobs allow the newcomers to save money in food and rent. With few exceptions, women eventually move toward full time live-out jobs for a single family and/or hourly cleaning jobs for multiple employers (See also Anderson 2000). The exit from live-in jobs coincides in some cases with family reunification and the worker’s petition of her husband and/or children.

While in the past Spanish immigration policy favored the entry of Filipino nationals into Spain by imposing less requirements, the bureaucratization and politicization of immigration in Spain nullified most of those privileges. Yet, the colonial past of the two countries continues to be reflected in their current relationships. Besides the importance of investment agreements, Spain and the Philippines have signed different treaties of relevance for the Filipino population in Spain. These relate to Filipinos’ ability to receive Spanish retirement benefits even after they return to the Philippines and the regulation of the transfer of care workers from the Philippines to Spain. In addition,

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<sup>255</sup> Field notes, Barcelona, March 2008

<sup>256</sup> Original article in Spanish. My translation.

similar to nationals from former Spanish colonies, Filipinos qualify for Spanish citizenship after only two years of legal residence as opposed to up to ten years for other nationalities.<sup>257</sup> This may be the reason behind high naturalization rates.

### **7. A History of Filipino Immigration to the United States: On (Neo) Colonial Ties and Cheap Labor**

Filipinos comprise the second largest immigrant group in the United States today (Espiritu 1995; Novas and Cao 2004; Parreñas 2001; Parreñas 2005b). With 51,308 Filipinos admitted in 2002 alone, the Filipino American population reached 2,100,000 in 2003 (US Census Bureau 2003; Homeland Security 2002). Two thirds of the community were born in the Philippines and migrated after 1965. Of these, 1,369,070 were residing legally in the U.S. in 2000. Despite this, community groups consider the number of undocumented Filipinos to be quite sizeable. In 2000 the U.S. government estimated the number of undocumented Filipinos to be 85,000, while a study the Philippine government conducted in 2003 estimated the figure to be 535,000. Advocates and community groups in the United States guess the total is closer to the estimate of the Philippine government.<sup>258</sup>

Numerous authors argue that the importance of the U.S. as the destination for Filipinos must be attributed to the former colonial connection between the two countries (Abella I. 1992; Choy 2003; Lowe 1999; Rodriguez 2005). This produced, among other things, a pervasive Americanization of Philippine culture and its educational system, close economic ties between both countries, and military and political connections. Filipinos were considered U.S. nationals and used to enjoy free access to the U.S. This facilitated their migration during the early decades of the 20<sup>th</sup> century.

For the past one hundred years, the Philippines has consistently functioned as a source of cheap and flexible immigrant labor whenever U.S. local markets have faced shortages. These shortages have occurred in the agricultural sector, the U.S. Army and

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<sup>257</sup> Other nationals allowed to obtain nationality after only two years of legal residency are those from Latin American countries, Andorra, Equatorial Guinea, and foreigners belonging to Sefardie communities.

<sup>258</sup> Interview 46, San Francisco, Filipinos for Affirmative Action, August 2006

Navy, and service jobs. By the last decade of the 19<sup>th</sup> century, Hawaii's economy was heavily dependent on sugar cane cultivation and plantation owners were in constant need of cheap and manageable labor. Filipinos became a key source, and Hawaii became the first large-scale emigration destination from the Philippines. Between 1907 and 1929 more than 102,000 Filipinos were recruited to work on these plantations, and approximately 87% of these were men (Tyner 2000).

Other initial groups of Filipino immigrants in the U.S. were students on government scholarships during the 1910s. The colonial government sent several hundred *pensionados*, mostly men, to study in U.S. universities and familiarize themselves with U.S. politics and institutions. These students often belonged to important Filipino families. By the early 1920s most of them had returned to the Philippines to well paying positions in agriculture, business, education, and government. Inspired by these experiences, thousands of non-sponsored students migrated to the United States between 1910 and 1938. Their goal was to work in order to pay for their studies in U.S. universities. However, due to racial discrimination, they were consigned to unskilled and low paying jobs. Most of them never completed higher education, and the economic crisis- and resulting anti-immigrant backlash- the Great Depression brought turned them into unwanted immigrants (See Espiritu 1995).

During the 1920s and 1930s, additional migration flows developed in response to labor shortages along the West Coast. In the decade of the 1920s alone, 45,000 Filipinos migrated to the Pacific Coast. Similar to migration to Hawaii, single males with little formal education dominated this flow. They concentrated in agriculture, moving along the coast with the crops. They also worked in salmon canneries of the Pacific Northwest and Alaska, and as service workers, including janitors, valets, kitchen helpers, pantrymen, and dishwashers. (Espiritu 1995; Takaki 1989).

Overall, Filipinos were only tolerated as a transient, cheap labor force. The 1921 Anti-Alien Land Law was designed to prevent aliens ineligible for citizenship (Filipinos, Chinese, and Japanese) from owning land. During the late 1920s and the 1930s, as the Filipino population grew in the U.S. and the Great Depression took place, White resentment against Filipinos grew. They were seen as direct competitors for jobs and

social services for the White working class and as sexual threats to White women.

In this context of anti-Filipino sentiment, the only way the government could restrict the number of Filipino immigrants was by removing their legal status as U.S. nationals. However, this was not possible as long as the Philippines were a U.S. colony. In 1934 the U.S. Congress passed the Tydings-Mac Duffie Independence Act. This granted the Philippines independence within a 10-year period, declared Filipinos aliens, and cut Filipino migration to a mere 50 persons a year. Those who stayed within U.S. borders were rendered ineligible for the New Deal assistance programs, and were often targets of bigotry and racial violence from White workers and citizens. This took place in a generalized context of anti-Asian sentiment and severe legal restrictions against the immigration of Chinese and Japanese nationals (Ong Hing 1993; 2004).

U.S. military bases in the Philippines have historically been a key employer to thousands of Filipinos. Many Filipinos who served in the U.S. Army during World War II earned U.S. citizenship. Filipinos enlistees have traditionally performed the domestic work within the U.S. Army, preparing and serving the officers' meals, and caring for the officers' galley, wardroom, and living spaces (Espiritu 1995). Similarly to the agricultural sector, Filipinos often obtained servile positions in the racial division of labor in the U.S. Armed Forces. Filipino participation in the forces has continued up to today, both in the U.S. bases in the Philippines and in the United States. Aside from few hundred agricultural workers, Filipino migration between the end of World War II and the 1960s was limited to military personnel and their dependents. It also included Filipino women whom members of the U.S. Armed Forces had married during the war.<sup>259</sup> My research documents the importance of this trend since several of my interviewees had been petitioned by a relative who had previously served in the forces.

The 1965 U.S. Immigration Act eliminated racist national-origins quotas of and replaced them with emphases on family reunification and occupational characteristics (Choy 2003). Family reunification and occupational immigration have resulted in most of the growth of the Philippine population in the United States since then. In the twenty

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<sup>259</sup> The War Brides Act was enacted in 1945 to allow spouses and adopted children of U.S. military personnel to enter the U.S. after World War II and afterwards from South Korea during the Korean War.

years following the passage of the 1965 Immigration Act, about 40% of legal immigration to the United States was from Asia. Filipinos constitute the largest portion at almost one-quarter of total Asian immigration (Ancheta 1998; Espiritu 1995). In addition, during the 1960s two-thirds of all Philippine immigrants were female. Female migrants still outweigh males. Family reunification and the demand for health and other professional workers in the United States, which has been greatly filled by Filipino women, explain the gender composition of this immigration flow (Tyner 2000).

During the 1970s, U.S. firms relocated their factories to sites with cheaper labor. Their administrative headquarters, though, remained in key urban areas in the Global North (Sassen 1984). Consequently, the labor market has become more polarized, marked by the expansion of high-wage, high-skill occupations and low-wage, low-skill service jobs (Lowe 1999). The 1965 Immigration Act favored the entrance of foreign workers willing to fill all these vacancies in the U.S. labor market. Many of these were Filipinos. The Philippine government-organized labor export has been able to satisfy much of the demand within the professional sectors (Choy 2003; Espiritu 1995; Tyner 1999). In addition, both legal and illegal Philippine immigrants, despite high educational levels, have occupied the poorly paid jobs in the service sector (Strobel 2001).

The contemporary Filipino American community presents more class diversity than ever before. Although we find many professionals within the Filipino American community, sixty-five percent of the total are foreign born or what is commonly referred to as newcomers.<sup>260</sup> Thirty-five percent of the community entered the United States within the past decade, and the same percentage is not proficient in English and finds itself concentrated in low-wage jobs.<sup>261</sup>

Despite the above mentioned absence of an immigration program specifically regulating the entry of reproductive workers into the United States, the reality is that caregiving and domestic work has become common employment for Filipinas, particularly in urban areas such as Los Angeles, New York, and the San Francisco Bay

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<sup>260</sup> A pejorative term that Filipino Americans use to refer to “newcomers” is FOB or Fresh Off the Boat.

<sup>261</sup> Field notes, San Francisco, March 2006

Area. Although U.S. Immigration Law does not place them there, it is still Filipino women who provide an important amount of reproductive labor in this country. The historical tendency to concentrate in low-wage jobs, often with servile aspects, continues within the Filipino American community today. While many Filipinos occupy professional jobs in the United States, their concentration in the bottom of a racially segmented labor market is still a reality. A Filipino community leader told me that while during the 1970s many Filipino professionals had accessed the U.S. on professional employment visas and had maintained good jobs, Filipinos are currently struggling more to find well paid or professional jobs:

In our family gatherings I listen and I hear, and it's a different story, different experience than growing up listening to my aunts and uncles on my father's side, who migrated in the 70s, they basically own their own homes, economically, on that level... And then I think that for the Filipino community, historically, I think that you can measure the levels of income, they are higher for the 70s, the people who migrated in the 70s versus now.<sup>262</sup>

In contrast to Asian and Middle Eastern countries, where the transaction of Filipino labor is usually temporary and contract-based, but similar to Spain, Filipino migration to the United States tends to be permanent.<sup>263</sup>

## **8. Conclusion**

An overview of both Spanish and U.S. immigration law shows that while the former explicitly regulates the entry of low skilled labor the Spanish economy needs, since the 1965 the latter has formally focused on family migration. Despite the centrality of family reunification in U.S. immigration law, however, I have shown that employment-based migration programs are becoming increasingly important. These have

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<sup>262</sup> Interview 8, San Francisco, Community Organizer, May 2006

<sup>263</sup> This distinction introduces the key difference between what constitutes a migrant (temporary, contract bound) and an immigrant (permanent, with residence permit). This differentiation responds to analytical or legal definitions of migration flows rather than to personal ones. In fact, women may temporary migration venues to eventually become permanent immigrants. I interviewed Filipino women who, although they entered the United States on temporary visas, have always planned to stay indefinitely or somehow ended up doing so. Individual intention and outcome are not always clear and/or explicit, and other factors, such as the connection with the homeland throughout time, may also affect that definition of what constitutes a migrant or an immigrant.

not included reproductive labor in its provisions. While Spain responds to its need for reproductive labor by promoting the entry of immigrant women to conduct this work, the U.S. does not. It is still immigrant women, though, including Filipinas, who mostly occupy the reproductive labor sector in the U.S. While U.S. immigration law does not directly promote the entry of reproductive workers, thus, it still contributes to the transfer of reproductive labor from the Global South. Once I have understood this policy context, as well as the history behind Philippine migration to these two countries, I discuss in Chapter VI some specific ways in which immigration policy shapes the experiences of Filipino women in Spain and the United States and how the women, in turn, react to the law. This discussion will further contribute to understand how the transfer of Filipino reproductive workers to Spain and the United States currently takes place.

## CHAPTER VI

### ENTERING THE COUNTRY II: FILIPINO WOMEN FULFILLING AND CIRCUMVENTING IMMIGRATION LAW

#### 1. Introduction

In this study I see the state as a key actor placing immigrant women in difficult situations such as temporary legal status, segregation in the labor market, family separation, undocumented status, and trafficking. Yet, while the past two decades have seen growing scholarship and public debate on illegal migration and trafficking (Chin 1999), these studies have usually focused on the migrants themselves, the employers, or the recruiters. This emphasis has often resulted in a treatment of the “trafficked person” or the illegal immigrant as perpetrator rather than as victim, as well as an explanation of the reality of trafficking by the existence of unscrupulous individuals or agencies (Wong 2006). Although important, micro-level analysis of migration focusing on the migrant person or recruiting/employing individuals may favor a view of trafficking, exploitation and illegality as realities stemming from individual actions, since they emphasize individuals’ failure or refusal to respect the law.

In contrast, I introduce the possibility, through an examination of the experiences of Filipino domestic workers in the United States and Spain, that pseudo-legality, trafficking, illegality, and exploitation, rather than stemming from failure to follow the law, are outcomes of state action. I argue these experiences are structural and systematic in the sense that it is the law itself, and its unrealistic rigidities, what promotes and/or facilitates them. However, because I do not want women’s stories to get lost in my discussion of structures, I take their experiences as my departure point. This puts a face on otherwise impersonal bureaucratic processes. Women’s experiences allow me to move

beyond state action to provide a glimpse of Filipino women's agency to circumvent and manipulate political processes.

Always insisting on the complexity of the migration phenomenon and the interaction of multiple factors, I shed light on the state as an actor that often goes unaddressed in immigration debates (See Garcés-Mascreñas 2006; Hayter 2000). As Jacqueline Bhabha (2005) argues, industrialized countries are increasingly placing legal obstacles for entry, therefore severely limiting legal immigration. Instead of seeing the law and illegality as two opposite realities—where the law draws the line of what is legal and illegal- I view the state as promoting difficulties in immigrating, illegal experiences (Johnson 2006), or situations that, although legal, may resemble illegal and/or exploitative scenarios (See Heyman 1999). Immigrant women try to follow the law but often feel forced to circumvent it to achieve legal status, obtain a job, or reunify with their families. This places them in vulnerable positions. Because the law constructs them as perpetrators, they cannot obtain help from authorities in receiving countries.

In this chapter I contrast U.S. and Spanish immigration law with Filipino women's experiences in both countries in order to better understand how the two governments regulate the transfer of reproductive labor from the Global South, particularly from the Philippines, to their countries. I also raise the following questions: 1) How is immigration policy in both countries affecting the experiences of Filipino reproductive workers in Barcelona and San Francisco? 2) To what extent is immigration policy realistic and what strategies do the women follow to comply with or circumvent the law?

## **2. Filipino Women's Migration to Spain Today: The Law Shaping Experiences and Experiences Shaping the Law**

A commonly expressed view throughout my interviews in Barcelona was that Filipino women, unlike women from other immigrant populations, usually enter and/or find themselves in the country with documented status. Their long history as domestic workers in Spain and the well established networks that they have created have turned the community into a stable one. Filipinos, according to Spaniards and Filipinos themselves,

do not usually have problems with immigration or labor law. Elena, a domestic worker and president of one of the Filipino immigrant centers in the told me:

Filipino immigrants have fewer problems than they used to. People say that we are well organized, in terms of papers. With other nationalities they have problems with legality. We do not have problems. We have been here for years, we know the law very well... There are some women who have problems. Some employers abuse them, they do not allow them to go out, and they are strict. But the employers respect our organization. I call them and try to mediate. We know Spanish laws and we protect our rights.<sup>264</sup>

Along similar lines, when I asked an officer at the Philippine Consulate about the kinds of problems Filipino domestic workers encounter in Barcelona, she responded:

Problems here in Spain... in fact that is very rare, because the... the Spanish government and Spanish people welcome them very well. With great deal of kindness. And they are highly demanded as domestic service, because they have a very good reputation ... Then, problems, I would say that they do not have problems here, and they should not.<sup>265</sup>

Consistent with interviewees' responses in the Philippines, these two quotes assume the view that Filipinos follow legal migration mechanisms. A perception of Filipino domestic workers as superior to their counterparts from other countries, which I have discussed in Part I, is also present in Spain. While, as I suggest in Chapter VII and Chapter VIII, Filipino women in Barcelona enjoy a relatively privileged position compared to other national groups in terms of their immigration and labor situation, this does mean an absence of problems. In fact, my interviews with Filipino domestic workers currently residing in Barcelona indicate recurrent problems.

## **2.1. On Fictitious Premises**

Despite the rigidities Spanish immigration policy imposes, immigrant women follow different venues to enter Spain in search of a job. The law shapes migration flows, but only to a certain extent, since immigrant people's experiences often contest legally

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<sup>264</sup> Interview 2, Barcelona, Elena, November 2006. Original interview conducted in Spanish. My translation.

<sup>265</sup> Interview 27, Barcelona, Philippine Consular Officer, March 2007. Original interview conducted in Spanish. My translation.

established mechanisms. The law may define what is legal, but it certainly cannot define what is real or fully control people's migration projects. I suggest that in the context of migrant domestic work there are several factors the law fails to acknowledge. First, the urgency many people have to migrate does not allow them to follow often unreasonably long legal mechanisms. Second, Spanish immigration law does not acknowledge the intimacy involved in domestic work and treats it as other economic sectors. Third, processing a work contract from the sending country may take few months. Employers are often not willing to wait for that long and hire someone who is already in Spain with no legal status. Fourth, narrow definitions of family under family reunification provisions force immigrants to find alternative venues to facilitate their relatives' migration.

As explained above, one of the main principles of Spanish immigration law is that, within the quota system, a worker is expected to receive a job offer when she is still in her country of origin. The future employer makes an offer from Barcelona<sup>266</sup> and sends it to the worker's country in order for her to obtain a work visa in the Spanish Embassy there. Once the worker obtains her visa, she travels to Spain, where she obtains both a residence and a work permit. The permit is valid for one year and limited to a particular economic activity and geographic location. The law also allows employers to make job offers to immigrants already residing in Spain as long as their status is legal. This means initial hires are always expected to be conducted when the worker is still in her country of origin. This premise, however, similar to the one assuming only necessary labor will enter Spain, is fictitious (See De Lucas and Torres 2002), since it does not consider social and economic pressures making people migrate even when it is not easy or possible to follow legally established mechanisms. In other words,

[The law] ignores the flows, the pressure that immigrants exert, who are the ones who want to come at any rate, due to the differences between rich and poor countries, right? The law is based upon the ideal premise that only those workers we need will come to Spain. Well, this is a fiction, I think. And from the legal point of view it has not been fixed. And I do not think that there is an easy solution.<sup>267</sup>

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<sup>266</sup> Or elsewhere for employers residing in other provinces.

<sup>267</sup> Interview 25, Barcelona, Government Employee, March 2007. Original interview conducted in Spanish. My translation.

The interviewee's statement is consistent with Van Amersfoort's (1996) view that immigration policy is often a mismatch between the short term needs of the country and the long-term effects of migration flows. During my interviews with Spanish immigration officials, it became clear employers and immigrant workers do not always respect hires "from origin."<sup>268</sup> Entry into Spain on a tourist visa and overstaying it in the hopes of finding a job and eventually legalize status is quite common. Although illegally residing in Spain is cause for removal and a worker's illegal presence in the country makes her automatically ineligible for a work visa, there are ways in which the rules can be circumvented. In the case of domestic work, most immigrant women who receive a job offer are already residing- often illegally- in Spain. Many entered the country on tourist visas. When they receive the work offer they travel to their country of origin to prove they were not in Spain and process their immigration papers at the Spanish Embassy there. Then they travel back to Spain, pretending that they were in their country when the offer was made.<sup>269</sup>

The frequent violation of legal entry into Spain also results from the failure of the law to consider the particularities of domestic work, which may not fit well into the orderly mechanisms immigration law envisions. The law treats domestic work, especially live-in domestic work, as other kinds of labor, in the sense that the employer is expected to hire a person that they have never met. While this may make sense for agricultural or factory work, it is reasonable to expect families who hire someone to live in their home and take care of their loved ones would want to have a personal connection with that person or some reference about her before they decide to hire her. The intimacy involved in domestic work may be the reason, according to government interviewees, why many Spanish employers prefer to hire an undocumented woman who is already in Spain. This allows them to meet her before hand, which would not be possible if they hired someone

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<sup>268</sup> *Contrato en origen* or "hiring from origin" is a commonly used term in Spain to refer to a work offer a Spanish employer means when the immigrant worker is still in her country as opposed to finding a job when she is already in Spain.

<sup>269</sup> Interview 24, Barcelona, Government Employee, March 2007

living thousands of miles away.<sup>270</sup> An additional reason would be that delays in the processing of visas in the consulates often force employers to hire an undocumented person already residing in Spain as opposed to having to wait for months to fill the vacancy (See Rius 2008).

The rigidity of having to “hire from origin” is not the only fictitious premise of Spanish immigration law. Family reunification provisions provide narrow definitions of family and the requirements to petition relatives are often unrealistic. This forces immigrants to find creative ways to be with their loved ones. These fictions in the formulation of the law stem from the foundational premise of Spanish immigration law: Its utilitarian view of immigrants as merely labor. This results in a compartmentalization of their experiences into unidimensional pieces that do not acknowledge the complexity of people’s reasons to migrate. In other words, the law does not view tourists as workers; only workers can be real immigrants; petitioned relatives cannot initially work. A law that identifies an immigrant with a worker does not recognize that person as a mother, daughter, wife, or sister. It fails to acknowledge the complexity of migrants’ lives and places them in conceptual and legally rigid boxes. While the immigrant women I interviewed felt obliged to fit into these boxes, they also found creative ways to push the limits and claim their right to a complex experience that includes multiple dimensions. In section 2.1 I discuss different ways in which Filipino women have followed the law in entering Spain and working there, and their efforts to circumvent it and assert their definition of what *their migration is and should be*.

## **2.2. How Are Filipinas Doing It?**

My interviews with Filipino domestic workers in Barcelona point to a complex reality that presents some interesting patterns. Table 6.1 provides information on the age, date, mode of entry into Spain, and current legal status of the 18 Filipino women I interviewed in Barcelona during my fieldwork.<sup>271</sup> Only one out of the 18, Coral, who

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<sup>270</sup> Interview 25, Barcelona, Government Employee, March 2007

<sup>271</sup> I gathered information on 21 Filipino domestic workers currently living and working in Barcelona. However, most of the tables include information of only 18, since my information on the rest is not complete.

illegally crossed the Portuguese-Spanish border in 1989, bypassed the Spanish government control. Nine of the women entered on work visas, two on family reunion petitions, and six on tourist visas. At first glance the table seems to confirm Elena's quoted above vision that Filipino migrants usually enter the country legally. This poses a contrast with Parreñas' (2001) findings in Rome, where a significant percentage of Filipino women had entered Italy clandestinely. However, a closer analysis of these women's experiences challenges the claim that Filipinos always follow the law in order to enter Spain. Let us examine in more detail the different modes of entry Filipinas in Spain followed and the implications these had for their long term stay in the country.

**TABLE 6.1. Age, Date of Entry, Mode of Entry, and Current Status**

<b>Interviewee</b>	<b>Age</b>	<b>Arrival</b>	<b>Status upon Arrival</b>	<b>Current status</b>
Lili	54	1973	Tourist Visa	Permanent Resident
Elena	51	1977	Work Visa/Contract	Spanish citizen
Daisy	60	1969	Work Visa/Contract	Spanish citizen
Concha	51	1996	Work Visa/Contract	Spanish citizen
Mari	27	July-06	Family petition	Residence permit
Teresita	40	1997	Tourist Visa	Spanish citizen
Corazón	24	July-05	Work Visa/Contract	Resident and work permit
Nelly	61	1988	Tourist Visa	Spanish citizen
Adelina	43	1991	Work Visa/Contract	Permanent Resident
Purísima	51	jun-04	Work Visa/Contract	Resident and work permit
Auxilio	26	feb-06	Tourist Visa	undocumented
Marina	74	1977	Work Visa/Contract	Spanish citizen
Delfina	62	1978	Tourist Visa	Spanish citizen
Paulita	38	1996	Work Visa/Contract	Permanent Resident
Bernarda	30	1997	Family petition	Permanent Resident
Paola	56	1982	Tourist Visa	Spanish citizen
Viviana	56	1977	Work Visa/Contract	Spanish citizen
Coral	43	1989	Illegal border crossing	Spanish citizen

### 2.2.1. Entering as Tourists

Traveling to Spain on a tourist visa means there is no intent to work and the visa holder will return to her country upon the expiration of the visa. Six of my interviewees entered Spain using tourist visas. While keeping in mind the differences established by

the enactment of *Ley de Extranjería* in 1985, these women's stories shed light on the fact that a tourist visa is a regular mechanism used to enter Spain and eventually work. Legalization programs and *firmas de favor* have been the ways in which Filipinas have transformed their status from tourists and/or illegal to permanent resident workers.

Tourist visas are obtained at the Spanish Embassy in Manila, and they allow Filipinos to stay legally in Spain for up to 90 days. The conditions for obtaining a tourist visa were different before and after the 1985 *Ley de Extranjería* was passed. Until 1985, Filipino nationals were exempted from applying for a visa to travel as tourists to Spain. However, access to Spain has become increasingly restrictive since then, and certain conditions are imposed now on tourist visas for non-European nationals.

Spanish law does not authorize tourist visa holders to work. All the interviewees that entered on tourist visas, however, did work upon their arrival and continue to do so. Besides "seeking adventure," most said they went to Spain already planning to stay beyond the expiration of their tourist visas. Since they did not have work offers, they decided to travel as tourists and find a job once in Spain.

The reason I have included the women's date of entry into Spain in Table 6.1 is to draw an important distinction. There is a difference between Nelly, Teresita, and Auxilio, who entered Spain in 1988, 1997 and 2006 respectively, and the other three interviewees entering Spain on tourist visas: Lili, Delfina, and Paola entered the country in 1973, 1978, and 1982 respectively. The first group of women migrated to Spain after the creation and enactment of the *Ley de Extranjería*. The second group entered when Filipinos were still not required to apply for a tourist visa in Manila and Spain had not been officially declared an immigration country. "Migrating illegally" before 1985 had a different meaning. Many authors have argued that "illegal migration" or "illegal migrants" did not exist before the creation of the law (See De Lucas and Torres 2002; Mestre 2001). The law creates a boundary between what is legal and what is not. Without law there is not perpetration.

The three interviewees entering the country before 1985 said that it was easy both to find jobs and to change their status from tourists to immigrant workers. Lili explained that "back [in 1973] Filipinos did not even need a visa. Just the passport and the flight

ticket ...”<sup>272</sup> Both Lili and Delfina agreed that back then “it was easier” and “there was less control.” Within a couple of years, Lili legalized her status through a friend, who hired her as an English teacher. Delfina also managed to get a job offer really easily through the help of a priest in the community. As the table shows, Lili is currently a permanent resident and Delfina a Spanish citizen.

Paola, currently a Spanish citizen, moved to Spain in 1982. She got a job offer from a Spanish employer through an agency in the Philippines. The employer even paid for her flight ticket. Despite this, she left on a tourist visa. According to her “back then it was not like now. Before people used to come on a tourist visa.”<sup>273</sup> Before her arrival in Barcelona in 1984, Paola worked two years as a live-in domestic worker for a politician and his family in the Canary Islands. Her case is unique, since she obtained her papers through her employer’s political connections:

They do not want me to leave. My *señor*, since he is the mayor, they did him a favor [laughs]. Then he went to Las Palmas to talk to the governor to fix my papers, since the stamp on my passport said I had to leave Spain since my visa was over. But because they did not want me to leave, they fixed my papers and made a contract for two years.<sup>274</sup>

With the transformation and intensification of migration flows to Spain after 1985, as well as the social and political identification of migration as a “problem,” entry into the country has become much more difficult. Teresita, for example, explained she had to “prove” during her interview at the Embassy that she had a good reason to travel to Europe (i.e. attendance at an art workshop) and to show she had a job and decent income in the Philippines.<sup>275</sup> Auxilio, a 26-year old who had arrived in Spain less than a year before I interviewed her (2006), also traveled to Spain on a tourist visa. Her aunt, Concha, who had worked as a domestic worker in Spain and supported Auxilio and her siblings for ten years, was diagnosed with cancer. Concha had to stop working and undergo very delicate surgery. As the oldest niece, Auxilio became responsible to go to

<sup>272</sup> Interview 1, Barcelona, Lili, October 2006. Original interview conducted in Spanish. My translation.

<sup>273</sup> Interview 22, Barcelona, Paola, March 2007. Original interview conducted in Spanish. My translation.

<sup>274</sup> Interview 22, Barcelona, Paola, March 2007. Original interview conducted in Spanish. My translation.

<sup>275</sup> Interview 6, Barcelona, Teresita, December 2006.

Spain and take care of her. Auxilio also explained that at her job as a nurse in the Philippines she was only making \$150. After her father had a heart attack, she became also responsible to support her parents and her 11 siblings. Despite she travelled on a tourist visa, the need to take care of her aunt and support her family back home were the reasons why she migrated to Barcelona.<sup>276</sup> She eventually became undocumented.<sup>277</sup> Although by the time of our interview she had not “fixed her papers” yet, she told me her aunt’s old employer had agreed to sign the papers so that she could get a work visa.

Nelly, a 61-year old live-in domestic worker, went to Spain in 1988 under a tourist visa as well. Nelly had worked as an elementary school teacher in the Philippines for 21 years. The salary was not very high, but she was “happy” and “content.” In 1987 Nelly adopted a baby girl and became a single mother. It was then when she decided to go and work overseas:

I thought to go abroad seeking for greener pasture, to earn more money, so maybe... because my sisters are out of the Philippines, then of course they tell me that they earn money, that they have a lot of things, that they can buy anything... so as a teacher you earn the minimum, very small, so I said, I will try to go, and then I come to Spain.<sup>278</sup>

In 1988 Nelly arrived in Spain, where her sister was already living and working as a live-in domestic worker. Despite not having a work permit, with her sister’s help, she found a job as a domestic worker within three days. She obtained her work and residence permits during the 1992 legalization program. She is currently a Spanish citizen. Nelly explained during the interview that she was expecting her daughter to come to Spain one week later. Nelly’s current employers had agreed to offer a contract to her daughter so she could obtain a work visa.

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<sup>276</sup> Interview 14, Barcelona, Auxilio, February 2007

<sup>277</sup> It is ironic that after 10 years of living, working, and paying taxes in Spain, Concha needed a relative to come from the Philippines to take care of her. This shows one of the multiple gaps that the Spanish Welfare state offers in terms of care provision. In addition, while it could be argued that Concha has subsidized the care in Spain through her cheap labor, now that she is ill, the only solution she can find is to obtain care from a relative from her own country. Both her story and Auxilio’s show a double subsidy of the Spanish state’s care responsibility by Filipino women.

<sup>278</sup> Interview 11, Barcelona, Nelly, January 2007

Teresita, a forty-year old midwife and college professor at La Salle University, a prestigious private university in Northern Philippines, left in 1997 after receiving numerous death threats due to her political activism in her province. She left on a tourist visa, supposedly only going to Germany for few days to give a talk at an art symposium. From Germany she traveled to Barcelona. There she had a close friend, who happened also to be the priest leading the Filipino community there. A Spanish friend of the Filipino priest made a fake job offer as a favor to her. Teresita, using a common term among Filipino migrants, called it a *firma de favor* (signature of favor). The deal was he would sign the required papers and after that she would reimburse him for social security payments and would eventually find a real job. After staying in Spain as an undocumented immigrant and working illegally for one year, and once her papers were processed, Teresita went back to the Philippines in 1998 to obtain her work visa at the Spanish Embassy in Manila. She also processed her papers with the Philippine government. She went through the compulsory Pre-Departure Orientation Seminar and paid her OWWA membership, as well as completing all the other bureaucratic steps the Philippine government requires.<sup>279</sup>

Teresita's story exemplifies a quite common situation in which Spanish people offer to process fake work contracts in order to help out an undocumented immigrant who needs to fix her papers. However, this is not the only way the law is circumvented. Many Spanish employers offer real work contracts to immigrant women who have entered on tourist visas and are currently illegally residing in Spain, as in Auxilio's case. The process that she needed to follow was identical to the one I just described for Teresita. The only difference was that in Teresita's case the job offer was only a way to legalize her situation, while in many others employers actually want the immigrant woman to work for them. The reason there is a legal violation in both cases is because *Spanish immigration law expects immigrants to be hired before they set foot in Spain* and, obviously, it prohibits offers of jobs that do not exist.

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<sup>279</sup> Interview 6, Barcelona, Teresita, December 2006

Many Filipino women, though, have found ways to circumvent this and, after entering on tourist visas, legalize their situation. The stories presented above, overall, show Filipino women often use tourist visas to enter the country planning to stay and work.

### **2.2.2. Entering as Workers: The Relevance of Networks**

While the stories conveyed in the previous section indicated a common use of tourist visas to migrate to Spain, nine out of the eighteen interviewees migrated on a work visa. In this section I shed light on the shapes Filipino domestic workers' migration to Spain takes. Given the rigidities of Spanish immigration law, migrant social networks have an essential role in facilitating women's migration. They provide information and support. I discuss that while sometimes networks facilitate women's migration through the fulfillment of the law, other times they help migrants to circumvent legal procedures in order to migrate. While in this section I discuss the importance of support or benevolent networks, in section 2.2.5 I also examine the presence of non-benevolent or commodified networks.

I divide the interviewees into two groups: those who entered Spain before and after 1985. Elena, Daisy, Marina, and Viviana arrived in Spain on work visas between 1969 and 1977. Concha, Corazón, Adelina, Purísima, and Paulita migrated between 1991 and 2005. Due to low levels of immigration before the 1980s, according to Elena, it was easier to find jobs then. In her case, her cousin found her a job while she was still in the Philippines. She told me that "there were a lot of offers before [1985], and you could change jobs if you did not like one."<sup>280</sup> Marina agreed and explained she found an employer before leaving the Philippines, and once in Spain she was able to change employers a couple of times when she did not feel well treated. Unlike Elena, Marina migrated to Spain using the services of a recruitment agency in the Philippines.<sup>281</sup>

Concha, Corazón, Adelina, Purísima, and Paulita all arrived on work visas after 1985. This fact makes them into the five interviewees who came to Spain following legal

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<sup>280</sup> Interview 2, Barcelona, Elena, November 2006

<sup>281</sup> Interview 15, Barcelona, Marina, February 2007

procedures of “hiring in origin.” After few months of paperwork processing, they arrived in Spain and, with the exception of Purísima, all worked for the employer who had made the job offer. Their employers had offered them a job without, with the exception of Adelina, having ever met them and were willing to wait months until their incorporation into their workplace. I argued earlier that employers of domestic workers are not usually willing to wait for so long or to hire someone they have never met. The fact that nine of my interviewees entered the country the way the law expects them to raise questions on what other factors are involved in the migration process. Given the rigid framework Spanish immigration law imposes, social networks are important facilitators of women’s migration and, in many cases, is what makes it possible.

An analysis of the social networks in which migrant women are inserted is helpful to understand their entry and incorporation into the receiving country<sup>282</sup> (See also Arango 2000; Ribas-Mateos 2004) and to shed light on the transnational social fields they establish (See Glick Schiller 1999; 2008). So far I have introduced *push* and *pull* factors to explain Filipino women migration as domestic workers to Spain and elsewhere. Critical social, political, and economic situations at home have often been the reason behind women’s departure in search for “greener pastures.” The Philippine government has had a crucial role in this process through its institutionalization and promotion of labor migration in the past few decades. At the same time, a need and demand for reproductive workers in Spain, as well as government policies aimed at securing this labor from other countries, has made Spain an increasingly likely and attractive destination for Filipino migrant women.

While it is important to understand how the state and the labor market have contributed to the migration of these women, in order to fully comprehend their stories attention must be paid to the social dynamics of migrant networks. Social networks often manipulate structural and institutional conditions to guarantee the success of a migration project (Parreñas 2001). They both shape individual migration and the way it complies

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<sup>282</sup> In addition, interviewees’ explanations on their network membership shed light during my research on the context in which the migrant decided to leave her country, since they placed the decision at the household and even the extended family levels.

(or not) with the norms the state designs and imposes (See Martínez Veiga 2004). As I moved forward with my fieldwork, I realized that the connections women establish among themselves, as well as with other members of communities both within and across countries, are crucial to understanding the shape their lives as migrants take.

Networks studies, which apply an intermediate- or meso- level of analysis, diverge from those using a structural approach by stressing the importance of agency in the development of migration flows. In so doing, they raise questions that macro level studies cannot answer, such as why migration flows concentrate in particular communities, or why they persist after initial causal factors erode (See Parreñas 2001). Douglas Massey (1999:44) has described migrant networks as “sets of interpersonal ties that connect migrants, former migrants, and non-migrants in origin and destination areas through ties of kinship, friendships, and shared community origins.” According to him, networks increase the likelihood of prospective migrants finding jobs in the country where other network members have previously migrated. Building upon his work, and based on my interviews in Barcelona, I suggest social networks become the transnational channels through which information about the pull factors is transmitted.

Similarly to Massey, Portes and Rumbaut (1996:278) have established that, “the decision to migrate is group mediated and its timing and destination determined largely by the social context of networks established over time.” While Massey emphasizes the role of networks in minimizing risks in the migration process, Portes (2000) has also talked about their function in terms of support: taking care of the weakest, reunifying family, improving education, etc. Recall that Filipino migration to Spain started in considerable numbers in the 1960s and 1970s when small numbers of Filipino women moved to that country to work for their former Spanish employers in the Philippines. Once they established themselves in Spain, they facilitated the arrival of other women from their country (e.g. sisters, cousins, friends, etc.). Personal connections have played an essential role in Filipino women’s migration to Spain and it is important to put this process in a gender perspective. Hanson and Pratt show how, unlike male networks, female migrant networks use their family and friendship connections to obtain jobs.

According to these authors, male networks usually provide jobs through connections forged at the work place (Hanson and Pratt 1991 cited in Martinez Veiga 2004).

In table 6.2 I have listed ways the women I interviewed found the jobs that allowed them to migrate or to regularize their status in Spain.

**TABLE 6.2. Mode of Entry and Access to Migration/Work Contract**

<b>Interviewee</b>	<b>Status upon Arrival</b>	<b>Access to Migration/Work Contract</b>
<b>Lili</b>	Tourist Visa	Legalized through Friend Employer
<b>Elena</b>	Work Visa/Contract	Found Job Offer through Cousin
<b>Daisy</b>	Work Visa/Contract	Found Job Offer through Friend Employer
<b>Concha</b>	Work Visa/Contract	Found Job Offer through Sister
<b>Mari</b>	Family petition	Reunified by her Husband
<b>Teresita</b>	Tourist Visa	Found Job Offer through Filipino friend
<b>Corazón</b>	Work Visa/Contract	Found Job Offer through Aunt
<b>Nelly</b>	Tourist Visa	Found Job Offer through Sister
<b>Adelina</b>	Work Visa/Contract	Found Job Offer through Previous Employer
<b>Purísima</b>	Work Visa/Contract	Found Job Offer through Cousin
<b>Auxilio</b>	Tourist Visa	Found Job Offer through Aunt
<b>Marina</b>	Work Visa/Contract	Found Job Offer through Agency
<b>Delfina</b>	Tourist Visa	Found Job Offer through Agency
<b>Paulita</b>	Work Visa/Contract	Found Job Offer through Sister
<b>Bernarda</b>	Family petition	Reunified by her Husband
<b>Paola</b>	Tourist Visa	Found Job through Cousin/Agency
<b>Viviana</b>	Work Visa/Contract	Found Job Offer through Cousin
<b>Coral</b>	Illegal border crossing	Obtain information about border crossing from Migrant Aunt

**Source: Author's Interviews in Barcelona from November 2006 to March 2007**

Rather than allowing free entry to foreigners who will eventually find jobs, the law establishes a rigid mechanism through which Spanish employers hire foreign workers “from origin.” Although the difficulties and dilemmas involved are numerous, particularly for domestic work, Spanish law makes this as one of its main requirements. Despite this, half of the interviewees in my study were offered work contracts when they were still in the Philippines. Government employees and employers were surprised by the fact that Filipino women seem to be frequently hired “from origin;” it is very rare for domestic workers to find jobs before leaving their home country. They all recognized the

difficulties involved in respecting the law in this regard and were intrigued by the fact that this seems to be working for Filipinas.

A closer examination of these women's trajectories challenges the effectiveness of the law and shows that social networks make it possible to follow the law. Networks build bridges between Spanish employers and potential migrants. Except from Marina, who obtained her job offer through an agency in Manila, the rest of respondents accessed their work contracts through a relative or a friend.

While in Adelina's case it was her previous employers in Kuwait who offered her a job in Spain,<sup>283</sup> the rest of the interviewees "hired from origin" found work through sisters, aunts, and cousins already working in Spain. The stories they told during the interviews show their family networks were decisive in providing information about job availability and help navigating the bureaucratic system. Networks also offered financial support to help pay for flight tickets and paper processing in the Philippines. In addition, it was the relatives, who were already working as domestic workers, who provided the connections with future employers.

Concha's decision to go to Spain was connected with the fact that her sister had been a domestic worker in Barcelona for 15 years. When her sister was about to change jobs she asked her employer to offer her old job to Concha, who was still in the Philippines. Since the employer was happy with Concha's sister's work, she agreed to sponsor Concha through a work contract.<sup>284</sup>

Family connections were also crucial to Corazón's migration to Spain. Due to her low salary as a teacher in the Philippines, Corazón decided to migrate overseas to help support her parents and pay for her mother's medical bills. While she initially intended to migrate within Asia to stay as close as possible to her country, the fact that her aunt had migrated to Spain decades before became the decisive factor:

At first I was not expecting to come here. First I wanted to go to Hong Kong because I wanted to go to an Asian country, near to our country... But my mom did no allow me to go there. She told me: 'if you go there you have no relatives, and if

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<sup>283</sup> Interview 12, Barcelona, Adelina, February 2007

<sup>284</sup> Interview 4, Barcelona, Concha, December 2006

something happens to you it's very difficult... you are alone, and this is your first time to go there. You have no experience, you have no knowledge about that country, so it's very high risk for you.' She told me: 'if you really want to go abroad, why not Spain? Because in Spain you have your auntie. She is the one who can help you if something happens, she is your auntie, she can help you...' So I decided to come here.<sup>285</sup>

Upon her move to Spain, Corazón moved with her auntie, who was retired. Besides the emotional support, Corazón's aunt provided other kinds of help. Corazón's decision to leave the Philippines coincided with her aunt's retirement. As a result, her aunt talked to her employers to sponsor Corazón through a work visa so that her niece would replace her. She also paid for her flight ticket and other travel expenses.<sup>286</sup>

Concha and Corazón's stories illustrate the importance of networks for Filipino women's migration experience. It is these networks, which, given the rigid and unrealistic legal mechanism of entering Spain, allowed these women to fulfill the requirements of the law. Where the law assumes an instant transfer of information between sending countries and Spain, where employers are expected to hire workers they have never met and who live thousands of miles away, it is these family and friendship networks that transfer information in both ways. Filipino women find out about existing jobs in Spain and Spanish employers find out about the availability and reliability of a worker, as Paulita's experiences illustrates:

[I came here] because my sister's employers' relatives needed another *chica*, and they asked my sister if she had any friend who was interested. [M]y sister told them she had a sister in the Philippines. *Los señores* were interested and then I came with an *oferta de trabajo* (job offer). My sister called me in October. She told me, you can get a passport... etc, the papers that I need, and then... October I get my passport and then the month of March I get my visa. I came here in April.<sup>287</sup>

Given the intimacy involved in domestic and care work, employers feel more comfortable hiring a woman for whom they can obtain reliable references. The centrality of personal connections and references is revealed by the fact that these employers are

<sup>285</sup> Interview 8, Barcelona, Corazón, January 2007

<sup>286</sup> Interview 8, Barcelona, Corazón, January

<sup>287</sup> Interview 20, Barcelona, Paulita, March 2007

willing to wait for the several months that it takes to obtain a work visa. Networks also provide moral and financial support for migrants.

While the examples provided above illustrate the role of networks in supporting the fulfillment of legal requirements, the presence of relatives or friends may, on the contrary, contribute to circumvent the law. These cases shed light on networks acting to obtain a *firma de favor* which, although illegal, works to allow legal entry into the country. I found evidence throughout my fieldwork that Filipinas in Barcelona often convince their employers or other acquaintances to sponsor a Filipina to immigrate to Spain as a domestic worker. Since the signature is often just a *firma de favor*, the woman is on “her own” once in Spain, and becomes responsible to find an employer and/or make the social security contributions.<sup>288</sup>

As discussed in section 2.2.1, in other situations the presence of networks does not guarantee a job offer prior to the woman’s departure from the Philippines but it is still important to eventually find jobs and achieve legal status. This was the case for most interviewees who had entered Spain on tourist visas. Despite Lili, Teresita, Nelly, Auxilio, and Delfina did not manage to find a work contract that would allow them to legally migrate to Spain, the support of relatives, friends, and community members allowed them, by circumventing the law, to eventually achieve legal status.

I have already discussed Teresita’s access to a fake work contract through her priest friend’s friend. Once the papers were processed she went back to the Philippines and pretended the job offer was made when she was still in her country. While Nelly also entered Spain on a tourist visa, she found her initial job through her sister, and managed eventually to legalize her situation. The importance of networks in all these cases is that, although these women entered on tourist visas, their networks helped them find jobs which eventually would make their legalization possible. In this context, networks shed light on the contradictions that the rigidity and instrumentality of the law pose, and open up opportunities that a strict fulfillment of the law would make impossible. Women, with their friends’ and relatives’ help, eventually legalized not because of the law, but despite

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<sup>288</sup> Field notes, Barcelona, July 2007

it. Ironically, it was the support of their social networks in circumventing the law what allowed them to become legal.

Government employees acknowledged the lack of correspondence between law and reality. Yet, they still said that, although migration flows do not respond to the scenario the law envisions, the principles of “hires from origin” and strictly labor migration need to be maintained. Even if the government knows about this lack of correspondence between immigration law and immigration reality, it still needs to send a message of the necessity for orderly and strictly legal migration.<sup>289</sup> Migrant networks are crucial to both make migration flows fit into the labor migration scenario the government envisions or to manipulate the norms to at least resemble that scenario.

### **2.2.3. Entering as Relatives**

Focused on labor migration, the *Ley de Extranjería* did not provide family reunification rights, since they are connected with permanent migration and involve integration. Although Spanish immigration law currently conserves much of its initial labor emphasis, in the past decade family reunification provisions have been liberalized. This has allowed many immigrant workers who initially came alone to bring their spouses and children, and the government predicts that family reunification will geometrically multiply in the next years. In this section I examine how family reunification has shaped the Filipino community in Spain. I suggest that narrow legal definitions of who is family, the intimate relationship between family migration and labor, and the dependency between the petitioner and the petitioned that the law creates act all as deterrents to use this mechanism to help family members migrate. Filipino women in Barcelona, as I explain, have found other ways to reunify their families.

Bernarda, a 30-year old permanent resident, arrived in Spain in 1997. Unlike most of the other interviewees, she was petitioned by her husband. Bernarda’s husband grew up in the Philippines, where they met and became a couple. His mother had left for Spain when he was still a child. Before he turned 18 his mother was able to sponsor him on a family visa, and he left for Spain. Two years later, after he obtained Spanish citizenship,

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<sup>289</sup> Interview 25, Barcelona, Government Employee, March 2007.

we went back to the Philippines to marry Bernarda and petitioned her as his wife. They have had two children since then, and the four of them live in an apartment they bought in downtown Barcelona. Like most Filipino men that I met, he works in a restaurant and Bernarda, after years of working as a live-in domestic worker, cleans in a house a few hours a week. The only relatives she has in Spain are, besides her husband and children, her mother and brothers-in-law.

Mari was also petitioned by her husband, who got a job offer in Spain through his brother in 2000. By the time I interviewed her she was 27 and had been in Spain only few months. They have a baby boy, who stayed in the Philippines, with her parents. Her husband also works in a restaurant and they plan to save to be able to bring their child to Spain within the next few years. The chain of migration that took Bernarda and Mari to Spain originated with work and eventually led to family migration.

A family petitioner is the migrant who is already in Spain and applies for a visa in order to bring a relative from their home country. Overall, family reunification in Spain currently includes more male petitioners than women. This makes sense since initial migration to Spain was predominantly male in most national groups (Mestre 1999).<sup>290</sup> In fact, during my interview with the director of the family reunification office in Barcelona, she repeatedly used the term “wife” instead of “spouse” when referring to the person being petitioned.<sup>291</sup> This illustrates how most petitioners tend to be male and, conversely, most petitioned relatives tend to be women. While Mari and Bernarda fit this model, theirs is not the most common situation in the Filipino community. Given its accentuated feminine character, as well as the still predominant availability of domestic work jobs, Filipino women have been the main family petitioners into Spain within their community. As the government employee acknowledged, “Filipino women reunify. They come first and then they bring their husband.”<sup>292</sup> Although the tourism sector, as well as family

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<sup>290</sup> In the particular context of Catalunya, in 2007 51.7% of the petitioners were men and 48.28% women. This does not necessarily mean that all men petitioners petitioned a woman (spouse), since in many cases they did so as family heads petitioning the couple’s children.

<sup>291</sup> Interview 18, Barcelona, Government Employee, February 2007

<sup>292</sup> Interview 18, Barcelona, Government Employee, February 2007

reunification, is bringing more and more Filipino men to Barcelona, it is common to find women in the position of the initial migrant who promotes further migration, either through family reunification or labor mechanisms. For example, Paulita petitioned her husband in 2005. As I said, Mari hopes to petition her child in few years and Purisima would like to petition her husband when she gets a stable job.

Spanish family reunification both resembles and contrasts with U.S. immigration policy. One divergence is that U.S. family provisions are more generous than those in Spanish immigration law. While family reunification was predominant among my interviewees in San Francisco, work migration was more common among interviewees in Barcelona. This does not necessarily mean Filipinas migrating to Spain conduct less family migration than their counterparts in the U.S. but rather that, due to the limitations Spanish family reunification policy imposes, Filipinas there often use work migration mechanisms to reunite their families. Let us see what some of these limitations are.

### **2.2.3.1. Difficulties to Work and Dependency on Petitioner**

One of the main characteristics of family reunification provisions in Spain since 1996 has been that the relative being petitioned is not granted a work permit upon arrival in Spain. Feminist scholars have criticized this because the petitioned relative becomes dependent on his/her sponsor (Mestre 1999). Until 2003 petitioned relatives only obtained residence permits during their first two years in Spain.<sup>293</sup> The renovation of the residence permit, as well as the allocation of a work permit, was conditional on the continuation of the marriage. In addition, the legal status of the person being petitioned was, for the first two years, dependent on the legal status of their petitioner. Given that most petitioners are men, this created legal and financial dependence of women on their husbands and made it difficult for them in cases of domestic violence.

Since 2003 petitioned relatives are technically authorized to work upon arrival in Spain. Nevertheless, the residence permit they obtain for the first year does not include a work permit. If the petitioned person finds a job, she/he, can apply for a work permit. The processing of this work permit, however, can take few months. According to my

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<sup>293</sup> Meaning that they did not obtain a work permit.

interviewees, many Filipinos do not know they could actually get a work permit during their first year in Spain. In addition, not many employers are willing to wait for months until the person can begin. One Centro Filipino leader explained this is one of the main challenges the Filipino community currently faces in Barcelona. Although the law says the petitioned spouse can already work in his/her first year, it actually makes it difficult for them to do so until they renew their residence permit and automatically get a work permit. This leads to difficulties for petitioned relatives to find jobs and their frequent resort to working illegally in the underground economy. This has been Mari's case. Months after her arrival in Spain, she had only managed to work under the table cleaning a house a couple of hours a week. When I asked her why did not she get a full time job, she showed me her residence permit and, pointing to the line that said she was not authorized to work, she exclaimed. "no trabaho!"<sup>294</sup> Consequently, Mari was, for the most part, dependent on her husband's income.

This provision, however, has a worse impact on Filipino men than women, since there are more of them currently being petitioned by their spouses and they tend to have more difficulty finding jobs than Filipino women. Given the high rates of unemployment among Filipino men, the provision places more pressure on women to become breadwinners. Overall, though, the provision affects the household as a whole. Filipino migrant families, usually positioned in low paying jobs, need both spouses to work in order to make ends meet and send money to their families in the Philippines.

#### **2.2.3.2. Work Is Still a Requisite**

Family reunification responds to different political motivations than labor migration: the right of families to be together versus the need of a particular country for labor. In the case of Spain, however, the two are more connected than one might think. In order for an immigrant residing in Spain to be able to sponsor her family she needs to prove both residence and labor stability. What qualifies an immigrant as an apt family petitioner then is not that she has a family and she should be entitled to be with them, but rather her identity as a stable worker. The immigrant's economic role is, again, the source

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<sup>294</sup> No work!

of rights. Only if immigrants contribute to the “common good” and are not a burden for the Spanish government do they deserve to have a family life in the receiving country.

It is not until the end of a migrant’s first year of legal residence in Spain that she can apply for family reunification. This occurs simultaneously with her application for residence renewal for a second year. Once the residence permit is approved, the family reunification application is automatically validated. Besides a residence permit and a work contract, the petitioner is also expected to provide evidence of her past three payrolls and social security contributions. These prove her work stability. While the law does not establish a minimum income for authorization of reunification, Spanish minimum wage is usually the low threshold. In addition, a migrant is expected to prove her access to proper housing for her incoming family (i.e. square meters, rental lease or ownership title, utilities, etc).

These three requirements (i.e. work contract or work stability, minimum income, and proper housing) result in indirect discrimination of immigrant women working in the domestic sector, including Filipinas, and makes family reunification particularly difficult for domestic workers in Spain since, 1) they sometimes do not have a written work contract and their job is not usually characterized by stability, 2) they are often paid under the minimum wage, and 3) they cannot prove availability of “decent” housing, since they usually live with their employers or other Filipinas. I suggest that while the law was written in neutral terms, legislators seem to have had the male immigrant model in mind. Family reunification provisions place immigrant women, particularly domestic workers, at disadvantage for becoming apt family petitioners. This disadvantage stems for the intersection of class and gender dynamics that defines their work and immigration conditions.

### **2.2.3.3. Who Constitutes Family?**

As discussed earlier, an important difference between Spanish and U.S. immigration law is that, while the former has been based on labor migration, U.S. immigration law has generous provisions for family reunification. It allows, at least formally, the immigration of various categories of relatives, including members of the

extended family. Conversely, the type of family members eligible for reunification under Spanish immigration law is more limited.

Currently, petitioners can sponsor one spouse and her single children under 18 years old. Interestingly, the government employee in charge of family reunification in the province of Barcelona repeatedly referred to spouse as wife. This substitution is present in some the language of immigration law. This shows to what extent the model of the lone male migrant who eventually reunifies his dependent wife remains in the legal and social imaginaries. Children over 18 can also be petitioned as long as the petitioner proves they are dependent on her/him for care and support. The immigrant can also petition her parents. Only parents above 65 years old are eligible under the current law. The petitioner must prove that she is in a position to support them for the rest of their lives<sup>295</sup> and they are not entitled to any kind of retirement benefits. An immigrant's parents, thus, are allowed entry into the country as long as are dependent on their petitioner and do not become a burden to Spain.<sup>296</sup>

#### **2.2.4. Challenging Official Categorizations**

In this section I discuss the implications narrow legal definitions of family and the work-related requirements for family reunification have for the Filipino community in Barcelona. Given that these requirements pose difficulties on women's ability to reunify their families, I also discuss different ways in which Filipino women challenge official categorizations in order to facilitate their relatives' migration to Spain.

According to Ruth Mestre, family relations are political since their configuration is based upon those relationships which acquire meaning within a particular political context. Family policy toward immigrants is a mirror "of the family model the state is willing to protect (nuclear, heterosexual, monogamous) as well as of the kind of relationships that must be maintained among the members (i.e. subjection, dependency)"

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<sup>295</sup> Interview 18, Barcelona, Government Employee, February 2007

<sup>296</sup> It is worth noting that, since they will have a residence permit, they will be entitled to health services. Thus, the state plans to provide support to incoming elderly, but this is limited to health provision which, in Spain is universal.

(2001:392).<sup>297</sup> The existence of different family arrangements is not recognized by immigration law and the ability to petition one's extended family is limited to the immigrant's dependent parents.<sup>298</sup> The model of the Spanish welfare state in which it is families, rather than the state, who are expected to take care of the elderly, is reproduced in immigration policy.

Given the limitations and conditions family provisions impose, it is not surprising that only a few of my interviewees resorted to it. As Mestre (2001) argues, immigrant women in Spain prefer other mechanisms that, while not officially family related, may make family reunion possible. This is key to understand the migration strategies that I encountered. While they were channeled, for the most part, through work contracts, they had as one of their goals keeping family members together. The fact that Spanish immigration law for the most part sees immigrants only as workers does not mean this is the only way immigrant women perceive themselves.

Teresita's family's migration strategy shows that family goals may be present even when migration happens through labor channels. Since Teresita's arrival to Spain in 1997 she has supported, through work contracts, the migration of three sisters, one brother-in-law, and one-sister-in law. While official records classify them as migrant workers, an in-depth understanding of their motivations for migrating and their family situation sheds light on the complexity of factors behind their migration. With the exception of Teresita, all her siblings have children in the Philippines. Until the arrival of her siblings, Teresita was putting her nieces and nephew through school. Now that their parents have joined her in Barcelona, the "burden" will be more evenly distributed.

What the dynamics of Teresita's family show is that their migration is not only about work. Another goal they have is to reunify members of the family. The migration of Teresita's siblings will likely also result in their children's migration. Another goal is

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<sup>297</sup> Original text in Catalan. My translation.

<sup>298</sup> Despite that gay marriage was legalized in Spain in 2005, this right was limited to Spanish nationals and has not translated into its recognition within Immigration law. Only those gay marriages having taken place in Spain, Holland, Belgium, or Canada qualify for family reunification. Similarly, officially registered domestic partnership does not award family reunification rights. We witness, again, a configuration of the social contract limited only to *members* and built upon the exclusion of *non-members*.

to increase the remittances to the Philippines and to more evenly distribute financial responsibility among family providers. In other words, Teresita's scenario presents labor migration as a way to make an extended family migration project possible. In addition, the more relatives the family has in Spain, the more contributions there are for the extended family in the Philippines. Any attempt to reduce Teresita's family's migration strategy to either familiar or economic is too simplistic. Family networks enhance income generation, and the maximization of the family's income generation supports the transnational family's survival strategies and long term projects (children's education, savings, etc.).

This connection between family and labor migration was also present in other women's stories. During an informal conversation, one recently arrived Filipino woman in Spain explained that she used the work migration mechanism in order to join a relative for personal reasons. She told me the reason she decided to go to Spain was that her sister-in-law had recently been widowed and she needed emotional support from her family. Since the law does not include petition of siblings, she resorted to labor migration to be able to accompany her sister-in-law in Spain and support her in such a difficult moment. Her sister-in-law found a job for her and she entered the country on a work permit. Although she is a college graduate, law school graduate, and completed a master's degree in public administration, she works as a domestic worker and a cleaner in Barcelona.<sup>299</sup> What is relevant in this and Teresita's story is that, while the Spanish state seems to think it can demand the entry of workers only, immigrant women adapt to unrealistic rules in order to pursue non-labor agendas (i.e. to be with their loved ones).

Table 6.3 sheds light on the interviewees' role both as migrants and as facilitators of other people's migration. As the data shows, while a considerable number of them joined and/or were joined by relatives in Spain, for the most part they did not use family reunification. Family, friendship, and community networks have, for the most part, used labor mechanisms to allow for their relatives' migration.

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<sup>299</sup> Field notes, Barcelona, March 2008

**TABLE 6.3. Previous Networks, Mode of Entry, and Agency and Contribution to Further Family Migration**

Interviewee	Previous Relatives	Mode of Entry	Posterior Relatives	Mode of Entry	Legalization
Lili	None	Tourist Visa	None	N/A	N/A
Elena	Cousin	Work Visa/Contract	None	N/A	N/A
Daisy	None	Work Visa/Contract	Sister	Work Visa	Work Contract
Concha	Sister	Work Visa/Contract	Niece	Tourist Visa	Work Contract
Mari	Husband	Family petition	None	N/A	N/A
Teresita	Friends	Tourist Visa	Sister/Sister in Law	Work Visa	Work Contract
Corazón	Aunt	Work Visa/Contract	None	N/A	N/A
Nelly	Sister	Tourist Visa	Daughter	Work Visa	Work Contract
Adelina	Employer	Work Visa/Contract	Sister/Cousin	Work Visa	Work Contract
Purísima	Cousin	Work Visa/Contract	None	N/A	N/A
Auxilio	Aunt	Tourist Visa	None	N/A	N/A
Marina	Employer	Work Visa/Contract	None	N/A	N/A
Delfina	None	Tourist Visa	Niece	Work Visa	Work Contract
Paulita	Sister	Work Visa/Contract	Husband/Niece	Family Reunion/Work Visa	Family Reunion/Work Contract
Bernarda	Husband	Family petition	None	N/A	N/A
Paola	Employer	Tourist Visa	Two Nieces	Work Visa	Work Contract
Viviana	Friends	Work Visa/Contract	None	N/A	N/A
Coral	Aunt	Illegal border crossing	None	N/A	N/A

Source: Author's Interviews in Barcelona from November 2006 to March 2007

Table 6.3 indicates that only three of the interviewees, Lili, Daisy, and Delfina, migrated to Spain without using family or friendship networks. They arrived in Spain between 1969 and 1978, which places them among the pioneer migrants and most likely explains the lack of contacts in the country.

Six of the interviewees who entered Spain on work visas migrated as a result of the presence of relatives or close friends in the country.<sup>300</sup> None of these women, however, entered the country through family reunification channels. Teresita and Viviana's networks in Spain were friends rather than relatives.

<sup>300</sup> There are four other interviewees who also joined relatives upon their arrival in Spain but who, rather than entering on a work visa, used tourist visas or crossed the border illegally. In their case, the difficulties imposed by the law were increased by their network members' inability to provide them with a work contract previous to their arrival. As I have discussed, however, they did so after their entry. Interestingly, there are only two interviewees who entered Spain through family reunification channels: Mari and Bernarda. As discussed, their migration is an outcome from initial women laborers who eventually petitioned their sons. It was these women's sons- the interviewees' husbands- who petitioned them. The fact that the two only reunified interviewees were petitioned by their husbands places them into the masculine model mentioned above, where it is the male worker reunifying his wife and possibly children. I suggest that the fact that both of her husbands work in restaurants, with formal work contracts and higher incomes than in the domestic work sector increased the likelihood that the petition was successful.

The other four cases illustrate the difficulties stemming from legal narrow definitions of family within family reunification provisions, which made them migrate under labor rather than family mechanisms. Elena, Concha, Corazón, and Paulita joined their cousin, sister, aunt, and sister respectively. Family reunification provisions are limited to spouse, under-age and dependent children, and dependent parents. Regardless of the closeness between the migrant and her network -e.g. belonging to the same household and/or the same family's migration/survival project- the fact that the formal kinship ties linking them are not recognized by the law, rendered family reunification impossible. This raises issues on the definition of family that the Spanish government establishes and its disregard for other/non-western definitions.<sup>301</sup>

Interviewees' entry mechanisms show only two used formal family reunification channels being petitioned as wives. However, Table 6.3 shows that 7 of them have supported the immigration of relatives. These include, sisters, nieces, sisters-in-law, a daughter, cousins, and a husband. With the exception of the latter, the rest have all used work contracts and tourist visas. That I found only one case of formal family reunification does not necessarily mean Filipino women in Spain do not plan to reunify their families, but it becomes necessary to understand their own concepts of family, and their particular family situations. Once we contrast these concepts and situations with family definitions included in the law, some differences appear between them, which undoubtedly affect the strategies the women follow.

Filipino women whose relatives do not fall into the categories the law includes cannot reunify them following family reunification procedures. In addition, even when their relatives qualify as apt for family reunification, the women's material conditions in Spain make family reunification difficult. In Table 6.4 I specify the marital status of each interviewee, the existence or not of children, and whether the children are currently in

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<sup>301</sup> During my informal conversations with Filipino women at Centro Filipino, different conceptualizations of what constitutes a family member became obvious. For example, one day, when Paola was telling me about the relatives she had back in the Philippines, she mentioned multiple grandchildren. I was surprised, since I knew that Paola's only child is 9 years old and lives in Barcelona with her and her husband. When I mentioned this fact, she started laughing and clarified that she referred to her brothers and sisters' grandchildren. She explained that in the context of the Philippines, they are like their own grandchildren, and added "but you Spaniards don't call it anything" (Fieldnotes, Barcelona, March 2008).

Spain or in the Philippines. In addition, I also specify whether the children are adult or not and whether they were born in Spain or in the Philippines. These two distinctions have important consequences in the use of family reunification for migrants.

**TABLE 6.4. Marital Status, Existence and Location of Children**

Interviewee	Marital Status	Children	Currently in Spain	Currently in Philippines
Lili	Separated	Yes	X * #	
Elena	Single	No		
Daisy	Married	Yes	X * #	
Concha	Single	No		
Mari	Married	Yes		X
Teresita	Single	No		
Corazón	Single	No		
Nelly	Single	Yes	X #	
Adelina	Single	No		
Purísima	Married	Yes		X #
Auxilio	Single	No		
Marina	Widow	Yes		X #
Delfina	Single	No		
Paulita	Married	Yes	X *	
Bernarda	Married	Yes	X *	
Paola	Married	Yes	X *	
Viviana	Single	No		
Coral	Single	Yes	X *	

**Source: Author's Interviews in Barcelona from November 2006 to March 2007**

\* Children Born in Spain

# Adult Children

As the table shows, ten of the interviewees are single with no children and are part of what Parreñas has called single “adult child(ren) abroad transnational households” (2001: 99). This includes families whose migration responsibility has fallen on a single adult child, usually a woman. Adelina, for example, responded the following when I inquired about her relationship with her family back in the Philippines:

I don't have family, I don't have my own family, but I am supporting I don't know how many families in my own family. I am sending four nieces to university. I am also supporting my sister, who has had a postpartum depression for two years already, and the other one who is almost paralyzed, and the other one who had the lung problem, the same problem that my mom had, and the other daughter of my brother that I am helping to send to a private high school. I am supporting like ten people.<sup>302</sup>

Single women like Adelina are often in charge of supporting their parents as well as siblings, nephews, and nieces.<sup>303</sup> They do so by paying for medicines, hospital bills, education, everyday expenses, etc. The fact that they are single and have no kids<sup>304</sup> means that, with the exception of their parents, there are no other family members whom Spanish law allows them to petition. None has petitioned their parents, though, and this makes sense in a context where the petition of parents usually happens in situations in which women need free child care to be able to work outside of the home.<sup>305</sup> Despite being single, their decision to migrate was part of a larger extended family decision when it became necessary for at least one family member to migrate to provide for the rest. During my interviews, these women commented that they arrived in Spain while still young. However, they have had to “work, work, and work,” and had no time left for other things, including creating a family.<sup>306</sup> There is an irony here. While they prioritized the well being of their extended family over the creation of their nuclear family, current legislation on family reunion does not recognize the family links that have been the most relevant in their lives, such as their siblings, nieces, or nephews, and condemns these women, due to its limited definition of family, to remain separated from their loved ones. It is a lose-lose situation: women giving up their individual project of creating a nuclear

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<sup>302</sup> Interview 12, Barcelona, Adelina, February 2007

<sup>303</sup> For instance, both Purisima and Concha reported that they had quit school at young age to work in order to support their brothers' attendance to university. They were the ones designed by their families to support their siblings, usually male, higher education. Thus, this responsibility to support the larger extended family can start in the Philippines at young age.

<sup>304</sup> With the exception of Coral and Nelly.

<sup>305</sup> It probably makes sense to treat Auxilio and Corazón as separate cases for two reasons: One, their age: both of them were 26 at the time of the interview. And two, their recent arrival to Spain: 2006 in both cases. Both them declared to have boyfriends in the Philippines. Their relative young age and recent migration experience leave them with time to have children and strategize in terms of family reunification.

<sup>306</sup> Interview 6, Barcelona, Teresita, December 2006

family for the sake of providing for the extended family members. Since the latter, according to Spanish law, *are no family*, these women are left with no one with whom reunify or, in other words, with no family in Spain at all. Given the lack of opportunities to migrate through family reunification channels, as Teresita's story illustrated earlier, work permits become virtually the only viable way to bring siblings, nephews and nieces.

Conforming to certain family models helps. Apparently, only those choosing the standard Western, nuclear, heterosexual family "format," are entitled to have family lives without an Ocean dividing them. This, however, does not go without limitations. Daisy, Paulita, Bernarda, and Paola are married and have children. While Paulita, as I just explained, recently petitioned her husband, and Bernarda was petitioned by her spouse, Daisy and Paola met their husbands after they were already in Spain. The four of them have children who were born in Spain, so reunification is not an issue. However, the same is not the case for Mari, Purísima, and Marina. Marina is 74 years old and arrived in Spain in 1977. She has 9 adult children who, except for one daughter who migrated to Japan as an entertainer worker, live in the Philippines. Her husband died a few years ago, and she has over 20 grandchildren. When I asked why she never petitioned her husband when he was still alive and her children when they were young she answered she had always worked as *fija* (live-in) and she never had enough money to support them in Spain. Marina has spent over 30 years far away from her family and during those years she became a widow. She could not go back because the family needed her income, and they could not join her in Spain because of her inability to support them there and the lack of jobs for Filipino men in Barcelona.

Purísima and Mari arrived in Barcelona in 2004 and 2006 respectively. Mari's child is in the Philippines with her parents. She and her husband plan to work for several years before they petition him. They are currently living in a small apartment with three other Filipinos also working as domestic workers and plan to save to get a place for their own family. In their case, while the law formally allows them to have their child with them in Spain, the conditions in the labor market, in which Mari has difficulties finding a stable job and where a great percentage of their income goes toward their child's and parents'

expenses in the Philippines, do not allow them to live as a family in the receiving country.

Coral is a single mother who arrived in Spain in the late 1980s. Due to her initial undocumented status and her difficulties in finding a stable job, she could not keep her daughter with her in Spain:

My daughter was born here [in Spain], but when she was 5 I sent her [to the Philippines], because I became jobless, the lady I was working for had no money to pay me, and due to my situation, my aunt decided and said, ‘for now, let’s take Patricia to the Philippines so you can work well, and in the meanwhile she is there,’ and my parents were happy to have my daughter. She came back when she was 12 and now she is 16.<sup>307</sup>

Coral’s “care strategy” resembles Mari’s in the sense that both chose to leave their child with their parents in the Philippines for a period of time. Coral’s case does not involve the use of family reunification mechanisms because her daughter was born in Spain. However, her case represents the stories of many Filipino women who, due to vulnerable immigration and labor situations, cannot afford having their children with them in Spain because “everything about having the children here is very expensive.”<sup>308</sup> Both decided to leave or return their children in their home country at the beginning of their migration trajectory and when their children were still young.

None of my interviewees have petitioned their parents and they do not plan to do so. However, one of the leaders at Centro Filipino explained it is becoming increasingly common for Filipino women in Barcelona to petition their parents, particularly their mothers, to obtain help with the care of the children and the home. In other words, while relying on the care the extended family can provide in the home country is one well documented strategy (Parreñas 2001; 2005a; 2005b), another is to petition a relative to have childcare help in the receiving country.<sup>309</sup> Although women cannot obtain any

<sup>307</sup> Interview 26, Barcelona, Coral, March 2007

<sup>308</sup> Interview 5, Barcelona, Mari, December 2006

<sup>309</sup> According to an article published in the newspaper *Público*, 85% of immigrant women in Spain work in domestic service. The schedules and the long hours make it really difficult for them to take care of their own children. As a matter of fact, the article established childcare as the main problem that immigrant women face to find jobs. The absence of the extended family to provide free childcare worsens this

economic benefit from the presence of their mothers in Spain in the form of additional income, since these are not allowed to work, their mothers support them taking care of their children while they are outside of the home doing paid reproductive work for other families. This is usually a temporary strategy, and the mother eventually returns to the Philippines when the children grow up.<sup>310</sup>

### 2.2.5. The Commodification of Immigrant Networks

In previous sections I explained the crucial role immigrant networks have in facilitating Filipino women's legal, illegal, labor, and family migration to Spain. Networks have been the key sites through which information, emotional and financial support, references, and trust were transmitted and shared. Networks, however, are not always benevolent. Other dynamics need to be taken into consideration to avoid the romanticization of the Filipino migrant community in Barcelona (See Mahler 1995; Parreñas 2001). Mahler (1995) has shown that labor segregation and competition for limited resources often result in anomie rather than solidarity within a particular immigrant group. This prevents the development of benevolent immigrant networks and triggers competition among or within them. Parreñas argues that anomie exists alongside solidarity. Along with Parreñas, I found non-benevolent networks within the Filipino community in Barcelona, which help understand the complexity of social relations among Filipinos and the forces behind many Filipino women's migration.

Both kinds of networks coexist within the community. During interviews with government employees they explained that they usually find three scenarios in which employers' petition immigrant workers. The first motivation would be to cover a work vacancy. The second would be to volunteer to sign the paperwork in order to help legalize someone who is already in Spain or *firma de favor*. The Filipino women's stories introduced so far illustrate both scenarios. According to these civil servants' explanations, however, there is a third motivation: "We run into a third group of people

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problem, since, according to the author, immigrant women often end up taking two or three jobs in order to pay for private childcare. Hualde, Marta, "Madre y extranjera, dos baches para el Mercado laboral", *Público*, May 4, 2008.

<sup>310</sup> Field notes, Barcelona, March 2008

who offer jobs to foreigners in order to make money. And this would include trafficking.”<sup>311</sup> This statement reveals that both individuals and agencies conduct the allocation of work offers and contracts as a profit-making activity. Migrants who do not have access to the benevolent support of family and friendship networks often need to resort to other kinds of commodified and commodifying networks.

I found two types of commodifying networks during my research in Spain. The first type consists of individuals charging for work offers that will allow for legalization, the second type corresponds to agencies conducting more conventional types of illegal recruitment and trafficking.

The findings in my research among Filipino women in Barcelona pointing to the existence of these practices are not numerous. However, this does not mean that such practices do not exist. Similarly to Filipinos in the United States, Filipinos in Barcelona were quite reluctant to talk about any incurred act of illegality. In addition, I suspect that the limited mention of these kinds of mechanisms in my research may respond to a sampling bias. In order to undertake my interviews with Filipino domestic workers in Barcelona I used snowball sampling. However, my initial contacts were at the Centro Filipino, the main Filipino migrants’ organization in Barcelona. As one of the main leaders of Centro Filipino told me, most members of the organization have arrived at Spain through benevolent family networks. Most of my interviewees belonged to the Centro. In addition, I suspect there was also a tendency to show the most favorable aspects of the community and cover the more shameful ones.

During informal conversations with Filipino women, I learned of the existence of Filipino domestic workers in Barcelona who look for job offers as a sideline activity. In other words, through their networks in the Filipino community and their connections with Spanish employers, they allocate employers willing to sponsor Filipino migrants through work offers. Raquel told me while we were having *merienda*<sup>312</sup> at her house that back in the early 1980s her cousin, in addition to her job as a cashier in an entertainment center,

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<sup>311</sup> Interview 24, Barcelona, Government Employee, March 2007

<sup>312</sup> Mid-afternoon snack

charged Filipinos for finding them an employer. Sometimes the job offer did exist and other times it was a *firma de favor* for which Raquel's cousin would be paid for acting as an intermediary. She said such activities have continued and become more predominant throughout time. Currently it can take between \$7000 to \$10,000 to obtain a job offer through an intermediary in the community.<sup>313</sup> One of the leaders at the Centro Filipino told me of a previous domestic worker who currently charges \$7000 to find jobs for Filipinos who want to "petition" family members through a work contract. The intermediary's task is to find the work and facilitate the reunification.<sup>314</sup> According to Raquel, in other cases the charges are "as low" as \$1,500 and one can even find people who will do it almost for free.<sup>315</sup>

If we compare the charge of \$1,500 to that of \$8,000 the former may actually seem reasonable. Both, however, are large amounts of money for immigrant (and non immigrant) workers in Spain. The existence of individuals charging such high amounts of money needs to be related, again, to the rigidities immigration law imposes. Given the difficulties in accessing the country in a legal manner, migrants activate non-benevolent and quite expensive networks to obtain a job offer and therefore achieve legal entry. Given the popularity of Spain as destination country among Filipinos, according to a government employee in Manila, "potential migrants will pay and do anything to get there."<sup>316</sup>

Overall, strict migration controls, rather than stopping the arrival of people, just divert their access and concentrate it in expensive, illegal, and often dangerous venues. An organized international business makes profit by "helping" migrants avoid strict migration controls. Coral entered Spain clandestinely in 1989. She paid a Philippine "travel agency" \$4,000 to process her papers and obtain a tourist visa. She thought she was going to arrive by plane, and was surprised when she and the 14 other Filipinos she was traveling with were taken to Portugal and had to cross the border at night:

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<sup>313</sup> Interview 28, Barcelona, Raquel, March 2008

<sup>314</sup> Field notes, Barcelona, April 2008

<sup>315</sup> Interview 28, Barcelona, Raquel, March 2008

<sup>316</sup> Interview 2, Philippines, Government Employee, April 2007

We were in Lisbon, and they put us in taxis. There were 14 of us, so they put four in each taxi... we did not eat anything for three days... I thought I had a visa for Spain, but the visa was only for Portugal. We had to wait in a hotel for three days, without eating, and they told us not to take any luggage, because we would have to walk and run... I was really scared and anguished...<sup>317</sup>

Coral's case illustrates the existence of "travel agencies" in the Philippines that charge vast amounts of money to "facilitate" entry to Spain and many other countries. Her testimony shows she was not given the information about the hardships the trip would involve. She was not even aware the entry would be clandestine.

Other migrants have been victims of illegal practices resembling human trafficking. In 2000 the United Nations adopted the Palermo Protocol to prevent, suppress, and punish the trafficking of persons. Article 3 of the Protocol provides the first internationally agreed definition of trafficking in persons, and this includes:

[T]he recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" (Garcés-Mascreñas and Doomernik 2007:6).

Conversations with leaders at the Centro Filipino illuminate the existence of several cases of Filipino women involving deception and illegal recruitment practices. Bárbara was 41 years old when she left the Philippines in May 2007 and has resided in Spain in legal limbo since then. Despite the regulations the 2007 Household Service Workers Reform Package introduced, Bárbara had to pay an exorbitant placement fee, among other illegal and abusive fees, which she committed to paying through salary deduction.

Bárbara became indebted even before leaving for Spain, since she took out a loan from her recruitment and training agency in order to pay all the fees. She left for Spain hoping to obtain permanent residence and eventually bring her family to live with her.

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<sup>317</sup> Interview 26, Barcelona, Coral, March 2007

Supposedly the agency in the Philippines provided her with all the necessary documentation, and in May 2007 she travelled to Madrid with six other women. Upon arrival in Madrid a man was waiting for them at the airport and asked for the money and documentation the Philippine agency sent with the migrants. She was then taken to Sevilla to her employers' house. She was asked to start working as soon as she got there, and despite the fact that her POEA contract stated she was entitled to two days off a week, she was told that she would only have one day off a week and was expected to work from 8am to midnight. After a little over a week, without her knowing the reason, one of the representatives of the agency in Spain sent her to Barcelona. One year after her arrival in Spain, Bárbara has not been able to find a stable job and regularize her situation. She has asked for help at the Centro Filipino and the Philippine Embassy in Madrid, but nothing has happened so far. She has been doing illegal, badly paid jobs and is unable to pay for her debts. While the labor office at the Philippine Embassy has been trying to address her case, it is still pending.

Despite the large amounts of money she paid to obtain a job in Spain, for some reason she ignores, she lost her job and has found herself officially jobless and, therefore, undocumented, for almost a year. The only way she could legalize her situation would be to find another employer, go back to the Philippines, and start the process all over again.<sup>318</sup> Remaining in Spain as an undocumented worker puts her in a vulnerable position and prone to poverty and exploitation. Her situation is the result of the kind of deception Philippine recruiters often use (See Varia 2007). The generalization of illegal recruitment practices in the Philippines runs parallel, in this case, to the restrictive nature of Spanish immigration law. Bárbara's case sheds light on the existence of large, organized, illegal recruitment agencies that make large profits off women's migration. While illegal recruitment, often results in legal work and residence, in Barbara's case it led to legal and financial vulnerability. An immigration law that requires an immigrant to either have a work contract or be related to someone with one triggers this kind of situation. Severe immigration restrictions also foster the creation of organized illegal

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<sup>318</sup> Interview 7, Barcelona, Union Representative, November 2006

smuggling and migration and the enrichment of intermediaries. These generate further undocumented migration, which is exactly what a strict immigration law tries to prevent to begin with.<sup>319</sup> In sum, string immigration controls, and the networks these contribute to create, result in the creation of legally weak subjects who, once they make it to the receiving country will probably do anything to be able to stay.

### **3. Filipino Women's Migration to the United States Today**

My interviews with Filipina and Filipino migrants in the San Francisco Bay Area show Filipinas tend to be concentrated in reproductive work positions. While they have a predominant presence in the domestic work sector all over the world, including Spain, they do not typically fill this niche in the United States. According to Hondagneu-Sotelo (2001), there are not many Filipinas who are strictly housekeepers, and they are often preferred as nannies or elderly carers. According to the 2000 Census, in California alone 9,685 Filipinas work in personal care and service occupations. This figure is conservative, since it does not include undocumented workers in this sector. Many Filipino caregivers are college educated and were professionals in their own country. Given the difficulties finding jobs commensurate to their training, they often become care providers for the elderly and children. They occupy, according to Hondagneu-Sotelo, a privileged position within the reproductive labor sector, since they tend to do caregiving versus housekeeping work and usually earn more than Central American or Mexican women. This differentiation shows racial distinctions within an already racially segregated labor market, but does not change the fact Filipino women concentrate in a low skills, poorly paid, underregulated work sector. While a strong presence of Filipino women in caregiving positions presents a contrast with their counterparts in Spain, I consider both occupations to belong to reproductive work and therefore comparable in terms of legal and work conditions. This comparability will help, I think, to reach a better understanding on the impact of immigration and labor laws on Filipino women in both countries.

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<sup>319</sup> Interview 7, Barcelona, Union Representative, November 2005

In spite of the growing need for reproductive and health workers in the United States, there is no program within U.S. immigration policy that regulates the entry of non U.S. reproductive workers. Despite this absence, given the high rates of Filipino migration to the U.S. and the remarkable presence of Filipinas in the care giving sector, it is reasonable to affirm that a transfer of reproductive workers from the Philippines (and other countries) into U.S. soil is currently taking place.

My goal here is to elucidate the role that the U.S. government has in this process through immigration policy or how is immigration policy shaping this transfer. My research shows that Filipinas are occupying comparable positions in the U.S. and Spanish labor markets. However, a different conceptualization of immigration law and a different history of the Philippines vis-à-vis these two countries, results in different dynamics: while Spanish immigration law has been organized around the notion of *needed labor*, this has not been the case in the U.S. Although family migration is losing ground in U.S. immigration law, it is still, at least formally, at its core. Most of my interviewees in San Francisco used this mechanism to enter the country. Although Filipino women often end up conducting the (remunerated) reproductive tasks U.S. society needs, they do not usually enter the country officially as *laborers* but rather as *family members*. This grants them a more stable legal status than their counterparts in Spain. Family reunification in the U.S., nevertheless, presents some grave problems, and these often force women to resort to other strategies to enter the country.

Given the importance of family migration for my interviewees in San Francisco, I organize my discussion of Filipino women in the United States somewhat differently than I did in the sections on Spain. Due to the different nature of U.S. and Spanish immigration law, family support networks have been used differently than in Spain. My discussion is organized according to the ways my interviewees used these networks. The organization highlights the differences with the way women in Barcelona used these networks.

### 3.1. Entering as Relatives: How Long Will It Take?

Since 1965, the main official entry channel for Filipinos into the United States has been family reunification (De Jesus 2005; DeJong, Davis, and Abad 1986). This has triggered an accentuated growth of the Filipino community in many areas of the United States. Although the 1965 Act eliminated nationally and racially discriminatory quotas, because the number of Asians had been so small up to the 1960s, the proponents of the Act never expected such a growth in the Asian population in the United States (See Ancheta 1998; Ong Hing 1993; 2004; Ong and Liu 2000).

Table 6.5 shows the importance of family reunification among the Filipino reproductive workers I interviewed in the San Francisco Bay Area:

**TABLE 6.5. Age and Entry Year and Mode**

	Age	Entry Year	Mode of Entry
Maria	27	2004	H2B Visa (Temporary Work)
Daisy	41	1998	Family Reunification
Ana	24	1996	Family Reunification
Margarita	63	1972	Professional Employment Visa
Pilar	46	2005	Family Reunification
Monica	42	1968	Family Reunification
Blanca	55	1994	Family Reunification
Nieves	38	1982	Family Reunification
Ron	58	1989	Tourist Visa
Beverly	36	1981	Family Reunification
Rosario	49	1985	Family Reunification
Carmen	72	1985	Family Reunification
Josefa	68	1987	Family Reunification
Emilia	69	1993	Family Reunification
Eileen	66	2001	Family Reunification
Noemi	56	1995	Tourist Visa
Ruth	62	2003	Family Reunification
Remi	86	1987	Professional Employment Visa
Arnie	55	1999	Tourist Visa
Rita	65	1974	Professional Employment Visa
Lola	42	2002	Family Reunification
Ester	55	2003	Family Reunification
Maribel	25	2004	Tourist Visa
Paca	30	2006	Tourist Visa

Source: Author's Interviews in San Francisco from January to August 2006

Consistent with trends scholars and policy-makers have described, 15 out of the 24 women I interviewed entered the United States using family reunification channels. This proportion is opposite of the one in Spain, where family reunification had a marginal role.

This translates into a different use of family networks in the two countries. While networks in Spain have regularly employed non-formal (sometimes non-familial) strategies to facilitate family migration, the centrality of family reunification in U.S. immigration law formalizes the use of family networks. However, this formalization does not always translate into instant or easy migration into the U.S.

Family visas in the United States, as opposed to Spain, automatically grant access to permanent residence, and they eventually lead to the option of becoming U.S. citizen. Permanent residence also means legal equality with U.S. American citizens in accessing most jobs and, up to the mid 1990s, social services. This is in contrast to Filipino migration to Spain which, as I have shown, is mostly characterized by labor quotas. According to my research, however, while family reunification in the U.S., and permanent residence stemming from it, grants a relatively privileged position to its beneficiaries, this privilege is often more formal than actual. Filipinas' incorporation into the U.S. labor market is not unproblematic.

Family petitions have allowed the reunification of nuclear and extended families in the United States. The fact that U.S. naturalized Filipinos are allowed to petition adult married children (with their children), as well as siblings, has created a domino effect whereby, unlike in Spain, Filipino women in the United States tend to have a far greater number of relatives living in the country than they do in Spain. Tables 6.6 and 6.7 allow graphic comparison. The presence of numerous family members is common with interviewees in the United States.<sup>320</sup> Conversely, the presence of relatives for Filipino women in Barcelona is far more limited.

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<sup>320</sup> Information included in the table on Filipino women in the United States is limited to those who entered on family reunification, since I want to shed light on its effectiveness in bringing family together in the United States. The table does not include the presence of in-law relatives which, in most women's cases, was quite considerable.

**TABLE 6.6. Relatives in the United States**

	<b>Relatives in the United States</b>
<b>Daisy</b>	Parents, Siblings, Nieces, Nephews
<b>Ana</b>	Parents, Sister
<b>Margarita</b>	Siblings, Husband, Children, Grandchildren
<b>Pilar</b>	Mother, Brother
<b>Monica</b>	Parents, Aunts, Uncles
<b>Blanca</b>	Siblings, Nieces, Nephews, Husband, Children
<b>Nieves</b>	Mother, Grandmother, Sister, Cousins, Nieces, Nephews, Children
<b>Ron</b>	Wife, Father, Mother, Siblings, Nieces, Nephews
<b>Beverly</b>	Mother, Siblings, Mother's Cousins
<b>Rosario</b>	Children, Grandchildren, Siblings, Nieces, Nephews
<b>Carmen</b>	Daughters, Son, Grandchildren, Brother, Husband
<b>Josefa</b>	Children, Grandchildren, Siblings, Nieces, Nephews
<b>Emilia</b>	Husband, Daughters, Brother, Brother's Family
<b>Noemí</b>	Husband, Children, Sister
<b>Ruth</b>	Mother, Sisters, Nephews, Nieces
<b>Remi</b>	Children, Grandchildren, Siblings, Nieces, Nephews
<b>Arnie</b>	Husband, Son
<b>Rita</b>	Cousins
<b>Lola</b>	Husband, Children, Sister
<b>Ester</b>	Husband

Source: Author's Interviews in San Francisco from January to August 2006

**TABLE 6.7. Relatives in Spain**

	<b>Relatives in Spain</b>
<b>Lili</b>	Children (born in Spain)
<b>Elena</b>	Sister
<b>Daisy</b>	Husband (Spanish), Children (born in Spain), Sister
<b>Concha</b>	Niece
<b>Mari</b>	Husband
<b>Teresita</b>	Sister
<b>Corazón</b>	Aunt
<b>Nelly</b>	Sister, Daughter
<b>Adelina</b>	No Family
<b>Purísima</b>	Sister, Cousin
<b>Auxilio</b>	Aunt
<b>Marina</b>	No Family
<b>Delfina</b>	Nephew
<b>Paulita</b>	Husband, Sister, Niece
<b>Bernarda</b>	Husband, Children (born in Spain)
<b>Paola</b>	Husband (met in Spain), Child (born in Spain)
<b>Viviana</b>	No Family
<b>Coral</b>	Aunts, Cousins, Daughter (born in Spain)
<b>Dina</b>	No Family

Source: Author's Interviews in Barcelona from November 2006 to March 2007

Family networks among immigrants in the United States become automatically activated in the moment that the law allows immigrants to petition their nuclear and extended families. Similar to Spain, besides making migration possible, family petitioners in the United States often provide support when needed, particularly upon an immigrant's arrival. This has facilitated adaptation to U.S. society and has acted as a cushion until the newcomers achieve stability. That was the case of Emilia, who was petitioned by her brother and migrated to the United States with her husband and two of her daughters when she was 53 years old. Her other four children could not join them since they were above 21. During the first few years, Emilia and her family stayed at her brother's house. This gave them some time to find jobs and become more financially stable. Eventually her two daughters bought a house together and Emilia and her husband rented a small apartment. According to Emilia, the only way they managed eventually to stand on their own feet was by staying with her brother. This allowed them to save money, and, in exchange, she helped with the household and the care of her nieces and nephews.<sup>321</sup>

Similar to Emilia, Blanca, her husband and their two children stayed with Blanca's brother for a couple of years. In Blanca's case, her family helped her beyond providing housing. Blanca's daughter is mentally disabled, and she had to get in contact with several agencies and specialists to ensure her treatment and support. Blanca's brother would drive them to appointments and accompany them in their conversations with doctors.<sup>322</sup> In addition, other interviewees mentioned that relatives had lent them money during their period in the United States and helped them find jobs.<sup>323</sup>

Family reunification, however, is not without problems. The annual family visa allocation has grown to over 300,000 visas a year, but the multiplication of family petitions has collapsed the visa allocation system, creating long waiting lists for some countries, including the Philippines. This coincides with an insufficient government

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<sup>321</sup> Interview 31, San Francisco, Emilia, July 2006

<sup>322</sup> Interview 14, San Francisco, Blanca, June 2006

<sup>323</sup> Interview 32, San Francisco, Eileen, July 2006; Interview 34, San Francisco, Ruth, July 2006

allocation of resources to process the enormous amount of applications.<sup>324</sup> This issue repeatedly came up during my interviews with immigrant women. Community advocates and organizers considered it one of the main concerns in the Filipino community.<sup>325</sup> As it is, Filipino families have to wait for a long time, often decades, to be able to reunify their families. Table 6.8 summarizes the waiting periods some interviewees faced before their entry into the United States on family visas. This table includes only those petitioned under the four family preference categories: 1) unmarried children of U.S. citizens, 2) spouses and children of legal permanent residents, as well as sons and daughters who are 21 years old or older, 3) married sons and daughters of U.S. citizens, and 4) brothers and sisters of adult U.S. citizens. I do not include women petitioned by immediate relatives since these categories are allocated on unlimited basis and result in reunification within months.

**TABLE 6.8. Family Reunification Waiting Periods**

	<b>Date of Entry</b>	<b>Petition</b>	<b>Waiting Period</b>
Maria	2004	Petitioned by Father	7 years
Ana	1996	Petitioned by Father	6 years
Pilar	2005	Petitioned by Mother	15 years
Blanca	1994	Petitioned by Sister	13 years
Rosario	1985	Petitioned by Father	5 years
Emilia	1993	Petitioned by Brother	16 years
Ruth	2003	Petitioned by Mother	6 years
Lola	2002	Petitioned by Father in Law	5 years
Ester	2003	Petitioned by Brother in Law	26 years

**Source: Author's Interviews in San Francisco from January to August 2006**

The table shows that the longest waiting periods correspond to those women petitioned by one of their siblings<sup>326</sup>. The backlog takes place largely among adult

<sup>324</sup> Interview 46, San Francisco, Filipinos for Affirmative Action, August 2006

<sup>325</sup> Interview 10, San Francisco, Filipinos for Affirmative Action, June 2006; Interview 11, San Francisco, FOCUS, June 2006

<sup>326</sup> In Ester's case, it was her husband who was petitioned by his brother. When their husband obtained his visa, Ester automatically became beneficiary as well.

children and siblings of U.S. citizens and spouses and single children of legal permanent residents.<sup>327</sup>

My interviewees elaborated on the long waiting periods they experienced. Pilar, for example, could not even remember the year her mother petitioned her<sup>328</sup>. However, when she showed me her files with all her immigration documents, I saw a letter, added here as Figure 6.1, her mother received in 1995 from the U.S. Embassy in Manila in response to an inquiry she had made about the status of the petition she had processed for Pilar in 1989.

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<sup>327</sup> Ironically the waiting period for U.S. citizens' adult children is longer than for their permanent residents' counterparts.

<sup>328</sup> Interview 9, San Francisco, Pilar, April 2006

**Figure 6.1.**

National Visa Center  
32 Rochester Avenue  
Portsmouth, NH 03801-2909

January 06, 1995

Thank you for your inquiry. The immigrant visa petition you mentioned in your letter has been entered into the computer system at the National Visa Center (NVC) and assigned the case number listed below.

The petition is not yet current, and the beneficiary should therefore be cautioned not to make any firm plans, such as disposing of property, giving up jobs, or making travel arrangements at this time. Non-current petitions are retained at the NVC until they become current. The beneficiary will be notified when further consideration can be given to processing this petition.

Note: Should you wish to know which priority dates are currently being processed, you may call the State Department's Visa Office at (202) 663-1541.

Case Number: MNL-1990265178  
Beneficiary's Name:  
Preference Category: F1  
Your Priority Date: September 15, 1989  
Foreign State Chargeability: PHILIPPINES  
U.S. Embassy/Consulate: AMEMBASSY MANILA

Letter from U.S. Embassy in Manila

As the letter states, Pilar was petitioned in 1989. However, she did not enter the United States until May 2005. Frustration over backlogs was commonly expressed by those who, like Pilar, had waited in the Philippines for years. It was also expressed by Filipino women already in the United States who had petitioned a relative or planned to do so.

Carmen and her husband arrived in the United States in 1985. Since only two of their children were still under age, the rest remained back in the Philippines. Carmen described her exasperation upon her arrival, discovering she first had to wait for five years to become a U.S. citizen in order to start petition her other children. Three more of her children joined her in the San Francisco Bay Area in 2000. Carmen recently petitioned her only child who stills remains in the Philippines. The petition will take 16 years total. Since she is now 72, one of her daughters currently living in the U.S. files a parallel petition in case Carmen dies before her daughter's visa turn comes through.<sup>329</sup>

Ruth, currently 62 years old, arrived in the United States in 2003 through her mother's petition. Ruth told me how she still cried thinking about her four children in the Philippines and her grandchildren. She was disheartened when she told me she had two years to go to naturalize, at which time she would be able to petition her children, whose arrival would approximately take 18 years. Since none of her grandchildren will be minors by then, their respective parents will have to petition them, which will probably take 18 years. Since Ruth was 62 at the time of our interview, it is very unlikely that she will ever be able to live with her grandchildren again. By the time they get to the United States, if they ever do, she would be 98 years old.<sup>330</sup>

Ruth and Carmen's stories are a heartbreaking testimony to the impact family reunification backlogs are having on Filipino families. To further illustrate these backlogs, Figure 6.2 shows the State Department Visa Bulletin for July 2006, which includes the countries facing the longest waiting periods.<sup>331</sup> As shown, waiting periods for Filipino nationals in 2006 ranged between 7 to 23 years.

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<sup>329</sup> Interview 25, San Francisco, Carmen, July 2007

<sup>330</sup> Interview 34, San Francisco, Ruth, July 2006

<sup>331</sup> These statistics were very kindly provided to me by the attorneys at the San Francisco Bay Area Asian Pacific Islander Legal Organization (APILO), a non-profit organization specialized in provided legal assistance to low income Asian immigrants.

Figure 6.2.

**Barriers to Reuniting Filipino Families:**  
State Department  
Visa Bulletin for July 2006

Family	Other	CHINA	INDIA	MEXICO	PHILIPINES
1st	01JAN00	01JAN00	01JAN00	15MAY92	22SEP91
2A	01SEP99	01SEP99	01SEP99	01SEP99	01SEP99
2B	22AUG96	22AUG96	22AUG96	01DEC91	08JUL96
3rd	22AUG98	22AUG98	22AUG98	15OCT93	01JUL88
4th	01MAY95	01MAY95	01OCT94	15AUG93	15DEC83

State Dept. Visa Bulletin for June 2006

FAMILY Preferences	PHILIPPINES
1 <sup>st</sup> : Unmarried Sons and Daughters of Citizens	22 SEPT 91
2A: Spouses and Children of LPRs	01 SEP 99
2B: Unmarried Sons and Daughters (21+) of LPRs	08 JUL 96
3 <sup>rd</sup> : Married Sons and Daughters of Citizens	01 JUL 88
4 <sup>th</sup> : Brothers and Sisters of Adult Citizens	15 DEC 83

### 2006 Waiting Periods for Filipinos

The document shows the date in which Filipino petitions being processed in 2006 had been filed. Thus, within the 4<sup>th</sup> category, the government was processing the petitions filed in 1983. This means brothers and sisters of adult citizens have to wait 23 years between the time they are petitioned and the time they can migrate to the United States. Similarly, in 2006 the government was processing visas belonging to the third category which had been filed in 1988, which puts the waiting period in 18 years.

The long waiting periods aggravate the pain of family separation and, in some cases, make migration to the United States difficult to achieve at all. During my participant observation in a legal clinic in Daly City in July 2006, I heard the case of an elderly Filipino woman whose husband had just died. Grieving, she was extremely worried as well, since her husband's death also meant that his long ago petition for their children, still in the Philippines, "had died" as well.<sup>332</sup>

In sum, while immigration scholars have generally characterized U.S. immigration policy as among the most liberal ones in the world, a closer examination of its provisions shows it presents grave difficulties for family migration. While the formal centrality of family reunification in the law recognizes the right of families to be together and thus avoids the vision of immigrants as just labor, long backlogs make reuniting Filipino families in the United States an arduous process. Not only does family reunification policy limit the possibility to those people with relatives in the United States, but it also imposes long waiting periods and the pain of long lasting family separation on both current and potential migrants. The Philippines is not alone in this regard. China and India also have very long backlogs. According to an interviewee from Filipinos for Affirmative Action, given the difficulties nationals from these countries face entering the United States, it is no coincidence that they are also the countries with the largest undocumented populations.<sup>333</sup> Let us further examine this correlation.

### **3.2. Entering as Tourists**

China, India, and the Philippines are the Asian countries with the longest backlogs, and they are also the countries with the largest undocumented population [because] folks don't wait to be reunited with their families. They may get a guest worker visa, or a tourist visa, but they come, they overstay. They lose status, but they overstay. It is no coincidence that the three countries with the largest backlogs are the countries with more undocumented.<sup>334</sup>

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<sup>332</sup> Field notes, San Francisco, July 2006

<sup>333</sup> Interview 46, San Francisco, Filipinos for Affirmative Action, August 2006

<sup>334</sup> Interview 46, San Francisco, Filipinos for Affirmative Action, August 2006

This testimony from Filipinos for Affirmative Action was validated by the immigration lawyers and community organizations I interviewed during my fieldwork in the Bay Area. They further argued that undocumented status is particularly prominent among Filipino caregivers. This is problematic since, given the rigidities of U.S. immigration law, caregivers face particularly large challenges to legalizing their situation once they have fallen out of status.<sup>335</sup> According to informants, more often than not, women enter the country on tourist visas and refuse to leave once their visas expire. While there is no specific program to facilitate the entry of caregivers, the availability of care jobs in the United States mobilizes transnational networks that often trigger women's migration on a tourist visa. Filipino owners of many nursing homes in California activate networks with relatives and agencies back in the Philippines to trigger women's migration on tourist visas.

### **3.2.1. Avoiding Backlogs**

Since family reunification can take such a long time for Filipinos, they often decide to travel on tourist visas to join their families in the United States. Table 6.5 showed that five out of my 24 interviewees entered the United States on tourist visas. This was the case of Ron, the only male caregiver who participated in my study. Ron entered the United States on a tourist visa in 1987. His father, a U.S. Army veteran, had petitioned him after becoming a U.S. citizen. Ron explained that at that time his economic situation was unsustainable. The fact that his father's petition was going to take 15 years made him decide to travel to the United States on a tourist visa and stay after its expiration.<sup>336</sup> Noemí's story exhibits many similarities. She was married and had three children when her husband's father, also a U.S. Army veteran, petitioned his son and his family. Noemí's husband moved to the United States with the two oldest sons, and she stayed in the Philippines with the youngest, who was still a baby. She did so because the couple worried about their ability to support all their children. Noemí's husband planned to petition Noemí once he found a job. However, not wanting to wait for years, she and her

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<sup>335</sup> Field notes, San Francisco, March 2006

<sup>336</sup> Interview 19, San Francisco, Ron, June 2006

son eventually traveled to the U.S. on tourist visas in 1995 and overstayed them.<sup>337</sup> Both Ron and Noemí's testimonies are illustrative of how Filipino men and women circumvent the law when they perceive it as too rigid, unrealistic, or unreasonable.

Both Noemí and Ron were reluctant to share their stories with me. While they agreed to be interviewed, both became anxious when the questions focused on their legal entry mechanism to the United States and their current status. In fact, Noemí refused to share this information with me, and I guessed she had legalized her status, among other reasons, when she explained she has been twice in the Philippines since she left in 1995 and she votes in U.S. elections. Their fear is not surprising, since my fieldwork coincided in time when different proposals for Immigration Reform were taking place in Congress (2005 and 2006). As the media widely publicized, the main provision of the House Bill (HR 4437) was to criminalize undocumented immigrants by turning them into federal felons. The Bill considered any person or organization that provided support to an undocumented immigrant to also be a felon. This could include any immigrant, social service, or health organization, as well as families. This provision created a lot of fear and mistrust within immigrant communities. Many interviewees told me they knew for sure that there were people within the Filipino community who were making money by reporting undocumented Filipinos to the immigration services.<sup>338</sup>

This fear was reflected in my difficulty accessing undocumented immigrants for interviews. I would usually ask interviewees at the end of the interview if they had any relatives who worked as caregivers or domestic workers who I could interview. While their answer was usually affirmative, they would also tell me that their relatives had "no papers" and were not willing to talk about their situation with a stranger.

Sometimes, while interviewees had previously agreed to conduct an interview with me, fear would make them cancel. Arnie cancelled our interview the day before we were

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<sup>337</sup> Interview 33, San Francisco, Noemí, July 2006

<sup>338</sup> During my interviews with different immigration attorneys within the Filipino community they assured me that these rumors were an "urban legend" and totally untrue. However, given the recurrent references to them throughout my interviews, I see them as symptoms of the climate of fear and paranoia that the House Bill created among many immigrant communities.

to meet. Her employer had explicitly ordered her not to participate in the study. The day after Arnie's phone call I wrote in my fieldnotes:

The refusal of an interview says a lot, almost as much as the agreement to one. There is fear. It says a lot about the political climate. This interview makes her employer nervous. Why should it? And why should the employer have the ability of making Arnie cancel it? There's fear. There's vulnerability.<sup>339</sup>

Ironically, Arnie's employer at this time was the immigration lawyer the Philippine Consulate recommended to help her with her immigration problems ended up illegally hiring her and enacting coercion on her. Within two months of this conversation, Arnie fortunately changed employers (and lawyers) and we got to spend quite a bit of time together. I did eventually interview her. Her case, as well as the other stories outlined above, illustrates the social context of fear, which made immigrant women reticent to talk about their life with a stranger. Only by spending lots of time with interviewees and through tight family and friendship connections did I get to interview Filipino women who faced or had faced problems with their immigration status.<sup>340</sup> The limited number of undocumented interviews in my study reflects my difficulty to access them rather than being a symptom of their small numbers in the United States.

### **3.2.2. Employment-Based Legalization for Caregivers: A Dead End**

Filipino women do not have an immigration program to enter as caregivers into the United States. As a result, they often enter on tourist visas hoping they will adjust their status. However, employment-based legalization for caregivers is practically impossible in the United States. Interviewees and informants repeatedly explained during my fieldwork that for many Filipina caregivers, entering on a tourist visa was their only chance to migrate to the United States. Unless they returned to the Philippines before their visa expired, they became undocumented and had few legalization venues. The

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<sup>339</sup> Field notes, San Francisco, May 2006

<sup>340</sup> This difficulty to access interviews with undocumented status certainly had an impact on my sample. There was not a whole lot that I could do to correct for this bias, besides acknowledging it. However, I tried to make for the under-representation of undocumented immigrants conducting interviews with immigrants' advocates and organizers who, although not undocumented themselves, helped me understand some of the conditions of Filipino undocumented women.

decision to stay as undocumented limits labor market opportunities. Low wages, poor working conditions, and invisibility are often present in this labor. While undocumented workers in the United States usually hope to legalize eventually their status, those doing reproductive labor, including care work, are among the ones for whom legalization is the most difficult.

All Filipino immigration lawyers I interviewed reported having many clients who were immigrant Filipino caregivers trying to find a way to legalize their status in the U.S. With few exceptions, all had entered on tourist visas and had fallen out of status. They were currently taking care of elderly persons. They often told the lawyers their employers had offered to sponsor them on an employment-based permanent visa. According to the attorneys, however, once a caregiver has become undocumented, there is practically no legalization mechanism for them. While many spend thousands of dollars to “fix their situation,” doing so is not legally possible. Attorneys who accept their case are just taking advantage of them.<sup>341</sup>

According to the lawyers, some women arrive in the United States already having a job offer a Filipino care home owner in the Bay Area had made them when they were still in the Philippines, or they come on tourist visas and try to find a job once they are here. Either way, they work illegally. The only way they have to legalize their situation is doing so before their tourist visa expires. However, that is extremely difficult.<sup>342</sup>

The process is usually the following: the worker tries to find an employer to offer her a position and is willing to sponsor her under an unskilled labor permanent visa. If she is successful, the employer must then file a labor certification, which is to test the labor market and prove there are no U.S. workers willing or able to fill the position<sup>343</sup> or “to verify that the immigrant worker will not adversely affect the wages or working conditions of American workers” (Park and Park 2005:13). However, according to one

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<sup>341</sup> Interview 15, San Francisco, Immigration Attorney, June 2006; Interview 24, San Francisco, Immigration Attorney, July 2006; Field notes, San Francisco, March 2006

<sup>342</sup> As I explain, the employer needs to file for Labor Certification in order to sponsor the worker on an employment visa. This process takes a while and, by the time it is approved- if it is indeed approved- usually the tourist visa has already expired.

<sup>343</sup> Interview 15, San Francisco, Immigration Attorney, Interview 15

attorney, this is difficult to achieve, since the Department of Labor usually looks at the U.S. unemployment rates and the qualifications required to do the job and rules anyone could do it: “[Care giving] is not a specialty, everybody can learn that, it does not take much... it’s not rocket science to be a caregiver.”<sup>344</sup> The interviewee’s reflection typifies the low value placed on care and reproductive work, and it may very well be a reason the U.S. has not created a program to regulate the entry of caregivers. As a consequence, women enter on tourist visas and usually fall out of status. The lack of recognition of reproductive labor as necessary for the U.S. economy makes it extremely difficult for undocumented women who conduct this labor to legalize their status.

Despite all the difficulties involved in obtaining labor certification, once in a while it is approved.<sup>345</sup> If this happens, the next step is to file a visa petition, in which the employer shows they can pay the salary and the candidate is qualified for the job. At this point the process comes under the jurisdiction of Immigration Services, which has the discretion to approve or refuse the visa. During a phone conversation with an employee at the Department of Labor, I was told visas for caregivers are usually refused.<sup>346</sup> If the visa is approved, the third and final step is to wait for the visa quota<sup>347</sup> which, according to different attorneys, could take between 5 and 7 years.<sup>348</sup> Visas for unskilled workers are limited to 10,000 per year for all countries. Until their turn comes up, these women have no choice but work and reside illegally in the United States. Once their quota number comes up they need to go to the Philippines to apply for their visa at the American Embassy in Manila. However, the very minute they leave the United States, due to punitive provisions introduced by IIRAIRA in 1996, they are barred from entering the

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<sup>344</sup> Interview 24, San Francisco, Immigration Attorney, July 2006

<sup>345</sup> Field notes, San Francisco, March 2006

<sup>346</sup> Field notes, San Francisco, May 2006

<sup>347</sup> The visa quota is the number of visas allocated for a particular category for each year. Since the applications are many more than the visas available, there are long waiting periods to obtain a visa after the visa has actually been approved.

<sup>348</sup> Field notes, San Francisco, March 2006

country again for 10 years.<sup>349</sup> Not surprisingly, most women are not willing to take this risk. The advice they obtain from their lawyers is “to stay under the radar.”<sup>350</sup> Due to the different hurdles along the way the employment-based legalization of undocumented caregivers is really a *cul-de-sac*. According to one interviewee:

What happens is that they go through all the steps and the last is not achievable. So they basically end up waiting for something to happen, some kind of immigration law to pass that allows them to adjust their status here. They have spent all this time and money but they cannot get their green card. They can just wait.<sup>351</sup>

The only thing they can do is to hide until a new law that allows for the legalization of undocumented immigrants comes up. This is particularly exasperating considering that the last legalization program in the United States took place in 1986. Thus, the above-scenario regularly results in indefinite periods of illegal residence, with the insecurity and difficulties this implies. Despite all these difficulties, as Paca explained, “most people come on a tourist visa and then decide to stay hoping that they’ll eventually be able to adjust their status.”<sup>352</sup>

### 3.2.3. Legalization as Professional Workers

Rather than adjusting their status as caregivers, some interviews who had travelled on tourist visas tried to legalize through professional visas. While this modality presents much shorter waiting periods, the stories I present below illustrate how this process is also wrought with difficulties.

Paca, a thirty year old Filipino woman entered the United States in the summer of 2006 on a multi-entry tourist visa (B2). She is married and has two young kids. Both her husband and her children stayed in the Northern Philippines while she traveled to the

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<sup>349</sup> HIRAIRA provided a 3 year long bar for those staying illegally for over six months or more and a 10 year bar for those overstaying for a year or more. The only exceptions are those undocumented immigrants who had a petition filed for them- either by a family member or by an employer- before April 30<sup>th</sup> 2001. If so, they can qualify for a penalty provision. According to my interviews in legal firms, though, the majority of Filipino caregivers seeking legalization have never been petitioned before.

<sup>350</sup> Field notes, San Francisco, January 2006

<sup>351</sup> Interview 15, San Francisco, Immigration Attorney, June 2006

<sup>352</sup> Interview 54, San Francisco, Paca, August 2006

U.S. Her plan was to stay and work in the United States for the six months she was allowed to stay legally. Her visa did not authorize her to work. Despite this, due to a strong family and community network from her native Mindanao that was heavily concentrated in the care giving sector in South San Francisco, she soon found a job taking care of a woman in Palo Alto who had Alzheimer's. When I interviewed Paca, she was not sure whether she would overstay her visa or would return to the Philippines upon its expiration in December. Paca knew that if she overstayed her visa and fell out of status it would be difficult to get it back. As a result, she met with an immigration attorney to try to obtain an H1B visa to work as a professional.<sup>353</sup> Paca is a teacher in the Philippines, and she hoped to get the same job in the U.S. However, she was having a hard time finding a sponsor and, during a meeting with her attorney, he told her there were no more professional visas left for 2006 and recommended she go back to the Philippines and try again in 2007. While professional visas are supposed to be allocated until October of a given year, in 2006, due to high demand, they ran out in April. This is symptomatic of the increasing use of temporary employment visas to hire foreign labor. However, for Paca, given the limited opportunities for her and her family in the Philippines, being able to work in the United States, regardless of status, may be more important than being able to obtain a professional job:

I'll be here even if I cannot find a job as a teacher. I am glad that I am Filipino because I'd do anything, even if it has nothing to do with my career. I'd be a caregiver, I would clean toilets if that is what it takes. You know, doctors are becoming nurses. For them it's lowering their self-esteem, in some ways it is demeaning. But I think that it's worth it, and I think they think so too. Especially when they give you the figures on how much they make here. However, it's hard to adjust for them, because they have high status in the Philippines and when they come here they don't get used to being in lower status.<sup>354</sup>

Arnie was slightly luckier than Paca. She was a college graduate accountant and, because she was unable to find a job in the U.S. when she was still in the Philippines, she

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<sup>353</sup> If the tourist visa has not expired it is possible to adjust status into an employment-based visa.

<sup>354</sup> Interview 54, San Francisco, Paca, August 2006

entered the country in 1999 on a tourist visa her husband, as a former contract sailor for an international merchandising company, had. Arnie managed to extend her tourist visa twice for six extra months each time. During that year she worked as a live-in care giver in different places all over the Bay Area. As she explained during the interview, her employers took advantage of the fact that she had no work permit, and she sometimes was paid as little as \$40 a day for 12-hour shifts. Before her tourist visa expired, she convinced a Filipino friend, the owner of a small business, to sponsor her on an H1B visa as an accountant. Her friend/employer's petition was similar to the *firmas de favor* in the Filipino community in Barcelona, and although Arnie obtained the visa, her employer could only offer her a part-time job as an accountant. As a result, she continued to work as a caregiver under the table, since her visa only authorized her to work as an accountant for her sponsoring employer. H1B visas can be renewed twice for three years each time. Arnie is about to run out of renewals, and, unless she finds another employer willing to sponsor her, she and her husband will soon have to decide whether to go back to the Philippines or stay in the United States as undocumented workers. She guessed that they would probably do the latter.

Paca and Arnie's stories show that legal adjustment through professional visas is one option. This is a process, however, wrought with challenges. Paca was not able to access a visa and Arnie's adjustment did not translate into a stable status and did not move her out of the care giving sector. Both of them had to face the dilemma of going back home empty-handed or staying illegally in the U.S. While I left the field before they had to make up their minds, I have kept in touch with both of them. Paca went back to the Philippines before her visa expired and traveled back to the U.S. recently to try again to find a legal job. Arnie stayed in the U.S. and became undocumented.

#### **3.2.4. Community Networks**

Family and community networks acquire importance for Filipino caregivers in the United States. They help find jobs and sometimes even sponsors for a work visa resembling Spanish *firmas de favor*. However, due the more restrictive nature of U.S. immigration law as opposed to Spanish law, the former allows for less creative

manipulation on the part of immigrant women than Spanish *Ley de Extranjería* does. Similar to Filipino women in Spain, Paca and Arnie used their family and community networks in order to access jobs in the United States:

I am here for six months and working under the table trying to make a lot of money. That's something about us, Filipinos. We'll use anything to be able to come here and work. We have a lot of connections from our hometown, so we get jobs through the people in our community. Filipinos have a lot of connections, and we'll give our jobs to people from our hometown.<sup>355</sup>

Also emphasizing the importance of networks to find jobs, Maribel explained:

[When I arrived] they were looking for a work for me... the whole community, because actually we are so close knit, people from our town help each other out. My sister didn't have a job and then all the sudden one of our friends from Cagayan who has a job and she wants to go out. And then they were, oh, you should ask this girl, this new girl, because she is from Cagayan too.<sup>356</sup>

In the cases just described the nature of network support was to provide information for possible under the table jobs, and, in Arnie's case, to obtain a U.S. version of a *firma de favor* through a Filipino friend. Yet, the ability of networks to support legalization was more limited in the United States than in Spain. This is due to the more restrictive nature of U.S. immigration law. While Filipino women in Barcelona have at times returned to the Philippines to process work visas after residing undocumented in Spain, the bar IIRAIRA introduced for visa overstayers and other violators of their permits prevents them from returning to the U.S. in a 10-year period.

Aside from the possibility of meeting a sponsoring employer through a network, in the U.S. the only thing networks can do for an undocumented Filipina to help her adjust status is to petition her as a close relative. Many undocumented Filipinos have no direct family in the U.S. Given the current law, the only legalization mechanism is to marry a U.S. citizen. Many end up paying huge amounts of money to get married. Amounts range from \$5,000 to \$25,000.<sup>357</sup> While in Spain the commodification of networks took place

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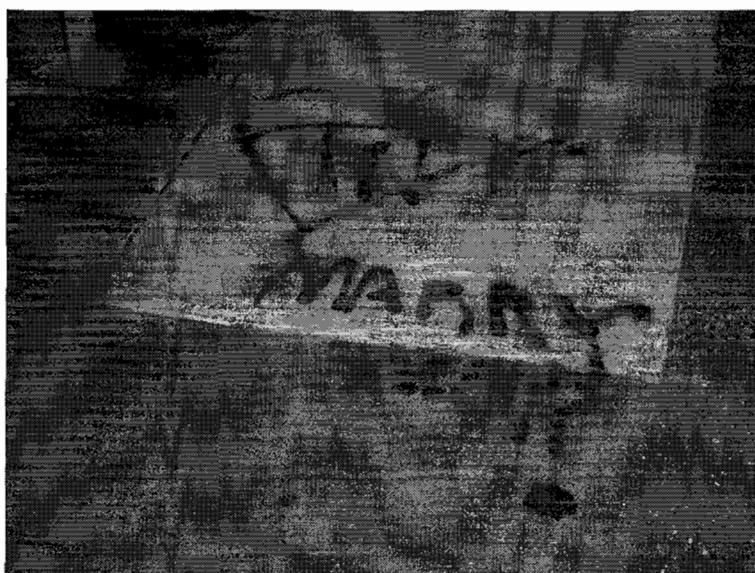
<sup>355</sup> Interview 54, San Francisco, Paca, August 2006

<sup>356</sup> Interview 53, San Francisco, Maribel, August 2006

<sup>357</sup> Interview 1, San Francisco, Rosa, February 2006; Interview 53, San Francisco, Maribel, August 2006

through the charge for *firmas de favor*, in the U.S. it took the shape of expensive fake marriages.<sup>358</sup> The photo below was taken in the Mission district during my fieldwork in San Francisco. It shows graffiti on the pavement that says: “TnT, marry me?” TnT is an abbreviation for *Tago nang Tago*, which in Tagalog means “always hiding.” *Tago nang Tago* is a common term in the Filipino American community, and it refers to Filipino undocumented immigrants.

**Figure 6.3**



Graffiti about TnTs. Photo taken by Jason Agar  
San Francisco, March 30<sup>th</sup> 2006

Marriage was the way Maribel managed to legalize her status. Maribel was a 25-year old Filipino caregiver and arrived to the United States on a tourist visa in 2004. Like Paca, she had planned to work for six months as a caregiver to save some money in order to return to the Philippines and pay for her final year in college. Few months after her arrival she became pregnant and decided to stay. Maribel told me she now plans to work in the U.S. until her daughter reaches college age, and then take her to the Philippines. After her daughter’s birth, she continued to work as a caregiver. When I interviewed her

<sup>358</sup> This does not mean, however, that Filipino women only marry U.S. citizens for legal purposes. The motivations behind a marriage are often complex: it may respond to legal reasons, romantic motivations, or both. In addition, legalization through marriage is not problem free.

she was living in a house with 7 other Filipinos. They were all extended family, and all but one worked as caregivers under the table. Since she fell out of status, she and her boyfriend, a U.S. citizen, decided to marry to provide her with a green card. In order to avoid suspicion from the Immigration Services that this was a “marriage of convenience,” they waited to process her papers until after the baby was born. The fact that they had had a baby would make their marriage more credible. After a year of processing paperwork and spending almost \$2,000, she got her green card. However, her green card, and therefore her status, is temporary and conditional on that of her spouse. Only if she remains married to her husband for two years will she obtain a permanent green card, which can eventually be turned into U.S. citizenship. This creates a situation of dependency. Besides Maribel’s legal dependence on her husband’s status, he also becomes financially responsible of her. If she needs to access any public services, he will be charged for them. Maribel’s conditional legal status needs to be understood in the context where, as I explained above, U.S. Immigration policy has followed the trend, since the 1990s, to shift state responsibility for immigrant persons back to their families. Thus, the law creates a double dependency bound between the two: legal and financial. While she was able to use one of the only legal mechanisms to adjust her status, this mechanism does not grant her independence. This presents some similarities with Spanish reunification provisions, since the latter limits petitioned relatives’ opportunities in the labor market for the first year. In the Spanish case, however, the petitioned relative has free access to social services.

Immigrant women’s advocates have criticized this legal dependence since, for example, if women face situations of domestic violence they may not leave in order to keep their green cards. Legislation such as VAWA (Violence Against Women Act) tries to correct for this kind of situation. However, some of my interviewees told me stories of friends who were victims of domestic violence but did not leave their husbands for fear of losing their green cards.<sup>359</sup> While such cases may not be the norm, any entry or legalization mechanism for immigrant women in the United States should allow for

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<sup>359</sup> Interview 16, San Francisco, Nieves, June 2006; Interview 55, San Francisco, BABAE, August 2006; Field notes, San Francisco, July 2006

independent and autonomous status from the very start. This is parallel to the problems Spanish immigration law presents. Either through the dependency Spanish family reunification promotes or the dependency of workers on employers its work visas create, Spanish law does not allow for independent and autonomous migration projects. In order to avoid these situations of dependency, immigration policy in both countries should allow independent status both to workers and immigrants petitioned through family reunification. This would legally help them to avoid gender power dynamics stemming from dependence on their spouse (such as domestic violence) as well as employer's exploitation stemming from a legal bind between the worker and the employer. Sadly, as I discuss in the next three sections, this is not currently the case.

### **3.2.5. Opening the Door to Trafficking**

Dependency on employers, stemming from vulnerable immigration status, often has dramatic consequences for Filipino women. Excessive dependence on employers and control on the workers' movements may lead into situations of trafficking. This happens in two legal immigration scenarios. First, when women enter the United States on temporary work visas. Second, when they migrate on special visas program as diplomats' domestic workers.

#### **3.2.5.1. Entering as Workers: The Normalization of Irregularity**

Garcés-Mascareñas and Doomernik (2007) argue that, although undocumented migrants do not usually fall under the category of trafficked workers, they often face situations of deception and exploitation that resemble those of migrants legally defined as victims of trafficking. There are times when even if Filipino women enter the country legally they also become vulnerable to suffer deception and falling into illegal or irregular status. In this section I talk about an unskilled employment-based visa program, the H2B, and by presenting Rosa's story, illustrate how current temporary employment-based visa programs put immigrant workers in dependent, unstable, and vulnerable legal conditions, leading thus to the normalization of irregularity.

Rosa found a job through an agency in Manila to work in a vacation resort in the United States. After obtaining a H2B Visa and spending PhP250,000.00 processing her

papers, she traveled to the United States in December 2004. H2B Visas are temporary and do not provide direct access to permanent residency. In addition, they make the worker's legal stay and work dependent on the bond between the worker and her/his sponsor/employer. The worker has documented status only as long as she works for the employer who sponsored her. Upon her arrival, Rosa found out that the job her Philippine recruitment agency promised her did not exist. She was sent instead to an elderly home in California run by relatives of the owners of the agency. She and the twelve other Filipinos in the same home were informed they needed to hire a lawyer to "fix" their papers. The employers would take care of finding an attorney, whose cost would be deducted from the workers' salaries. Rosa worked there for two weeks making as little as \$70 a week. Then she left for San Jose to take care of an elderly woman. She found this job through friends back in the Philippines. This happened in 2005 and, since then, she has worked as an undocumented caretaker in different places in the San Francisco Bay Area.

The irony of Rosa's case is that after having fulfilled all requirements of the Philippine Overseas Employment Administration and the United States Embassy in Manila, she became an undocumented worker as soon as she set her foot in the U.S., since she never filled the job described on her visa. Although she did not know this back then, she was a victim of illegal recruitment and the lies the agents in Manila told her to be able to charge her astronomic recruitment fees:

I thought I was going to stay in there. Because they were saying good things. You're gonna go working there and if you're good, they're gonna petition you, they're gonna renew your contract. So that's what we're thinking. They are just gonna renew our contract and we're gonna be in good hands. And then they're gonna be... we never think that we're gonna be illegal or undocumented.

Similar to Bárbara's case in Barcelona, the "right thing to do" would have been to return automatically to the Philippines. Yet, this would have meant an inability to work in the United States and the failure to pay the debts her family had acquired to send her overseas. Instead, she left the nursing home and has spent the past three years working as a caregiver and babysitter in different private households for low wages and no benefits. She is constantly scared of being arrested and deported. Although she has sought legal

advice in order “to clean the mess” her agency created, several attorneys have advised her to “stay under the radar;” to continue to work under the table and without contacting U.S. authorities in order to avoid detention and deportation. Without intending to do so, Rosa traveled to the United States to join the large ranks of TnTs.

There are three issues worth emphasizing from Rosa’s case. First, the owners of the care home where she landed in California were actually relatives of the owners of the recruitment agency she used in Manila. This transnational connection between agencies and businesses, which informants mentioned various times during my fieldwork, sheds light on the of commodified and commodifying networks that profit from “helping” Filipino women circumvent the rigidities of U.S. immigration laws. While there are plenty of agencies who place Filipino women in real jobs, illegal recruitment is not an isolated phenomenon. Before I met her, Arnie had organized dozens of Filipino caregivers in the Bay Area to provide mutual support. As a result, she had good knowledge of the issues they faced. According to her, there are many agencies in the Philippines with connections to businesses and care homes in the U.S. They charge between PHP 500,000 and PHP 1,000,000 to recruit people (\$10,000 to \$20,000). Sometimes they use their connections with care home owners in the U.S. to apply for work visas. Other times, the so-called “travel agencies,” charge migrants to help them enter on a tourist visa. They prepare the migrant’s papers, open fake bank accounts, and fake property titles to make sure the U.S. Embassy grants the tourist visa.<sup>360</sup>

Without justifying illegal actions Philippine recruitment agencies undertake, it is important to acknowledge that the rigidities of the U.S. immigration system force workers and encourage agencies to work around it (see Bhabha 2005). Despite the high demand for caregivers in the United States on the one hand, and the equally high supply of unemployed, underemployed, and underpaid women in the Philippines willing to do this job on the other, there is no legal mechanism in place to match both ends. Rosa did not intend to violate immigration laws. However, since the job and employer in her visa did not exist, she, as well as her “batch mates,” found themselves jobless and

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<sup>360</sup> Interview 45, San Francisco, Arnie, August 2006

undocumented as soon as she entered the United States. Ignoring her employers' threats to report her to Immigration Services, she left. Although she was right to escape from unscrupulous recruiters and employers, she had no legal way to get support from local authorities and has spent the past three years hiding from them. Because H2B visas bind the worker to the particular job and employer described on their passport, working for anyone else was not legally permitted. During the three-month duration of her visa Rosa lived in legal limbo and, after its expiration, became another "average undocumented" worker in the country.

Although U.S. immigration law did not directly put Rosa in this situation, it created the situation by failing to offer realistic migration and legalization options, and perpetuated it by legally classifying her as a perpetrator as opposed to victim. Casting people like Rosa as victims is not politically appealing, since it may be perceived as encouraging undocumented migration. The lack of a labor migration program facilitating the legal entry of caregivers and domestic workers with the H2B or other unskilled labor visas granting full rights results in stories like Rosa's. There is a clear demand for immigrant caregivers. Since there is no immigration program facilitating their entry, though, care home owners and agencies in the Philippines feign contracts for labor sectors U.S. immigration law recognizes, such as tourism, to get Filipino women to the United States. Once they arrive, they are expected to work- illegally- as caregivers. Difficulties entering the country lead to the normalization of irregularity and fraud. This shows the lack of political will on the part of the U.S. Congress to the demand for reproductive workers with the supply of immigrant women through an immigration program that regulates their entry and grants them full legal and labor rights. Park and Park (2005) have suggested this lack of political will may respond to the availability of between nine to twelve million undocumented workers already in the United States willing to fill these jobs. I agree and add two factors to explain this neglect: the lack of recognition of the centrality of reproductive work for the entire U.S. economy and the growing restrictions on low income/unskilled immigration.<sup>361</sup>

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<sup>361</sup> The second factor, as I address in Chapter VI, is actually based upon a flawed premise. While there may be a generalized perception in U.S. society (including the government) that care work is conducted by

Besides offering a political solution for the large number of undocumented people in the United States, providing improved mobility and legal rights is a fundamental factor if the U.S. Congress wants to promote legal migration and stop a further normalization of irregularity. According to Davies (2002), this should be done by responding to the real needs of both migrant women and the labor market. By this I do not just mean bringing in guest workers through a program like H2B, or temporary convenient labor as Spanish immigration policy has done. Rather, if receiving countries are going to resort to immigrant labor to boost their economies and make up for the lack of government social and welfare services, they should grant these immigrant workers the same rights as local citizens and workers have, such as the ability to change employers at any time or to search the support of public authorities without fear of being deported.

### **3.2.5.2. Entering as Servants: Legalized Trafficking**

The last mechanism of entry Filipino reproductive workers follow documented in my research is through special domestic help visa programs for live-in employees. These contribute to what I call legalized trafficking, which refers to immigration situations that, although they are legal, resemble the conditions found in human and labor trafficking. The B1, A3, and G5 visas allow diplomats from other countries, officers and employees of international organizations, and U.S. citizens who reside abroad to bring their domestic helpers with them when visiting or temporarily residing in the United States.<sup>362</sup> These visas are usually for a limited number of years, and workers enjoy legal status in the United States for only as long as they work for the employer who sponsored them (Domestic Workers United and Data Center 2006; Zarembka 2002). These workers are usually live-ins and their employers often limit their movements. As a result, similarly to my difficulties to access undocumented immigrants, I could not conduct interviews with

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unqualified immigrant workers, a large proportion of my interviewees presented very high educational background. As I explain in the next chapter, they do not do carework due to low qualifications but rather due to institutional and social barriers to their incorporation into qualified jobs consistent with their training.

<sup>362</sup> Ironically, when the worker is Filipina, this scenario has often been directly facilitated by the Philippine government, since it directly manages the hire for Filipino domestic workers by foreign government officials.

any worker that had entered the U.S. on these visas. The information provided in this section stems from reports published on this issue and interviews I conducted with an employer (a consular official) and an immigrant women's rights advocate.

One example was a Philippine consular official in San Francisco, who told me he had brought his domestic workers with him from the Philippines under an A3 Visa. This visa qualifies the workers as private staff of consular or diplomatic officers. It is usually valid for two years and binds the legal status of the workers to their employment in their sponsor's household. According to this particular official, if such domestic worker "escapes," she automatically loses legal status and is expected by law to go back to the Philippines. What is particularly interesting about this immigration program is two-fold. First, the domestic worker is considered private staff and therefore under the jurisdiction of her employer. Second, if, for whatever reason, the worker decided to change workplaces, she is automatically considered undocumented and thus required to leave the United States.

In another case, María Luisa, a therapist at a women's shelter in San Francisco shared with me the case of a Filipino woman who arrived in the United States as a foreign diplomat's domestic worker:

There was a woman who was working at an Embassy ... and they withheld wages from her for two years ... She came on a diplomatic visa, but she was trafficked in the sense that she was doing forced labor and she was not paid.

When asked if the employer was prosecuted, María Luisa said:

[The authorities] were going to, but they did not ... I cannot really say because it was confidential. It was an Arab embassy ... I think that there was a political intervention to stop prosecution because [it could] have become a very high profile case.

María Luisa's statement touches on additional ways these special visa programs are problematic. The fact that a woman can only maintain her legal status as long as she stays with the person or family who sponsored her, can potentially contribute to situations of essentially what is indentured servitude, resembling those found in Saudi Arabia or Lebanon. A policy that limits the movement and choices of immigrant workers is creating

a situation where the employer can exert a disproportionate amount of power over the worker. The only difference between this case and those of Rosa or Irma Martinez' story is the definition of legal and illegal. The content, though, is the same. While Irma's vulnerability stemmed from their status as undocumented and Rosa's from the illegal recruitment and limited rights H2B visas provide, it is the legal status of women on B1, A3, and G5 visa programs what puts them in a situation of vulnerability and dependence. These programs construct immigrant domestic workers as privately linked to the employer. This parallels the generalized treatment of household labor as something belonging to the private sphere. Their immigration and labor rights are very limited. The fact that these employers are diplomatic officers or wealthy business people or both often makes monitoring the workers' labor conditions even more difficult. Despite their "legal" entry into the United States, the workers do not have any real protection from employers' abuse. Walking away from an abusive or exploitative situation is legally seen as "abandonment," and would turn her, again, into the perpetrator rather than the victim.

Legalized trafficking, as I have defined it, includes situations that, while defined as legal by U.S. immigration law, resemble immigration and work conditions formally classified as trafficking. In other words, although the recruitment and mode of entry into the receiving country are not illegal, the formal relations between employers and migrant workers—which the state creates—potentially recreate the vulnerability, subordination, and exploitation often found in cases of (illegal) trafficking. The term *legalized* sheds light on the responsibility of the state in this process. While illegal immigration refers to an individual action that violates the law, legalized trafficking comprises situations that, although contain features of trafficking, are allowed by immigration law. In using this term, I aim to shift the focus from the individual to the state policymaking and enforcement levels and shed light on the role of the state in creating situations of vulnerability and exploitation for immigrant workers.

#### **4. Conclusion**

By examining Filipino women's experiences in Barcelona and the San Francisco Bay Area, in this chapter I explained some of the ways reproductive labor is transferred

from the Philippines to Spain and the United States. By using the term “transfer,” I intend to place emphasis on the institutional mechanisms that directly or indirectly allow for the presence of immigrant women workers labor in the remunerated reproductive labor sector in these two countries.

I have argued that for the past two decades the Spanish government has been directly facilitating such transfers, since its immigration policy has, for the most part, only allowed the entry of those laborers its economy needs. Since the Spanish market has been in high demand of reproductive workers, Spanish immigration policy has turned domestic work into one of the main venues to enter the country. While the country opens its borders to domestic workers, it does so without acknowledging the particularities and intimacy involved in domestic and care work or without taking migrant’s social and economic realities into consideration. Employers usually want to know who is going to take care of their children, their parents, or their homes. Spanish immigration law, however, requires jobs to be offered while workers are still in their home country. Given this maladjustment between the law and the reality of domestic work, some women in my study reported they followed legal steps to enter Spain and some of them did not. As the interviewees revealed, family and friendship networks spanning Spain and the Philippines have facilitated legal migration. Networks among Filipinas in Barcelona are crucial to fulfill an unrealistic and rigid law as well as to circumvent it.

Tourist visas do not authorize work in Spain neither do they allow for long term stay or family reunification. In addition, narrow definitions of “family” and the initial financial dependency of the petitioned person on his/her sponsor make family migration difficult.

In spite of all this, Filipino women in Spain are not adventurous tourists *or* workers *or* spouses. Their identities and material realities are not limited to one of these categories. With few exceptions, they are all of them and many more. They are brave travelers, hard workers, and loving family members. Spanish law, however, is based on the flawed compartmentalization of their experiences and the reduction of these to one of the dimensions mentioned above. While my research shows family and friendship networks have had a key role in the Filipino community in Spain to facilitating the

fulfillment of the law in the context of work migration, these have also been used to circumvent the rigidities the law imposes, and have been important to eventually achieve legal status. In addition, given the narrowness of family reunification provisions, women have resorted to networks to bring their loved ones to Spain as workers. This does not mean, however, immigrants are merely workers. They have their own income generation, family, and migration agendas, and they use and manipulate the limited legal mechanisms available to them to fulfill their goals. Many of them encounter structural constraints and often, if they do not have networks in Spain, fail to achieve legal status or acquire a formal work contract.

In contrast, the United States, for the most part, does not allow the entry of immigrant women as reproductive workers *per se*. Filipino women, instead, enter the country as family members or tourists. This lack of direct transfer of reproductive labor through an employment-based immigration program, does not change the fact that there are a great number of Filipino women conducting reproductive tasks in the U.S. In the case of those women entering as tourists, I have demonstrated that enormous difficulties of legalizing status once one's visa expires, and the informality and low status of reproductive labor, have made it the only work available to them. The lack of recognition of the importance of reproductive labor for the U.S. economy has translated into serious difficulties for these women to legalize their status.

Overall, both Spanish and U.S. immigration laws shape the gender composition of migration flows. In Spain, the prominent position of domestic work in the law has triggered a feminization of the flows. The Filipino community in this country has been markedly feminine since its origins and has concentrated in domestic work. In the United States, a large demand for health workers since the 1960s, as well as the large number of women being petitioned through family reunification, has also shaped the gender composition of the Filipino American community which, for the past 40 years, and for the first time in the history of Filipino migration to the United States, has been comprised of more women than men.

Due to its generous family reunification provisions, U.S. immigration law is perceived world wide as being based upon a liberal conceptualization of migration.

However, as I have shown in my analysis of Filipino women's experiences in the San Francisco Bay Area, family migration to the U.S. is not working as well as many may think, and many women are currently not enjoying the right to be with their loved ones. As employment-based migration gains ground at the sake of family migration, the entry of low socio-economic status immigrants is discouraged. The outcome is dramatic, endless waiting periods, which in some cases last for decades. Tens of thousands of Filipinos patiently wait their turn as they continue with their lives in the Philippines. But many others decide to travel to the United States on tourist visas to shorten the separation time. More often than not, travelling on a tourist visa leads to vulnerable working conditions and their inability to legalize their status, perhaps ever. Although community networks act to alleviate their vulnerability by providing information about jobs or housing, networks do not have much maneuver room, unlike Filipinas in Spain, to facilitate legalization. Employment-based migration, such as the H2B or A1 visas, place women in situations of dependency on their employers and lead to a normalization of irregularity or legalized trafficking.

Despite the importance of reproductive work to the U.S. economy and the welfare of society, there is an absence of immigration legislation to regularize immigrants' provision of this kind of work and to provide protections for these immigrant workers residing in the United States. When special programs are devised to guarantee the entry of domestic workers, their main goal is to serve upper-class employers in the diplomatic and business worlds, without ensuring protective measures for workers.

Finally, the rigidity of both Spanish and U.S. immigration law favors the creation of illegal recruiters in the Philippines and the existence of commodified and commodifying networks in both receiving countries. This leads to illegal migration, situations of vulnerability, and additional normalization of irregularity.

## CHAPTER VII

### ENTERING NEW LABOR MARKETS: FILIPINO WOMEN AS THE ETERNAL REPRODUCTIVE WORKERS

#### 1. Introduction

Immigrant women of color conduct the majority of remunerated reproductive tasks in both the United States and Spain. The Filipino women who participated in my study are thus part of larger racially feminized labor markets in both receiving countries. In Chapters V and VI I discussed different institutional dynamics in Spain and the United States that help explain Filipino women's entry into the receiving countries and their particular location in domestic and care work occupations. While it seems Spanish immigration law directly places them in the sector, this is not the case in the United States. Indirect forces, such as legal cracks that immigrant women fall into, help explain their presence in this informal and undervalued labor activity. However, care giving is also a predominant occupation for women entering on family visas, and Filipino women in Spain tend to remain in this job far beyond the initial one-year period Spanish immigration law requires.

In this chapter I discuss additional factors, which, understood in combination with the institutional dynamics analyzed in previous chapters, illuminate Filipino women's incorporation and permanence in the reproductive labor sector. The question I raised it, what other factors, besides immigration policy, contribute to the concentration of Filipinas in reproductive labor activities? These include racially segregated labor markets, credential and language, and ideological barriers. These three are interrelated and often reinforce each other. Finally, I discuss how gender dynamics, both inside and outside the household, shape women's incorporation into the new labor markets as well. Filipino women both in Spain and the United seem to have an easier time finding jobs

than Filipino men. Their coping mechanisms in the context of class and professional downgrading also present interesting gender divergences.

## **2. Marginalization in the Labor Market: The Eternal Reproductive Workers**

In order to do so, I draw on several issues Filipino women in both countries raised during interviews. One of my interview questions inquired about the reasons behind their decision to become caregivers or domestic workers. While I had initially expected to obtain information on personal or individual factors, many of the interviewees' responses pointed to larger macro dynamics that had directly or indirectly placed them in the reproductive labor sector. In sub-section 2.1. I examine my interviewees' educational backgrounds and show that these do not explain their location as low paid reproduction workers. Given this, in the following subsections I discuss some of the factors women raised in the interviews that explain their concentration in the sector.

### **2.1. Demotion: A Constant across the Board**

Meritocratic discourses in both Spain and the United States explain people's socioeconomic location in terms of their qualifications, knowledge, and experience (Grosfoguel 2003). They emphasize the primacy of people's human and cultural capital as explanatory factors for their position in the labor market (See Bourdieu and Wacquant 1994). It is the market, and only the market, that regulates minorities' incorporation into the receiving countries. People in Spain and the U.S. often uncritically adopt this discourse and assume women doing domestic or care work do not have enough English/Spanish proficiency and/or formal education, among other things, to conduct professional jobs.

Sometimes this is the case, and as Ruth, who is a high school graduate, explained during our interview, "[care giving] is the only job that I can do. I did not go to college."<sup>363</sup> Similar to her, Concha explained she became a domestic worker because "I only have high school and I don't know how to do anything else."<sup>364</sup> Yet, Rosa, a college graduate in the Philippines, reported, "I didn't have a choice. That's the only job that I

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<sup>363</sup> Interview 34, San Francisco, Ruth, July 2006

<sup>364</sup> Interview 4, Barcelona, Concha, December 2006

could get.”<sup>365</sup> When I asked Teresita why she worked as a domestic worker instead of practicing as a midwife, she responded she had no choice, because in order to work as a midwife in Spain she would need to take additional classes, and working as a domestic worker was thus much easier.<sup>366</sup> Immigration scholars in both countries have well documented that Filipino immigrant reproductive workers have high educational achievement levels (See Hondagneu-Sotelo 2001; Parreñas 2001; Ribas-Mateos 1999; Rodriguez 2005). My research findings are consistent with these authors’ conclusions, as the majority of my interviewees were college and high school graduates.

Tables 7.1 and 7.2 show the relationship between each of my interviewees’ educational backgrounds, the economic activity performed prior to migration, and the job they currently hold in the receiving country.

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<sup>365</sup> Interview 1, San Francisco, Rosa, February

<sup>366</sup> Interview 6, Barcelona, Teresita, December 2006

TABLE 7.1. Educational and Professional Backgrounds and Current Jobs in Spain

	Educational Background	Job in the Philippines	Job in Spain
Lili	One Year of College	Student	Caregiver
Elena	College Graduate	Recent Graduate	Domestic Worker
Daisy	High School Graduate	Recent Graduate	Caregiver
Concha	High School Graduate	Business Owner	Domestic Worker
Mari	High School Graduate	Housewife	Cleaner by Hours
Teresita	College Graduate	Midwife and College Professor	Domestic Worker
Nelly	College Graduate	Teacher	Domestic Worker
Corazón	College Graduate	Teacher and Sales Manager	Domestic Worker
Adelina	Double College Graduate	Work Student	Domestic Worker
Purísima	Two Years of High School	Housewife	Domestic Worker
Auxilio	College Graduate	Nurse	Domestic Worker
Marina	High School Graduate	Housewife	Domestic Worker
Delfina	College Graduate	Business Owner	Domestic Worker
Paulita	College Graduate	Microchip Factory Operator	Domestic Worker
Bernarda	High School Graduate	Garment Factor Operator	Cleaner by Hours
Paola	Elementary School	Beautician	Cleaner by Hours
Viviana	Vocational School	Unemployed	Domestic Worker
Coral	One Year of College	Business Employee	Domestic Worker
Raquel	College Graduate	Teacher	Cleaner by Hours
Violeta	College Graduate; M.A., Law School	Lawyer; College Professor	Domestic Worker

Source: Author's Interviews in Barcelona from November 2006 to March 2007

TABLE 7.2. Educational and Professional Background and Current Job in the U. S.

	Educational Background	Job in the Philippines	Job in the Unites States
María	College Graduate	Receptionist	Nanny
Daisy	Completed 6th Grade	Babysitter	Cleaner by Hours
Ana	College Senior	Student	Caregiver
Pilar	High School Graduate	Street Vendor	Caregiver
Bianca	Two Years of College	Civil Servant	Caregiver
Nieves	High School Graduate	Student	Caregiver
Ron	Three Years of College	Government Employee	Caregiver
Rosario	College Graduate	Print Operator	Caregiver
Carmen	Three Years of High School	Housewife	Caregiver
Josefa	Three Years of High School	Street Vendor	Caregiver
Emilia	College Graduate	Teacher	Caregiver
Eileen	Two Years of College	Supported through Remittances	Caregiver
Noemi	College Graduate	Teacher	Caregiver
Ruth	High School Graduate	Street Vendor	Caregiver
Remi	College Graduate, M.A.	Accountant	Caregiver
Arnie	College Degree	Accountant	Accountant/Caregiver
Rita	College Degree	Assistant Corporate Secretary	Caregiver
Lola	College Degree	Housewife	Caregiver
Ester	College Degree	Nurse	Caregiver
Maribel	Three Years of College	Student/Family Business Employee	Caregiver
Paca	College Graduate	Teacher	Caregiver

Source: Author's Interviews in San Francisco from January to August 2006

The trends these tables document are very similar. In both Spain and the United States, ten interviewees were college graduates and a couple of them had completed graduate school. Four of the interviewees in Barcelona and five of their counterparts in the U.S. had completed at least some college. In addition, there are five and three high school graduates in Spain and the United States respectively. Only one woman in Barcelona and three in San Francisco have less than a high school diploma. In both countries interviewees' English proficiency was proportional to their educational level.<sup>367</sup>

If we contrast formal education with the jobs interviewees held in the Philippines two trends appear. Those with middle and lower educational levels were either "unemployed" housewives or worked in the informal sector, for example street vending and babysitting. They complained about lack of jobs and low wages. Among those with higher education, some occupied low skill jobs in the service economy and in factories and others many held professional jobs. Women holding college degrees also faced a lack of job opportunities or complained their professional jobs did not translate into good salaries. While overall formal education in the Philippines resulted in more skilled and better paid jobs than lower educational levels did, all women mentioned unemployment, underemployment, and low wages as one of the main reasons for migrating. When I asked them why they had left the Philippines this was expressed in answers such as "to have better opportunities," and "to seek greener pastures."

All interviewees agreed their jobs as reproductive workers in Barcelona and San Francisco provided substantially higher income than their jobs in the Philippines. Despite the wage difference, their labor location in receiving countries, more often than not involved a demotion in relation to their educational levels and their jobs in their home country. There was nothing about the interviewees' job or school history that made them particularly good candidates for the jobs they conducted at the time of my study. Since the market (i.e. women's qualification and past labor experiences) does not regulate their incorporation into the new labor market, what does? What other factors may help explain

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<sup>367</sup> In fact, with the exception of Daisy in San Francisco and Purisima in Barcelona, I conducted all the interviews in English or combining English and Spanish. In Purisima and Daisy's case I had the help of a Tagalog-English/Spanish translator.

their concentration in the reproductive labor sector? To answer this question is necessary to move away from individual explanations regarding educational background and individual choices and understand the social dynamics of receiving countries that contribute to their placement in particular labor sectors.

## **2.2. Structural Factors: Racially Segregated Labor Markets**

Overall, recent immigrants to both Spain and the United States have had a hard time finding jobs commensurate with their formal training. Minority and immigrant women have historically done reproductive labor in the United States. Since the time of slavery, maids or servants of color have been presented as dirty and socially inferior (See also Hondagneu-Sotelo 2001; Romero 2003). In California, in addition to the concentration of U.S. citizens of color in low wage and skill jobs, it is often new and undocumented immigrants of color who end up doing these jobs, including reproductive labor. Arnie did not have any doubt about this when she explained that

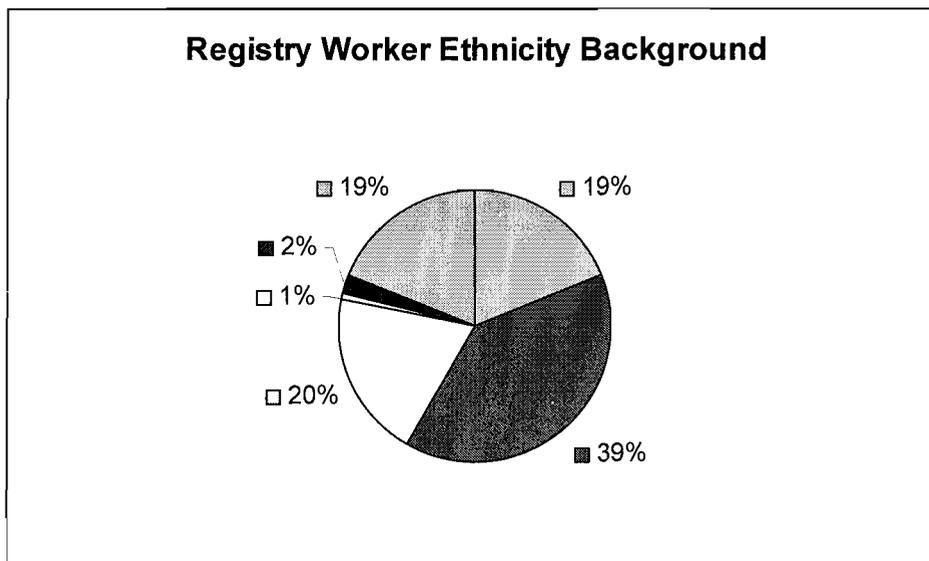
If you are a new immigrant, care giving is the only source of income right now. If you are a new immigrant you cannot work in the office, even if you are a teacher, an accountant, a doctor, a nurse...<sup>368</sup>

The current political climate in the United States does not make the racialization of this sector explicit. Political rhetoric about color blindness and a focus on immigrants' "foreignness," mask the still prevalent racial hierarchy in the U.S. labor market. In 2006 Whites composed only 49% of the population in California but constituted 79% of the nurses and 72% of the doctors (See also East Bay Business Times 2008).<sup>369</sup> Yet, as Graph 7.1 shows, they only made up 19% of care givers at the San Francisco In-Home Support Services in 2000. Asians and Pacific Islanders constituted 11% of the total population of the state in 2000 but were 39% of the home providers at In-Home Support Services (San Francisco IHSS Public Authority 2000).

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<sup>368</sup> Interview 45, San Francisco, Arnie, August 2006

<sup>369</sup> Source: Educational Materials kindly provided by staff at the Welcome Back Center in San Francisco and based on the University of California, San Francisco's Center for the Health Profession's statistics.

**GRAPH 7.1. San Francisco County IHSS Racial Distribution**

Source: (San Francisco IHSS Public Authority 2000)

According to the data of the San Francisco In-Home Support Services, 19% of their caregivers are White, 39% Asian or Pacific Islanders, 20% are African American, 19% Latinos, 2% Native American, and an additional 1% do not identify with any of these ethnic categories. Thus, we see a hyper-concentration of Whites in professional categories and their under-representation in care giving jobs.

In the case of Spain, regardless of their educational background, non-European immigrants have been concentrated in the agricultural, construction, and domestic service sectors for the past three decades. According to different reports on immigration in Catalunya, Filipino women are, among all immigrant women, the most educated and also the most concentrated in the domestic work sector (GESES 2007; Pajares 2005; Pe-Pua 2003). This has been so since their initial arrival in Spain. Although immigration has become prevalent in Spain only in the past couple of decades, its acceleration has dramatically altered the configuration of Spanish society and its labor market. Similar to the United States, it is possible to identify jobs that “belong” to immigrant women of color, and reproductive work is certainly one of them. This distribution is not random. In the Spanish and U.S. labor markets the racialization and feminization of certain labor

activities has an economic function, in that it cheapens labor costs (Acker 2006; Lowe 1999). Racial and gender discourses present certain jobs as less important or lower skilled and therefore deserving lower salaries. Filipino women encounter this situation upon arrival and, more often than not, join the low echelon jobs.

### 2.3. Credential and Language Barriers

We basically prepare people giving them orientation on the transition from the Philippines to the U.S. Because the situation is that many of the newcomers are professionals and many offices and schools do not recognize foreign graduates. And so, foreign graduates most often have to go through school training here in the U.S. to get accreditation, and many of them, because of lack of familiarity with the high tech culture in the U.S., just get the entry level positions, even though they are overqualified for those position. So we do orientation to the newcomer .The reality is that even though it's an open policy that people are not discriminated against, but somehow employers prefer people who don't speak with an accent, that were born here.<sup>370</sup>

A common comment among interviewees in Barcelona and San Francisco, particularly those holding college degrees, was that in most cases authorities in receiving countries do not recognize their credentials from the Philippines. This coincides with interviews with Philippine government employees, who explained Filipinos all over the world struggle to have their Philippine degrees recognized in foreign countries.<sup>371</sup> Filipino accent when speaking English or lack of Spanish proficiency also seemed to explain their difficulties accessing professional jobs.

The main problems in the United States were lack of local experience as well as the bureaucratic hurdles to obtain degree recognition and licensing. Remi, a 68-year old Filipino caregiver, arrived to the United States in 1987. By the time of her arrival, she was 49 and had a college degree and a master's in economics. She had been working as an accountant in Manila for several years. According to her, she really wanted to continue to do "office work," but most employers required "local education and experience," so she could not work as a professional. Her husband, a college professor in the Philippines,

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<sup>370</sup> Interview 10, San Francisco, Filipinos for Affirmative Action, June 2006

<sup>371</sup> Interview 14, Philippines, Government Employee, May 2007

did not have his Philippine Ph.D. recognized and had to go through graduate school again in order to be able to teach in U.S. universities. The fact that her four sons and her husband were going to school forced her to become her family's breadwinner. According to Remi, care work was an easy job to do, and it had the advantage of double shifts. During her initial years in the U.S. she usually worked 16 hours a day. For her, a job that would allow her to work as many hours as she wanted was perfect since, "hours equaled money." This allowed her to support her children and her husband while they were obtaining "local education" and working part-time.<sup>372</sup>

Noemí, a 56-year old caregiver, had been a teacher in the Philippines before she moved to the San Francisco Bay Area. When I asked why she worked as a caregiver instead of a teacher, she told me her Filipino friends who were teachers had told her she would need to show her credentials and her transcripts from the Philippines, and her credentials were not going to be enough, so she would have to go back to school to take additional units. Noemí really wanted to continue to work as a teacher, but she felt she could never demonstrate she had the necessary requirements.<sup>373</sup> Emilia was 69 and had also been a teacher in the Philippines. She started to work as a care giver upon her arrival to the U.S. in 1993 and continued to do so after retirement. Similar to Noemí, she never worked as a teacher because she needed more college units to do so in the U.S. Emilia's husband had been a doctor in the Philippines but never managed to get licensed in the United States, so he became a volunteer in a hospital near their house.<sup>374</sup>

These three interviewees' stories, along with their husbands', illustrate some of the challenges immigrants face accessing professional jobs in the U.S. According to a counselor at City College of San Francisco, there are many professional immigrants who currently "park cars in car lots, work as housecleaners, maids, and construction workers." One of the main reasons behind the incongruence between their educational backgrounds and the jobs they occupy in the United States is their difficulty proving they can do professional jobs. The first hurdle lies in the requirement in several fields of obtaining

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<sup>372</sup> Interview 37, San Francisco, Remi, July 2006

<sup>373</sup> Interview 33, San Francisco, Noemí, July 2007

<sup>374</sup> Interview 31, San Francisco, Emilia, July 31

their transcripts from their home country. This process can take months or years. Once they obtain them and submit them to their professional commission in California, the commission evaluates them and decides to what extent their completed curriculum is compatible with the U.S. curriculum. The commission usually requires them to take additional classes. This involves investments of time and money. Once they manage to complete all the units, if they do, they need to take the licensing test.<sup>375</sup> An immigrants' work counselor at Filipinos for Affirmative Action stated that many Filipino women fail the test required to practice as nurses:

It's probably the way the test is set up, some people can't cope with the high tech that is required, and I haven't, taken the test, you know, but others have tried and haven't passed it. I don't think that the problem is with the intellect or intelligence, but there are, I think that there is some things in the test that favor a high tech background rather than the background that they are used to in the Philippines.<sup>376</sup>

There was also a perception among immigrants and immigrant rights' advocates that a foreign accent could be at the root of employers' discriminatory practices. Many employers prefer to hire workers "without an accent," who have been born and raised in the United States. This coincided with Noemí's view:

There are Filipinos, it's sad to say, who can't speak English fluently, and can hardly communicate. Those who can, they are hard to understand. That's one of the problems why, you know, we are looked down, although we are not the only ones. Also the Mexicans are, you know? [so the employers say,] Why [should] you have the job if you do not know how to speak English?<sup>377</sup>

Ironically, Noemí included herself among those "who can't "speak English very well," though I thought her English was excellent and better than mine. Yet, she did not seem to blame employers for this and seemed to believe that it was Filipinos' responsibility to learn to speak English without an accent. Somewhat differently, Emilia thought that Filipinos' generalized ability to speak at least some basic English, as

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<sup>375</sup> Interview 29, San Francisco, Welcome Back Center, July 2006

<sup>376</sup> Interview 10, San Francisco, Filipinos for Affirmative Action, June 2006

<sup>377</sup> Interview 33, San Francisco, Noemí, July 2006

opposed to immigrants from other nationalities, put them in a privileged position to find jobs within the caregiving sector: “[Other nationalities] can’t speak English, that’s why Filipinos can easily get jobs. Because the employers can speak with them.”<sup>378</sup>

Women in Barcelona could not really use their professional degrees either. Teresita, a midwife and a college professor in the Philippines, had worked as a nanny and domestic worker in France and Spain since her arrival to Barcelona in 1997. Teresita was 40 years old at the time of the interview and explained the reason she never worked in her field in Spain was that she was required to take additional classes. This was not really an option for her since “[I]f you do not work, then you don’t have something to eat, to pay the house and everything. We are here to work.”<sup>379</sup> Adelina, who was 43 years old, had worked as a domestic worker in Barcelona since her arrival in 1991. This is different from what she had initially planned, since she had two college degrees from the University of Ilo Ilo, from the Philippine region of Visayas:

I started to work in order to eventually become a white-collar worker.... But here I am working *como chica*.<sup>380</sup> However, I think that there is dignity and respect in the job. Once you learn to love the job... you like it. With my employers, we exchange knowledge, sometimes language... they are teaching me. But I still would like to do something different.<sup>381</sup>

The bureaucratic steps non-Spanish nationals need to follow in Spain in order to get recognition for their degrees are quite similar to those in the United States. These include degree certificates, transcripts, and curricula from their home countries. A Commission at the Ministry of Education reviews the applications and decides the candidate’s educational background compatibility with Spanish curriculum and requirements. It is often the case that non-Spanish nationals end up taking ten subjects in Spanish institutions in order to get their degrees recognized. A Philippine government official, formerly placed in Madrid, summarized the main difficulties Filipino professionals face in accessing professional jobs in Spain:

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<sup>378</sup> Interview 31, San Francisco, Emilia, July 2006

<sup>379</sup> Interview 6, Barcelona, Teresita, December 2006

<sup>380</sup> As a maid.

<sup>381</sup> Interview 12, Barcelona, Adelina, February 2007

[Filipino women] are willing to take whatever job is available for them. But what Spain can do for instance is to go back to this mutual agreements between the Philippines and Spain that accord the equivalency of the training of the educational attainment that we have back home. [I]t should be recognized by Spain. I hope Spain will [give this a] second thought because once you solved that problem, then you will not have problem practicing your profession. The other thing is the language. But Filipinos learn fast...<sup>382</sup>

According to the interviewee, countries like Spain and the United States should speed up the bureaucratic process Filipinos need to follow in order to practice their professions.

While Filipino women in the United States mentioned having an accent as a source of problems finding a job, Filipino women in Barcelona faced even bigger challenges. Most Filipinos who have completed high school in the Philippines speak English. However, they usually do not speak Spanish. Interviewees in Barcelona often mentioned learning to speak fluent Spanish takes a long time, and that is why they cannot work in a sector other than the domestic one. In addition, their particular location in Barcelona makes their relationship with the local language more complicated, since this area of the country has its own language (Catalan) in addition to Spanish. In Barcelona language skills are very much connected with incorporation into the labor market. As a matter of fact, all government jobs and many jobs in the private sector have Catalan proficiency as one of their requirements. This has consequences for Filipino women who, rather than having to learn one language, actually have to learn two. Since it is possible to communicate in Spanish, they usually prioritize it and very seldom manage to speak Catalan fluently. Different government agencies have acknowledged that the inability to speak Catalan is one of the factors behind immigrant men's and women's difficulties accessing more formal and professional jobs.<sup>383</sup>

What became clear in my interviews with Filipino women in both countries was that credential and language barriers took place in a context where they did not have time to take courses to overcome them. While in the Spanish case higher education is usually

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<sup>382</sup> Interview 11, Philippines, Government Official, May 2006

<sup>383</sup> Field notes, Barcelona, February 2007

public and quite affordable, the same is not true for the United States, so some of them reported not having enough money to enroll in school. Overall, however, the biggest barrier to access professional jobs in both locations was the feeling that their priority was to earn money for themselves and their families. As Remi put it, working as a care giver “you get hours, even if you don’t speak good English.”<sup>384</sup>

**2.4. Ideological Barriers: “*Filipinas are good in the bathroom, for changing diapers, and have tolerance for bad smells.*”<sup>385</sup>**

As shown in Chapters II and IV, an analysis of ideological constructions, based upon class, gender, and race, defining Filipino migrant domestic workers in relation to the international economy is necessary to achieve an understanding of their displacement from the Philippines and migration to other countries. What I aim to emphasize in this section, is the role that these categories play in Filipino women’s current location and relegation to certain labor sectors in the U.S. and Spain. Interviewees in the U.S. and Barcelona mentioned ideological factors, such as Spanish, U.S. and even Filipino people’s characterizations of Filipino women as ideal reproductive workers, to explain their location in this labor sector.

According to Collins (Collins 1990), ideology is the process by which certain qualities are attached to people and how these qualities are used to justify oppression. When these qualities are connected with racial or cultural features the ideological process taking place is called racialization. Racialization is the process of naturalization of cultural differences and/or the attribution of racial meanings to a social relationship, practice, or group (Ibid.) or the use of cultural differences to legitimate situations that in reality respond to racial inequalities.

Building upon Grosfoguel’s work (2003) I suggest Filipino migration constitutes a good example of how the borders of exclusion cultural racist discourses articulate are a

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<sup>384</sup> Interview 37, San Francisco, Remi, July 2007. Finally, community networks have also had a role in the concentration of Filipinas in reproductive labor in both countries. The strong presence of Filipinos in the sector facilitates the incorporation of newcomers. Family and community networks acted to provide information about jobs in the care giving industry. While this allowed newcomers’ access to the job market, it also constraints their presence to particular niches, such as care work.

<sup>385</sup> Interview 45, San Francisco, Arnie, August 2006

global phenomenon. They are not exclusive to a single country or a single national or racial group. Cultural racism explains immigration populations' location in the labor market in terms of their habits, beliefs, cultural values, shortages, and excesses. According to this discourse, minorities are unemployed or live under the poverty line because of their cultural values and behavior. Dominant societies explain the marginalization of groups such as Puerto Ricans in France or African Americans in the United States as the result of these groups' laziness, criminality, and dirtiness. These groups are also portrayed as opportunists and parasites. In the context of meritocracy and the prevalent belief in the "American Dream," they, and only they, are responsible for their subordinate or marginal location in the labor market. This ideology is based on gender (overtly masculine aggressiveness) and racial (passive and lazy) discourses with explicitly negative connotations. Depending on the context, ideological racial discourses emphasize feminine or masculine traits to accentuate certain shortages or excesses. What is particularly interesting about Filipino reproductive workers is that many of the characteristics emphasized to explain their relegation to a marginal sector are supposedly positive. This coincides with Hondagneu-Sotelo's (2001) analysis of household work in California. She states that the only times in which racial stereotypes are used positively to describe immigrant domestic workers is when they have feminine connotations and express appreciation for submissive or flexible behavior. Through the attribution of these supposedly inherent characteristics, Filipino women become especially suited to conduct certain labor needs for transnational capitalism (Kang 2002).

Arnie resented the barriers she encountered to practice her profession and explained it is mostly immigrant women doing reproductive work. According to her, White people think this work is very simple. However, she argued, if the job is so easy, why don't Americans want to do it? Arnie could not understand why there are so many White U.S. homeless and jobless people when there are so many care giving jobs. Then she resigned to the fact that care work has become a people of color's job in the U.S.:

American people don't wanna do care giving; they wanna do the White collar jobs; they wanna be in the hospitals. Not as caregivers. [Caregivers] could wash toilets. White people do not do that, because it is a domestic work.

She also felt there is a generalized view among White Americans that immigrant women of color are particularly good at this domestic work. According to Arnie, Women from different countries are perceived as being good for particular niches within the reproductive labor sector. Filipinas in the U.S. are perceived as being good caregivers:

[E]verybody thinks Filipinas are good caregivers. When [they need] caregivers, they will ask for a Filipino. But Filipinos are small, other nationals are bigger. I think that Latinas are good for housekeeping. Filipinas are good in the bathroom, for changing diapers and all that. We have tolerance for bad smell [laughs] And we are good speakers, we know how to speak English, so maybe that is the reason, why... I tell them to speak slowly... Be simple, speak calm, always smile... good attitude... I am angry too but I have no money!!!

Arnie's portrayal of Filipino women's excellence as caregivers, ironically, resembled the Philippine government construction of Filipino women as elite reproductive workers because of their patience and their English proficiency. Her last sentence acknowledges the frustration she and her co-workers feel. She explains their compliance, rather than by an inherent ability to care for other people, by their need to make a living and their inability to access more qualified jobs. Overall, Arnie hints at ideological characterizations of Filipino women as ideal caregivers in U.S. society that determine their location in the U.S. labor market. She also reflects on Filipino women's adaptation to racial stereotypes in order to make an income in a sector that, according to her, U.S. society reserves for Filipina (and Latina) immigrants.

Without Arnie's critical approach, Emilia emphasized certain "Filipino traits" to explain Filipinas' advantage versus other national groups:

Filipinos are good workers. That is why employers are getting more Filipinos, because they can be trusted, they can speak English mostly, unlike Chinese or Mexicans ... They are industrious, they work well, and mostly they studied in the Philippines. There, even if they are poor, the parents are trying their very best to send them to school, because there are schools which are free up to high school, so far as you finish high school there you can speak English, at least a little bit.<sup>386</sup>

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<sup>386</sup> Interview 31, San Francisco, Emilia, July 2006

Filipino women occupy a privileged position in the care giving sector *vis à vis* their Latina counterparts. An immigrants' rights attorney in San Francisco explained that in the particular case of care homes "there seems to be a caste system, where the workers at the very bottom tend to be Latino. Above them there are often Filipinas. And then the White people at the top."<sup>387</sup> A Filipino immigration attorney explained Filipina's gravitation toward care giving and clients' preference for them as care takers as due to particular components of Filipino culture:

[Filipino women] think they are really good at that, even the patients say that. There have been some studies showing that there is something in the culture, in the way Filipinos grow up respecting the elders, and you need that for being a caregiver. So there is something there... as far as the culture is concerned. Filipinos gravitate towards nursing professions that have to do with a lot of care.<sup>388</sup>

Similarly, a Philippine consular official in San Francisco explained employers generally prefer Filipino caregivers versus other nationalities, and this "is a credit to the kind of work ethic that Filipinas have ... Because we are flexible, and we are easy to get along with."<sup>389</sup>

This ideological discourse resembles that of the Philippine government and identifies Filipinas as inherently good care takers and somewhat justifies their location in this work sector. As Noemí complained during our interview, "Employers and patients seem to believe Filipinos belong to this kind of work."<sup>390</sup> This discourse racializes Filipinas by referencing culture traits to explain their location in the care giving sector. The traits emphasized categorize them as inherently good for servile jobs characterized by low wages, precarious working conditions, and invisibility.

This view of Filipino women as excelling as reproductive workers also emerged in my interviews in Barcelona. Teresita and Adelina's testimonies above illustrate that some

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<sup>387</sup> Interview 39, San Francisco, Employment Law Center, August 2006

<sup>388</sup> Interview 24, San Francisco, Immigration Attorney, July 2006

<sup>389</sup> Interview 41, San Francisco, Philippine Consulate, August 2006. Adrian White, a social psychologist at Leicester, developed the first "World Map of Happiness," In 2006, Denmark ranked number 1, the Philippines number 17, and the United States number 23.

<sup>390</sup> Interview 33, San Francisco, Noemí, July 2007

women felt they could be doing more qualified jobs. However, the general perception among interviewees was that they were lucky they had managed to enter Spain and find a job there. They were also generally quite proud of the perception Spaniards have of them as being particularly good domestic workers. This perception, which also parallels the one the Philippine government made explicit, came up during my interviews with Spaniards as well. When I asked the immigration coordinator of a local non-profit organization about the evolution of the Philippine community in Barcelona, she replied that Filipina workers for few decades have had a “special brand” within the domestic work sector. According to this interviewee, already in the early 1970s well-off Barcelonan families used to brag of having an “English servant,” who spoke English and could tutor their kids. While in the previous section I have discussed how lack of Spanish proficiency limits Filipino women’s labor opportunities in Spain, their English proficiency has historically contributed to ideological constructions of them in Spanish society as elite domestic workers. Besides speaking English, there were already other traits that defined Filipino domestic workers:

In those times it was already like this, it was clear, really clear. Besides, Filipinas work well to put up with being a live-in, which in those times started to be hard to find. It was only Filipinas who would put up with it, and people from Honduras and the Dominican Republic that came in the 1980s.<sup>391</sup>

When I asked the interviewee whether she thought Filipino women continued to occupy a “special” place within the domestic work sector, her answer was that Filipinas have a “special brand” that distinguishes them from other nationalities in the sector:

Filipinos have like a brand, right? In domestic work, the elite people only hire Filipinos. I remember once, we had a round table with a Filipina, her name was Julia, a Rumanian woman, a woman from Ecuador, and a woman from Morocco. Julia spoke the last. The Moroccan woman spoke of her problems with language. The Rumanian woman explained people did not trust her. The woman from Ecuador felt mistreated and discriminated .... And then, the Filipino woman said, ‘Well, I am happy with my job, because they pay me what I ask, and you all are kind of discrediting domestic work, and you are lowering the standards. I, on the

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<sup>391</sup> Interview 10, Barcelona, CARITAS, January 2007. Interview conducted in Spanish. My translation.

contrary, work X amount of hours and make X Euros.’ In other words, she kind of had a price because she had a brand. And employers had looked for her because she was Filipina, because she was responsible, because they knew that she would do a good job and she was reliable.

The report of the research group GESES<sup>392</sup> (2007: 37) corroborates this testimony. The report explains that hiring a Filipino domestic worker in Barcelona is more an ostentation act than an effort to reconcile Spanish women’s family and labor realities. The Filipino woman becomes, from upper classes’ perception, a luxury servant. This distinction between Filipino workers and those from other nationalities translates into salary differences (see Beltrán 2003). As the same interviewee from the non-profit organization explained:

[I] think that Filipinas make more money as domestic workers than any other national group here right now. They establish the price; I know that they establish the price. And people pay it because they know that they are loyal, put up with a lot, and I think that they are people with values about honesty... I think... And also other groups... It does not mean that they do not have these values, but people have catalogued them differently... [other national groups] are more stigmatized.<sup>393</sup>

One of the indicators of this “special brand,” according to the interviewee, is that Filipino domestic workers end up having a close and personal relationship with the families they work for. This coincides with other information obtained during my field work, since the interviewees showed a tendency to work for the same employers for many years because of their good relationship with them. Informal conversations with employers also indicated a clear preference toward Filipino domestic workers due to the latter’s kindness and loyalty. These features result in better job opportunities for Filipino women than women of other nationalities have. Most of my interviewees were aware of this competitive advantage. Similar to the San Francisco-based Filipino attorney quoted above, Nelly, a 61 year-old domestic worker who arrived in Spain in the late 1980s,

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<sup>392</sup> GESES is a Research Group at the Universitat Autònoma de Barcelona focused on reproductive labor. Their last study, which was on Filipino domestic workers in Barcelona, was funded by the Fundació Jaume Bofill, the same foundation that funded me to write my dissertation.

<sup>393</sup> Interview 10, Barcelona, CARITAS, 2007

explained there are certain features of Philippine culture that shape immigrant women's attitude as domestic workers. Besides emphasizing Filipinos' hard work ethic, she explained Filipino women create close and respectful with their employers. These features differentiate Filipinas them from other national groups:

I think [Filipinos] have to finish our work before we can go and have fun or rest. We first need to take care of our responsibilities. I also think that our relationship with our *señor y señora* has to be kind and respectful. We, in our family, are educated to respect the elderly. Other [national] groups get angry at their *señoras*. But, in fact, even if they do something to you, you can always answer kindly or clarify things... but we do not get angry, particularly in the way in which they talk to the *señoras*. I can't talk like that to my employer. I never... at my job there is a *chica* from Morocco, and she is really harsh, this is the word, and she has more quarrels with the *señora* than us, Filipinas. We absolutely don't [have quarrels]. And usually, the *señora* feels closer to me, really, our relationship is better.<sup>394</sup>

It is ironic that Nelly emphasizes Philippine tradition regarding respect to the elderly to explain her attitude toward her employers since, at 61 years old, Nelly is older than they are. She explains submissive attitudes toward employers using cultural arguments, which confound and therefore mask class deference under age difference. It is also culture what establishes a key distinction between Filipinas and other national groups and places the former in an advantageous position as high status domestic workers (See GESES 2007). This results in higher wages than other national groups'. What makes Filipino domestic workers unique, besides English proficiency, is their hard work ethic and reliability. As Coral explained:

We are very effective ... you can trust Filipinas, you can leave them alone, everything is in its place, and they know how to work well. The *señoras* say it. Latin American women sometimes do not know how to work. You need to teach them how to work. Because you do not only need to clean what you see. You need to clean everything. Up to the ceiling. This is why Spanish women like Filipinas. Because we work well.<sup>395</sup>

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<sup>394</sup> Interview 11, Barcelona, Nelly, January 2007. Interview conducted in English. My translation

<sup>395</sup> Interview 26, Barcelona, Coral, March 2007

Coral's statement point toward the existence of segmentation within segmentation. In other words in the Spanish labor market, Filipino women's presence in the Spanish labor market, which is segmented along racial, class, and gender lines, as it is in the United States, takes place in the reproductive sector which, in turn, presents its own hierarchies. Different groups, depending on their migration trajectory, legal status, and characteristics attached to them by ideological discourses, occupy different levels within the domestic work sector. Filipino women's position within the sector, as well as the distinction both they and the Spanish population draw between different national groups, produces and recreates a hierarchization of "otherness," where ideological descriptions of Filipino women correspond to their social and labor locations. Despite Filipino domestic workers' "privileged" location in Barcelona, they continue to have difficulty accessing other job sectors. Despite high educational levels, very few have managed to find jobs outside the domestic work sector. Although English proficiency gives them prestige, their initial lack of knowledge of Spanish, and particularly Catalan, make their access to other occupations, especially professional ones, very difficult. In a nutshell, ideological discourses in the Philippines, the United States, and Spain portraying Filipino women as elite reproductive workers due to their hard work ethic, English proficiency, loyalty, and reliability, intersect to provide the Spanish and U.S. labor markets with the labor they need. Simultaneously, racially segregated labor markets, and credential and language barriers impede these workers' entry and promotion in the labor market. While Filipino domestic workers enjoy the privilege of being on the top of the domestic sector ladder, they also see the door to other job sectors closed to them.

## **2.5. Gender dynamics: Who Is the Breadwinner?**

Ramón Grosfoguel (2003) states that racist discourses have historically operated to regulate labor markets. According to him, during periods of economic expansion they have contributed to the creation of a cheap labor force, while in periods of contraction they have helped exclude certain populations from the labor market. To add to Grosfoguel's contribution, I discuss how exclusion from the labor market is also shaped by- and in turn shapes- gender dynamics. My research shows different degrees of

exclusion among Filipino women and men in both Spain and the United States. It also shows gender differences in terms to the strategies women adopted to cope with exclusion and discrimination.

Migration and gender scholars have largely discussed whether migration constitutes an emancipatory gender project for women or if it reproduces gender oppression (See Escrivá 2000; Espiritu 1999; Hondagneu-Sotelo 2001; Narain Assar 1999; Pessar 1999; Singer and Gilbertson 2003). Does migration alter oppressive gender dynamics within the family, does it leave them intact, or does it reinforce them? While there has been no unanimous response to these questions, authors have expressed consensus that migration often alters gender relationships both at the micro and the macro levels. This alteration never takes place in a vacuum. It is always connected to other alterations migrant women and their families go through, such as legal status, class displacement, and their relationship *vis à vis* the labor market in the receiving country.

I have discussed an across the board process of demotion for Filipino women migrating to the United States and Spain. This is very much related to the availability of labor market opportunities, often institutionally sanctioned, and to ideological discourses that put “different racial groups in their place.” Filipino women are not alone in this demotion. Their male counterparts also suffer such dislocation and demotion. For example, Lola, a 43 year old care giver in San Francisco had completed a BS in Economics in the Philippines. Her husband, who works as a porter at San Francisco General Hospital, was also a college graduate and had worked as an aeronautical engineer prior to their departure for the United States.<sup>396</sup> Their case was not an isolated one. Interestingly, my research documents different effects of this new reality on men and women which, in turn, alter gender relationships and survival strategies.

Filipino women enter Spanish and U.S. society often to make a new start. Their academic and professional merits are often discounted, and accent and language issues, as well as racial segmentation within receiving countries’ labor markets, often result in descent in their professional and overall class location. Despite their high educational

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<sup>396</sup> Interview 43, San Francisco, Lola, August 2006

backgrounds they usually concentrate in the reproductive labor sectors. This has both positive and negative aspects. On the one hand this involves women's downgrading and class dislocation: On the other hand, the availability of jobs in the reproductive labor sector allows these women to make very much needed income. However, if evidence shows that reproductive work is where Filipino women both in Spain and the United States are landing, what is happening to Filipino men? And how is this affecting the relationships between Filipino men and women and their family survival strategies?

My study did not include interviews with Filipino immigrant men to Spain and the U.S.<sup>397</sup> However, female interviewees often referred to their husbands' jobs and circumstances. This shed light on a reality that I had not previously noticed: Filipino women often embrace their new location, no matter the difficulties and the pain the downgrading inflicts, in order to succeed in their migratory project. Filipino men, however, have a harder time finding a job as well as accepting their new labor realities and class location.

Remi's and Emilia's husbands, a college professor and a doctor in the Philippines respectively, were unable to practice their professions upon their arrival in the United States. Remi's husband started graduate school all over again in San Francisco while doing a part-time service sector job. His goal was eventually to obtain a PhD and find a tenure-track job at a university. He worked as an adjunct at a community college for a couple of years, but he never managed to find a stable position within U.S. academia. Emilia's husband did not even try to validate his Philippine medical degree in the United States and felt incapable of completing an adjustment period that would have involved years of classes and residency. He ended up working as a security guard at Walgreens. Remi became a caregiver to give her husband, according to her the family's breadwinner, time to study. Emilia started taking care of children and old people to complement her husband's low income. In both cases, given their partners' inability to embrace the limited labor opportunities available to them, it was women who, working long shifts as caregivers, became their families' breadwinners.

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<sup>397</sup> With the exception of Ron, who I interviewed because he is a care giver in the San Francisco Bay Area.

Beverly was only a child when she migrated to the U.S. with her family 1981. Before the family left the Philippines her father already had a job offer as an engineer in a San Francisco-based firm. Her mother, a nurse in the Philippines, was initially going to take care of the kids and eventually take the licensing exam that would allow her to work as a nurse in California. However, Beverly's father:

Got laid off like a year or so later. My mom had to work. It was a difficult time. He could not get another engineering job. My mom did two or three jobs. Not as a nurse. She did not have the license at that time. So she worked care giving and medical assisting jobs, things like that. My dad could not get another engineering job. He worked as an airport mechanic. That was a very big step down, because my dad was a supervisor in the Philippines and major engineer in a company, he was very talented... So, to do something that is not what he studied or what he worked on, it was a very big hit on him. It took a toll on the family, that he could not get a job, psychologically, he also started drinking. But my mom was always working.<sup>398</sup>

A talented engineer, Beverly's father had expected to thrive in the United States, support his family comfortably, and maintain the middle-class status they had enjoyed in the Philippines. But after he lost his job, he was not able to find another in accordance with his abilities and talents. Beverly's mother then started working to support the whole family, including her husband, who, given his inability to accept his new location and identity as a non-professional, started drinking heavily and withdrew psychologically.

Carmen and her husband also struggled with his inability to find a job upon their arrival in the Bay Area in 1985. Carmen never finished high school in the Philippines and was a housewife before they left. Her husband worked in Manila as a record officer at the Philippine National Treasury. But when they arrived to the U.S., the only job he could find was as a server in McDonald's. According to Carmen, during their first two years her husband would cry everyday, because he could not find a "decent" job. Three years after their arrival he had to have heart surgery and was unable to work after that. Since the beginning Carmen worked as a care giver to complement her husband's low income and eventually became the family's sole breadwinner.

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<sup>398</sup> Interview 20, San Francisco, Beverly, June 2007

These testimonies shed light on a complex reality, in which interviewees' husbands or fathers failed to find professional or white collar jobs. These stories show a pattern in which male immigrants subsequently fell into depression, which hindered their ability to support their families. Simultaneously, women, victims themselves of the institutional and structural barriers present in the U.S. labor market, were somewhat able to "ignore" the same difficulties and took whatever jobs were available. In Remi's case, her husband's desire to continue to work as a college professor put her in a situation where, regardless of her own high educational and work credentials, she had to take a non-professional job- caregiving- and worked long hours to support her husband's incorporation into "professional America." She supported him at the expense of her own career advancement. In other cases, women worked long shifts as care givers to make up for their partners' unemployment or inability to accept their new situations.

This gender differential is not unique to the Philippine immigrant community. During my interview with a job counselor at San Francisco City College, she explained how, in the context where immigrant professionals often fail to maintain their previous job status, men tend to have more difficulties than women. She said that overall women seem more willing to compromise and to change their role.<sup>399</sup> Lola's testimony validates this:

Honestly speaking, when I first became a [caregiver] I cried. Because this is not the job that I want to do because I never thought that you know... I don't know how to do this. But I stopped crying and I had to start to learn loving my, you know, everyday routine. I said, 'oh why should I bother anyway, that's the [only] thing I can [do] to provide for my kids and, you know, I have to pay my bills and everything. Instead of [having] fear and complaining, you know, 'I said', life must go on. I have to do this.<sup>400</sup>

The proportion of interviewees in San Francisco who were married and had migrated to the U.S. with her husbands was substantially higher than among their counterparts in Barcelona. Among those who were married, many had husbands who remained in the Philippines. Two interviewees in Spain, however, described a situation

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<sup>399</sup> Interview 29, San Francisco, Welcome Back Center, July 2006

<sup>400</sup> Interview 43, San Francisco, Lola, August 2006

similar to the ones interviewees in San Francisco presented. Lili migrated to Spain with her husband in 1971. Their trip to Barcelona supposedly was their honeymoon, but since the political climate was worsening in their country and they did not have good job prospects there, they never returned. Lili took one year of college and her husband finished a degree in aeronautical engineering. When they arrived to Spain, neither of them could find jobs that matched their qualifications. While Lili ended up combining her job as a care giver with English classes, her husband never managed to find a stable job in Spain. Later, they had three children. Lili worked to support the family and her husband became increasingly frustrated and abusive. One day Lili decided to leave with the three children. When I asked Lili about the context of the domestic violence she experienced, she linked it with her husband's difficulties in the labor market:

The abuse started here. My husband could not find a job. He had finished his studies in aeronautical engineering in the Philippines. This is a very expensive degree, but he could not use it here. He was very frustrated. His parents were doctors. But here he could not find a job. I was supporting the whole family. Every once in a while he would work painting houses. He could have had a job as a concierge, but he was too proud.<sup>401</sup>

When I asked her how her experience as a Filipino woman had been different from Filipino men in Barcelona she responded that Filipinas were obliging, obedient and placed their families' interests before their own. "Maybe we do not like our job", Lili said, "but we do not rebel because it is for the benefit of our family."

Raquel also separated from her husband, though fortunately her case did not include domestic violence. She arrived at Barcelona in 1980 on her own. Her husband followed one year later. Both of them had been teachers in the Philippines for many years. Yet, while Raquel managed to find a job as a domestic worker pretty quickly, her husband never managed to find stable work and spent years hand-embroidering table clothes and working as a cook. The couple could not handle the pressures stemming from their economic situation, and they eventually separated. According to Raquel, her experience is not an isolated one in the Filipino community:

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<sup>401</sup> Interview 1, Barcelona, Lili, October 2006

Filipino women have done better than men. Women have worked really hard; they do not need a man. There are very few families with a male bread-winner. Really, it is we, women, who support men. Some men even have three women and they support him. Many of them have vices and gamble.<sup>402</sup>

I do not mean to imply that all Filipino men who migrate abroad neglect their families or they never work side by side with their female partners. Yet, it was interesting to run into so many similar testimonies about gender dynamics within the family that seem to be connected with larger dynamics in the immigrant labor market. Both Filipino men and women have faced discrimination and lack of labor opportunities. This has resulted from their precarious locations in segregated labor markets, which are organized along racial lines. Racial and gender stereotypes seemed to place “automatically” Filipino women in the care giving sector which, despite the downgrading that this involved, was a very much needed income generating activity. Filipino men have had a harder time coping with the class dislocation and the barriers they encounter in the receiving country. This has often meant an inability to adjust to the new context, neglect of their families, and sometimes even abuse. Filipino women, themselves victims of the gender and racial segregation in both the Spanish and the U.S. labor markets, have taken those “jobs done by women of color” in order to provide for their families. In so doing, they have sometimes been the victims of backlash from their partners resulting from the latter’s frustration at the lack of power in the family, failure to continue to act as breadwinners, and downgrading of their class position. While this has sometimes resulted in abuse or double shifts, in other cases it has also created situations where women have been, for the first time, in charge of the survival of the family. This has been painful and, at the same time, has opened new opportunities to negotiate their family roles. While in some cases this has translated into more egalitarian treatment, what interviewees emphasized the most was how family crises created by the above described dynamics resulted in divorce. They tended to see this as an empowering and emancipatory experience. This takes place

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<sup>402</sup> Interview 28, Barcelona, Raquel, April 2008

within a contradictory and complex set of dynamics that include gender relations in both the sending and receiving countries and at the micro and macro levels.

### **3. Conclusion**

Filipino women in both Spain and the United States often occupy positions as reproductive workers regardless, of their formal training and job experience in the Philippines. While in Barcelona Filipinas are more concentrated in the domestic work sector, Filipinas in the San Francisco Bay Area tend to be more present in the care giving sector. This is part of a larger trend in which women have historically done reproductive work in both Spain and the United States. While in the U.S. race has organized this sector since the beginning, Spain has undergone this racialization more recently. In both countries, immigrant women of color have a key presence in reproductive labor. Difficulties to transfer college degrees and various problems with language in both receiving countries also help explain their concentration in this reproductive labor and their difficulties accessing professional jobs.

It is interesting about Filipino women that they, unlike Central American and Mexican women in California, and Dominican and Ecuadorian women in Spain, seem to constitute an elite nationality within remunerated reproductive activities. Their higher educational backgrounds and ideological constructions of Filipino women as excellent reproductive workers grant them a somewhat privileged position within the sector. Regardless of their advantaged positions *vis à vis* other nationalities within the reproductive work niche, Filipino women still occupy, both in Spain and the United States, a precarious, low paid, hardly valued, under-regulated labor niche. Finally, an examination of e women's experiences *vis à vis* men's sheds light on different processes of incorporation into the new labor markets by gender, as well as changes in the gender dynamics within migrant families in Spain and the United States. Filipino women seem to be coping better than Filipino men with their class downgrading. The latter have a difficult time accepting their new class locations and this often translates into depression, withdrawal, and even abuse. Women's relative easy access to jobs in the reproductive labor sector makes it easier for them to access jobs and often turns them into the main

breadwinner in their households. Gender dynamics in the labor market, which construct certain jobs as feminine, therefore begin to alter the gender dynamics within families. In turn, this thrusts Filipino women into a new economic role which, will likely alter other aspects of family relationships and often result in divorce.

In the past two chapters I have attempted to illuminate some of the institutional, structural, and ideological factors defining Filipino women's place in the reproductive work sector. I have also discussed some of the gender dynamics that run parallel with this incorporation. In Chapter VIII I discuss the form government regulation of reproductive work, both in Spain and the United States, takes. Once governments contribute to the transfer of reproductive workers from the Philippines to Spain and the United States, and once women taken on domestic and care work jobs, how do the two governments regulate their work there? What does employment law have to do with reproductive work in both countries?

## CHAPTER VIII

### WORKING THE COUNTRY: THE REGULATION OF REPRODUCTIVE LABOR IN SPAIN AND THE UNITED STATES

#### 1. Introduction

In this chapter I discuss how, once Filipino women find themselves in the reproductive labor sector, employment regulations shape their work experiences in both countries. The under-regulation of reproductive labor in both Spain and the United States echoes the larger trend of decreasing state intervention in labor markets. It also demonstrates how reproductive labor in both countries, due to gender ideologies, is not recognized as real work and is often characterized by informal and non-clearly defined relations. In addition, under-regulation of reproductive labor sheds light on how the states relates to the private household. These reproduce larger gender, class, and racial dynamics in society and are symptoms of the role the state plays in reproducing power relations.

#### 2. On the Private and the Public: Intersecting Forces at the Root of the State

One of the main points of contention among different feminist traditions has been the debate around the private-public dichotomy. Different conceptualizations and interpretations of this divide have reflected the diversity of women's experiences. In this section I explore how different feminist authors have conceptualized the private-public divide in order to contextualize my analysis of the labor experiences of Filipino domestic workers and caregivers and how employment law in Spain and the U.S. shape them.

Western feminists have generally defined the "private" as the patriarchal family home, while the "public" has consisted in everything-outside-of-the-private, and more specifically, the state and the market (See Mestre 2001). In the *Sexual Contract* (1988)

Carole Pateman revisited classical social theorists on citizenship and the state and argued that the Social Contract was a fiction stemming from the exclusion of women from public life. According to her, the premise of the Rousseauian contract was “the relegation of women to the family, a sphere lacking in rights” (Hobson 2005:138), and therefore a contract based upon the exclusion of women from public life. The conceptual divide between private and public is problematic, according to Pateman (1988), for two reasons. First, the public realm has been designated as the only theoretically, politically, and economically relevant one. Conversely, the private realm is seen as separate from the civil sphere and therefore as politically irrelevant. Second, while both realms are viewed as separate and independent from each other when, in fact, they are not.

White feminism has generally established that for the collective subordination of women to end, experiences of oppression in private life must be projected into the public (Bhattacharjee 1997:308). In other words, the root of oppression is women’s definition as secluded in the private sphere, which stems from a construction of reality as divided into two fundamental and hierarchized spheres. In order to change this situation, women need to access the public sphere both to denounce gender dynamics taking place within the household and to achieve political, social, and economic equality with men. The public is therefore both an end in itself and a means to denounce private oppression. This argument runs parallel to discourses suggesting the desirability of women’s commodification. Incorporation into the public realm may have been a desirable project for many White middle-class women in Europe and the United States. This has been reflected in their incorporation into the labor market and their refusal to be exclusively in charge of non-remunerated household tasks. This scenario, however, does not reflect the experiences of Filipino migrant domestic workers, since their historical and current location across the private and public realms, as I discuss below, has been different from most Western middle-class White women.

Black and Third World feminist theorists have denounced some of the assumptions White middle-class feminist scholars have made (See Graham-Brown 2003). Chandra Mohanty, for instance, has argued “there is no such thing as private sphere for people of color except that which they manage to create and protect in an otherwise hostile

environment” (1988:51). Numerous Black feminists in the U.S. and scholars from former socialist countries have challenged the notion of the family as a site of oppression for women. The private sphere for them has actually been a site of resistance, and often protection, from the intrusion of the State (See Hobson 2005; Mink 1995; Szalai 1991).

The private realm thus has different meanings and realities in different contexts. African-American feminists, for instance, have pointed out that housewifery as a full-time job has been both a White and an elite class privilege (Acker 2006:64). Within this debate, Patricia Hill Collins (1990) has challenged the heterosexual nuclear middle-class family as the departure point for the delineation of the private-public divide in much feminist writing. According to her, in such a model the private sphere, identified with the family (read wife and children) is both subordinated to and dependent on the public sphere the male breadwinner embodies. According to Hill Collins, African American women’s experiences and those of other women of color have never fit this model. The family life “of poor people challenges these assumptions about nuclear family forms because poor families do not exhibit the radical split equating private with home and public with work” (47). African American and working-class families experience the private-public line more fluidly due to their impoverishment and the resulting necessary collaboration among family members to guarantee survival. Poor women and women of color were never forced to stay in the private household. Quite the contrary, they were forced to leave it. They did not have the benefit of the economic conditions that underlie the public-private distinction (Hurtado 1989). In this sense, according to Hobson (2005), Third World, working-class women, and women of color do not necessarily identify with the public-private dichotomy, and Western feminists’ emphasis on the gender division of labor does not reflect their experiences of economic struggle, which do not necessarily pit women against men.

One of the contributions I hope to make with my research is to show that, far from describing discrete and uniformly divided spheres, the private-public duality is in continuous tension and transformation. While *The Sexual Contract* talked about the relegation of women to the private sphere as the indispensable premise for liberal democracy in Western societies, the last third of the 20<sup>th</sup> century witnessed a massive

entry of women into the public sphere, particularly the labor market and, to a lesser extent, the political arena. This ruptured the old divide. Nonetheless, ideological notions continue to identify both paid and unpaid reproductive work as women's responsibility. This has facilitated the creation of a double shift for many middle-class women. Further, the visibility of middle-class women's incorporation into the labor market has often masked the fact that working-class women and women of color have always been part of the labor market and, in the United States, they have been the ones doing reproductive tasks for White families.

Economic restructuring in the global South is bringing increasing numbers of women into the "international workplace" (See Youngs 2000). Their incorporation takes place across borders and, more often than not, in the reproductive labor sector. Their migration and labor trajectories are paradigmatic of new forms of patriarchy, since they alter conventional relations between public and private. The Filipino women who participated in my study embody these emerging configurations. On the one hand, they are instrumental in easing the private-public tensions emerging from U.S. and Spanish middle-class women's involvement in paid labor. On the other hand, besides their remunerated role in other people's private realm, these women are an invisible motor driving economic development in the receiving countries and simultaneously an important source of revenue for their own country (See Youngs 2000:55). The experiences of these women thus reveal complex and often contradictory relationships *vis-à-vis* the private and the public. They simultaneously have a key role in their own family reproduction and emotional care and in keeping the economy of their country economy afloat. Once they find themselves in the receiving country, they often become reproductive workers in someone else's home. This means they enter someone else's private space, which, though it often becomes their "own living space," is not really their home and actually is their paid work place. Filipino migrant domestic workers and caregivers in receiving countries find themselves working and living in a space- their employer's home- that is both public and private. The state often does not intervene in their working experiences, since the household is constructed as none of the government's business (See Phizacklea 1998).

The anomalous position of immigrant domestic workers allows us to see the relationships between the private and the public under a different light. The degree to which different countries include reproductive work in their labor laws varies substantially, but even in the most generous countries domestic labor is not equated with other kinds of often masculine work. The gender and racial dynamics that make immigrant domestic workers and their work in receiving societies invisible interact with their immigration status, which both reinforces their invisibility and limits their ability to access their often limited labor rights.

In receiving countries, the work lives of immigrant reproductive workers are often constructed as private. This is because their work takes place in a space characterized by privacy, flexibility, and intimacy. While these characteristics are inherent to family relations, when they exist in the regulation of a labor relationship, they pose serious problems. While flexibility and intimacy may make a labor relationship more humane than the average capitalistic 21st century workshop, they also make it hard for the worker to draw much needed boundaries between her work and non-work time and space. Her immigration status as a non-citizen makes it even more difficult for her to negotiate these boundaries. As a result, it is often the case that there is no place where the migrant woman can go to remain absolutely and safely private- both from the state and her employers.

The private-public divide, thus, needs to be studied contextually and historically. In the particular case of Filipino domestic workers and caregivers, this private-public duality is complex, both in the transnational context of their migratory experience and in relation to their employers in the receiving country. In the Philippines, migrant women are placed interchangeably in both spheres according to gendered political and social discourses at the service of the development of the nation. While their experiences as migrant workers- and therefore national heroes in the Philippines- are constructed as public, they are also penalized for their failure to take care of their own families, through the use of discourses that blame them for the social effects of migration on the Philippines. Also, as targets of foreign employers' gendered forms of abuse, their experiences are often discounted and depoliticized: the government often blames the woman for the abuse she receives as a

way to avoid responsibility for its own failure to protect its citizens overseas. In the destination countries,<sup>403</sup> Filipino women also occupy a contradictory position across the private and public spheres. As non-citizens they are a focus of government action and regulation, while as domestic workers with limited rights they are relegated to the household sphere which, though I argue it should be constructed as public because it is their workplace, remains private and therefore beyond government intervention.

### **3. The Informality of Household Labor**

In order to analyze the interviewees' working conditions in Spain and the United States I start by emphasizing some traits that characterize domestic and care work versus other labor activities. As noted in previous chapters, remunerated domestic work in many Asian and Middle Eastern countries is not considered labor and therefore is excluded from national employment laws. While this is not the case in Spain and the United States, reproductive labor in these two countries still enjoys fewer protections than other jobs. Along with several other authors (See Hondagneu-Sotelo 2001; López Gandía and Toscani Giménez 2006; Romero 1999; 2003), I suggest there are three factors behind the lack of regulation of this activity.

First, reproductive labor takes place within a private household, which is the scene of intimate and private family relationships and activities. The perception of the household as a private sphere undermines the existence of formal labor relations and makes government intervention of such relations quite problematic. Second, reproductive labor - either paid or unpaid- has historically been considered women's jurisdiction. It is their natural expression of love and care and, as such, is the complete opposite of the conceptualization of "work" in terms of nineteenth century models of production. Third, in relation to its construction as women's inherent jurisdiction, reproductive labor conducted in the private household has historically lacked economic value and social recognition. Since it does not produce wealth it is not considered relevant to public life. Its feminine and private nature makes it appear irrelevant to the "public" and keeps it

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<sup>403</sup> The analysis will be undertaken with Spain and the United States as case studies of receiving countries, but illustrative evidence will be provided about other receiving countries in Asian and in the Middle East.

separate from it in the form of under-regulation.

My analysis of Filipino women's role as migrant reproductive workers illustrates their key roles in the private households where they work as well in the economic systems of the different countries where they insert themselves: they conduct reproductive tasks key to the well-being of their employing families; their work frees their female employers to join the labor market, which favors businesses and the economy in general; their remittances are key for the maintenance of the Philippine economy; they are often their families' principal breadwinners. Although reproductive work has traditionally been rendered as menial, dispensable, and invisible (belonging to the "private"), Filipino women's experiences as migrant domestic workers show how crucial migrant reproductive labor is for their own family and their employer's survival, as well as for the economic growth of their own country and the countries to which they migrate.

The fact that their labor takes place within the private realm of the household provides the relation between the worker and the employer with personalism and flexibility that jobs in public and traditional worksites do not have. Although it is a labor relationship, the private nature of the social space where it happens makes it difficult to keep it as strictly labor. As opposed to rational organization, strict work days, and contractually established criteria, which are present in most labor activities, reproductive labor taking place in the private household is often characterized by loosely defined tasks and blurry lines between "employment" and "non-employment" time and space. While flexibility and intimacy can imbue it with degrees of humanity and personal connection that are less frequent in factories or offices, they often justify its under-regulation and underemphasize its remunerated nature.

Feminist scholars studying reproductive work in the United States have generally seen close personal relations between the worker and the employer as a "key mechanism for oppression and labor control" (See Hondagneu-Sotelo 2001: 171). Accordingly, the employer's paternalism (maternalism according to Hondagneu-Sotelo) may blur the distinction between work and unpaid favors, which often result in expected deference and gratitude, as well as extra hours on duty. This is best exemplified by employers referring

to domestic workers as “another member of the family.”<sup>404</sup> Other authors have argued, however, that the intimacy that can develop between the employer and the worker can be empowering for the latter, and can give her some latitude to negotiate a work plan that meets her own interests and desires (Ibid.172).

How do these personal and flexible relationships play out for Filipino reproductive workers in Barcelona and San Francisco? In the next section I present interviewees’ perceptions of their relationship with their employers and show they are not uniform. Subsequently, I examine women’s wages and working hours, and discuss how the personal relationship involved in the work may intersect with employment regulation of this activity in Spain and the United States to shape work conditions.

### **3.1. Just Like Family**

All the interviewees in my study seemed to appreciate friendly and caring treatment on the part of their employers.<sup>405</sup> They tended to summarize it with the expression “to be lucky to find a good family.” They usually meant a family that treated them kindly and humanely. A 1995 newspaper article about Filipino domestic workers in Barcelona presented “indifference and lack of affection” as Filipinas’ main complaint regarding their working conditions (Madueño 1995).

Filipino women in Barcelona usually become live-in workers upon their arrival. Most of them eventually move into full time live-out jobs for the same family or hourly cleaning for multiple families. Some of them, particularly single women, work as live-ins for many years, since they value the stability this arrangement provides. In this situation, it is understandable that kind and amiable treatment is important to them.

When talking about the treatment they received from their employers, some interviewees emphasized the close relationship they had established with their employers. The intimacy created by living in their employers’ household often translated into “just

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<sup>404</sup> Field notes, San Francisco, March 2006

<sup>405</sup> Field notes, San Francisco and Barcelona

another family member”<sup>406</sup> treatment. Viviana, for example, often “was invited” to share space and spend time with her employers:

[My female employer] was Irish... but an Irish-Catalan... she’s like a migrant, so she treats me... it’s like family, you know? I eat with them. And there are two children, and.... They were a very good family, very good to me. I stayed 20 years with them. But [after so many years], although they were very kind, I started to look for something different...<sup>407</sup>

Similarly, Paulita spent ten years working in the same household. She explained she was happy there, because she was treated her very kindly. She was not expected to work very much, and she would spend hours with her female employer watching TV and chatting. She quit her job when her husband came to join her from the Philippines and she became pregnant with their first child. When Paulita left the house she said:

[I] could not stop crying. Even the kids cried when I was leaving. Up to today, they call me and they tell me that I am a member of their family. The *señora* calls me every week; she always calls to know how I am doing, so I feel sad.... But what am I supposed to do?<sup>408</sup>

Corazón also expressed appreciation for the amiable treatment she received from her employers. She emphasized her status as a family member rather than as a “servant”:

I’m very grateful because they are so very, very kind to me... they treat me like family, they do not treat me as their servant, no, they treat me as family, when I got there... when I am there, they always help me, they are very kind... they are very kind, so I’m very grateful. My time there is very short, because I work there four hours, half day, four hours, but the way they treat me, wow, no comment, they are very kind.<sup>409</sup>

Corazón valued the treatment she received as a family member as opposed to a “servant” for two reasons. First, while she aimed to emphasize the good treatment she received, her identification as a member of the family precisely masks her identity as a

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<sup>406</sup> Field notes, Barcelona, January 2007

<sup>407</sup> Interview 22, Barcelona, Viviana, March 2007

<sup>408</sup> Interview 20, Barcelona, Paulita, March 2007

<sup>409</sup> One of the expressions of Corazón’s employers’ kindness was that, besides her salary, every once in a while they gave her money for transportation or other small sums in the form of *propinas* (tips) or *regalos* (gifts). Interview 8, Barcelona, Corazón, January 2007

worker and a trait both workers and slaves provide to the employer/master: labor power. Second, the explicitly appreciated small tips and gifts she received from her employers. These are quite common among Spanish employers of domestic workers. While this often provides closeness between the two parties, it does not translate into reciprocal and equal closeness, since it is always the employer who gives the gifts and she does it whenever she feels like it. Corazón cannot regularly count on that money for her living expenses, since it is not part of her salary.

Similar to Corazón, Nelly also emphasized her employers' generosity:

[T]hey give me all my needs. I do not buy my... like for example, the gel, the shampoo, or everything, the bags... they usually give them to me. So, what more can I ask? And then my lady employer gives me 100 Euros as my *allowance*. To buy the [train] ticket ... but she never tells me what to do with it. It's just for me, so if I want to buy my food, I can buy or eat what I want. For Christmas, there is a Christmas bonus.<sup>410</sup>

As in Corazón's case, Nelly's employers also buy things for her, such as toiletries and train tickets. They also give her a monthly allowance besides her salary. These dynamics certainly resemble those among family members, where presents and goods are provided for free. I could not help but thinking that, as with Corazón, these presents and the allowance were indication of a relationship between a parent and a child more than between two adult relatives. Nelly was 61-years old. "Allowance" usually refers to a small weekly or monthly sum a child receives from her parents. Sometimes parents expect the child to conduct certain tasks as a condition for receiving it. Allowances are also used to teach children about responsibility or money management. Parents might also give less or no money if a child behaves badly. These occasional or regular gifts, tips, and random sums of money are symptoms of employers' infantilization of the worker. The question I raise here is, what would happen if the employer included the economic value of these gifts, allowances, and tips in the worker' monthly salary so the latter could regularly expect them as part of her income rather than as a result of her employer's arbitrary kindness. Classical studies on reciprocity, such as that of Marcel

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<sup>410</sup> Interview 11, Barcelona, Nelly, January 2007

Mauss', have shown true gifts are always expected to be reciprocated. When the recipient does not or cannot reciprocate with another gift she automatically becomes indebted. The only "gift" the worker can offer in exchange is her loyalty, deference, and hard work. Gift-giving in these cases thus often reflects the unequal power between employees and employers.

Filipino women in San Francisco also made mentions of kindness they received from their employers. Ruth for example, said they "treated her really nice". They sometimes went out of their way to do kind things and appreciate the good work she was doing taking care of their elderly mother:

Last Monday she took me to the Fisherman's Wharf to celebrate my birthday. That was the time when she could treat me to something special. We even took some pictures. I really liked it.<sup>411</sup>

Some interviewees in San Francisco also felt their employers treated them as family. Emilia characterized the closeness between her and her employers in the following way:

Some [families] are well off and rich and they don't eat with their maids or caregivers, but I eat together with them, they treat me as family. They do not treat me as a caregiver.<sup>412</sup>

For Emilia, being able to share the table with her employers indicated her belonging as a family member. Conversely, while inclusion at the dinner table signifies inclusion in the family circle, different reactions around food and meals, as I discuss in the next subsection, come to symbolize exclusion and marginalization for the women. Noemí also expressed satisfaction with the treatment she received from a previous employer, and used family terms to describe it:

I was really lucky. The woman I worked with was very nice ... I even had some time off for myself ... It was like a house setting. Like I am her daughter and I am running the house.<sup>413</sup>

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<sup>411</sup> Interview 34, San Francisco, Ruth, July 2006

<sup>412</sup> Interview 31, San Francisco, Emilia, July 2006

<sup>413</sup> Interview 33, San Francisco, Noemí, July 2006

In her case, her employer's kind treatment and her sense she was running the house made her feel like she was a "regular household member." Yet, when I asked her about the different tasks she conducted at her job, she explained:

It is live-in. You have to stay there for 24 hours. In the morning I get up at six, I dress her; I make her bed, her room. I escort her to the doctor, clean the house. I work until, if we take early supper, 5pm and then I cook, and I do the putting away and the cleaning after dinner. Also, I have to take care to the garbage and everything, and I have to stay with her in the front room, and when it is time, around 9pm, I take her to bed ... I was getting 45 dollars a day, and then later I asked for a increase and they I got 50 a day. I stayed there for more than three years.<sup>414</sup>

If we divide 45 dollars by 24 hours equals \$1.87 an hour. After Noemí got her salary increase, she made \$2.08 an hour. If we do not count the time she slept, her hourly salary was of \$3.46 and \$3.84 after her increase. The fact that she was making a salary far below California minimum wage, and her non-stop schedule from 6am to 9pm, hardly resembled a family relationship.

### **3.2. When Informality Is Not so Pleasant**

One of my goals in the previous section was to introduce the fiction required to define labor relations in domestic work as "family relations." The former are not reciprocal and the power differences are considerable. It is important to appreciate, as many interviewees expressed, how family-like, kind treatment on the part of the employers can be crucial in the sense that helped create a humane relationship and pleasant work environment. However, kind, family-like treatment depends totally on the discretion of the employer. While some employers do establish a friendly and benevolent, though problematic, relationship with their domestic employees, others do not. In these cases the informality of the labor relations of domestic work translates into hyper-control of the worker's movements and behaviour that would not be possible in more formal and less isolated work settings.

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<sup>414</sup> Interview 33, San Francisco, Noemí, July 2006

Teresita's experience provides an example. She explained that during her first year in Spain as an undocumented live-in domestic worker, her employer tried to prevent her from having contact with people outside the household. Teresita thought her employer was afraid that if she met new people she would eventually quit her job. In fact, one day she met an Egyptian man who offered her a job for a higher salary. According to Teresita:

He was asking me if I can work for him. And then he was calling in our place, you know, on the telephone. But then I discovered that when [my employer] went out, I cannot go outside. She locked the door. She locked the telephone and put it in silence, so when the Egyptian man called, who really wanted to help me, I cannot receive anything, because the telephone was locked. And even if I had a chance I cannot go out because the door was locked.<sup>415</sup>

Marina shared a similar story. Her first employer also used to lock her in the house when she went out. Marina thought her employer did not trust her and locked her in to prevent her from stealing things.<sup>416</sup> Marina and Teresita's stories begin to remind us of master-slave relations. They also reveal a treatment of the worker as if she was a child as occurred in Nelly's situation. Parents give their children allowances and sometimes ground them for "bad" behaviour. While Marina and Teresita's stories were extreme cases of strict employer control over workers' movements, they were not the only ones. Adelina, for instance, said her employer would open her mail and read it. Even after she complained to him for what she saw a lack of respect, he continued to do it. Her employer would also give her a hard time when she tried to go out at night:

From 1991 to 2000 I was *fija*. But then every night there are some occasions in the community and I wanted to join and I was asking for permission to go out ... because I used to be like this in the Philippines, [I used] to be social and to volunteer. And then they told me 'no, because you are working here, and you are staying here. You don't need to go out.' They would not let me go out at night.<sup>417</sup>

By the time of our interview, Adelina had known her employers for over two decades. She explained that after so many years of knowing each other, their relationship

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<sup>415</sup> Interview 6, Barcelona, Teresita, December 2006

<sup>416</sup> Interview 17, Barcelona, Marina, February 2007

<sup>417</sup> Interview 12, Barcelona, Adelina, February 2007

felt like “family.” She said her employers’ refusal to let her go out stemmed from their worry about her safety. However, she also felt they did not trust her and felt threatened by the amount of time she spent outside their house. Although her employers insisted their “protective treatment” stemmed from their view of Adelina “as family,” she insisted she was first of all their employee. “You feel that they care about you but they are your employer. You are still working and they pay you for that.” To express the hypocrisy behind her employers’ consideration of her as a family member, she cited a Filipino friend of hers who once jokingly said: “Yes, yes, we are family members. You know how people invite relatives to family events? They invite us to special family occasions as well. The difference is that we have to work and they do not pay us for that!”<sup>418</sup> Finally, Adelina also expressed a different view of eating with her employers from Viviana, who considered sharing dinner table as “family treatment.” Although Adelina’s employers often invited her to sit to eat breakfast with them, she preferred to eat by herself in the kitchen. When I asked her why, she responded “Sometimes you wanna be alone. Your eating time is your own time.”<sup>419</sup>

Similar to testimonies of Filipino women in the Middle East, two of my interviewees in Barcelona said their employers controlled the food they could eat. Delfina and Paola remembered how their employers would differentiate between the food they ate and the food they gave their domestic workers. Delfina recalled that at one of her jobs she lost a lot of weight and became sick with a stomach ulcer. She remembered that at that time she was constantly hungry. When I asked whether her employers gave her food, she responded:

Yes, but very little. At night, only at night. Well, in the morning a little bit. A piece of bread and a piece of ham, like this [she showed with her fingers that it was very small], and a glass of milk, that was it...<sup>420</sup>

Delfina complained to her employer that she needed to eat more, but they told her they gave her enough. At night, her employers would eat steak, but she and the other

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<sup>418</sup> Field Notes, Barcelona, April 2008.

<sup>419</sup> Field Notes, Barcelona, April 2008

<sup>420</sup> Interview 16, Barcelona, Delfina, February 2007

domestic workers ate vegetables and, every once in a while, chicken. Her female employer would also lock the fridge to prevent her and the other domestic workers from taking any food. Pierrette Hondageu-Sotelo's study of Latina domestic workers in California also shows how workers are usually aware of how food and meals underscore the boundaries between them and their employers:

The issue of food captures the essence of how Latina live-in domestic workers feel about their jobs. It symbolizes the extent to which the families they work for draw the boundaries of exclusion of inclusion, and it marks the degree to which those families recognize the live-in nanny/housekeepers as human beings who have basic human needs (2001:35).

These boundaries of exclusion were erected where Paola worked. The symbolic and material boundaries her employers established concerned access to food, the distinction in the location and quality of their living spaces, and expectations that Paola would conduct her tasks in more "traditional ways" than themselves, which made the work harder, negatively affected her health, and accentuated her subordinate role. Her employers never gave her food for breakfast, and she ended up buying cookies to have something to eat in the mornings. According to Paola, the employers ate meat and she had the same food as the *suegro*,<sup>421</sup> which was usually lentils or vegetables. For dinner she ate her own cookies again. The only day in which she had a proper meal was on Sundays, her day off. She would take a long bus ride to join other Filipinas in their own apartments and they would cook "big Filipino meals."

Different amounts and kinds of food were not the only distinction Paola's employers established between themselves and their workers. Despite the fact that there was a washing machine in the house,

I had to hand-wash all the clothes. The washing machine was only for decoration. She used it sometimes, but she would not let me use it ... to mop the floor I had to kneel, she would not let me use a mop or gloves. The detergent burned my hands, I had allergies... And my hands were swollen

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<sup>421</sup> Father in law.

and bleeding. When I complained she would start yelling at me and said that I was a whiner.<sup>422</sup>

Paola's employers would use food or Paola's tasks to highlight the status and power differential between them and Paola. The latter's undocumented status and her isolation made it difficult for her to alter the situation or leave easily. Paola's room was in an old barn, which was full of her employer's tools and lacked insulation: "it was really cold at night and really hot in the summer."<sup>423</sup>

Why did Paola stay at this job for over two years? One of the reasons she gave was that "the children got very close to me, and they would have been very sad if I had left."<sup>424</sup> Paola's case exemplifies the "positive" and "negative" sides of personal and flexible relations in the workplace are, more often than not, simultaneously present. Despite some cases of excellent personal and labor treatment and others of extremely abusive conditions, situations in which positive and negative appeared simultaneously were the norm. This demonstrates how power in the informal context of the household can be benevolently or non-benevolently exercised at the discretion of the employer. In reproductive labor the employer has much more discretion to define the worker's labor conditions than in most labor sectors. As I discuss in the next section, an under-regulation of reproductive labor enhances their discretion.

This combination of benevolence and malevolence of personalistic labor relations was also apparent during my fieldwork in San Francisco. Rosa worked for a year in San Jose taking care of an 80-year old woman. She lived with her and took care of her 24 hours a day. Her days off were Saturday and Sunday. On those days she usually took the train to San Francisco and spent the weekend with her cousins. While her employer's insistence on treating her as a "family member" translated into affectionate treatment, it also interfered with Rosa's rights and working conditions. For example, sometimes her employer would ask her to stay with her until Sunday so she could go with her to

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<sup>422</sup> Interview 23, Barcelona, Paola, March 2007

<sup>423</sup> Interview 23, Barcelona, Paola, March 2007

<sup>424</sup> Interview 23, Barcelona, Paola, March 2007

“Kingdom Hall.”<sup>425</sup> While for the employer this was a way to spend more time with Rosa, for Rosa this signified decreasing her time off. Her employer’s expectation that Rosa would prefer to go to Church than spend her time off with her own relatives, ignores Rosa’s position as an employee. Possibly out of affection, it blurs the lines between work and non-work hours.

Rosa’s case resembles some of the stories Filipino women in Barcelona shared. While I think her experience typifies the problematic juxtaposition of labor and non-labor relations present in household reproductive work, this juxtaposition was more marked in Barcelona than in San Francisco. My interviewees in San Francisco did not complain of as many negative effects of personalistic labor relations as those in Barcelona.

The first reason for this difference is that, despite the precariousness of care giving work, its arrangements are usually more formal than is the case with domestic work. Care giving is perceived as a more skilled job than housekeeping work, which often translates into a clearer definition of tasks and work conditions. This often means higher pay. In many of the cases I encountered, though the caregiver lived with her client, she had been hired through an agency. These agencies tended to set standard work conditions for all their workers, which obviates employers’ power to establish these. This partially takes the client’s discretion away. This does not change the fact that agencies are in many ways exploitative, but it does attenuate some of the personalistic aspects of the labor conditions and relationships.

The second set of factors that help explain a higher incidence of personalistic relations among interviews in Barcelona versus those in San Francisco had to do with my sampling. As I explained in Chapter VI, I had difficulties interviewing live-in domestic workers in the Bay Area because of their reclusion in the household and the anti-immigrant political climate in the area at the time. As a result, the information I gathered about live-in domestic workers in San Francisco was largely second hand and gathered through interviews with employers, lawyers, and non-profit organizations. Although

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<sup>425</sup> Denomination for Jehova’s Witnesses temple.

interviewees in San Francisco shared much information about their past experiences as live-in caregivers, at the time of my research, they were mostly live-out caregivers. Some were working for single families, others had different part-time clients through private agencies, and a third set had one to several clients through the San Francisco In Home Support Services Public Authority or Consortium. This mix resulted in less emotional attachment to employing families and clients compared to interviewees in Barcelona. Private and public agencies greatly limited clients' (and their relatives') ability to dictate women's work conditions. Nevertheless, though to a lesser degree than in Barcelona, the private nature of the work and the workplace also resulted in less formal working relations and conditions compared to other paid work settings.

I underscore the weight of personalistic relations for Filipino reproductive workers in Spain and the United States because I see them making labor relations and activities different from those in other paid work sectors. Despite its location in the private realm, which is characterized by affective bonds and informality, reproductive labor is of great importance for the economies of both sending and receiving countries and is unquestionably real work. However, its personalistic component parallels an under-regulation of reproductive labor in Spain and the United States, as well as its social and political perception as marginal and non-relevant. Personalism can introduce humane treatment and relations in a labor setting, but it also provides employers with wide room for manoeuvre. It is not necessarily good for workers, since it takes place in a context of unequal power relations and access to resources. But does this mean personalism unavoidably has negative consequences for workers? Is personalism the problem? Or is it an inequitable distribution of power and discretion? How do public institutions respond to power and discretion inequalities? In the next sections I examine how personalism and the informality characterizing reproductive labor and the regulation of this work shape Filipino reproductive workers' wages and work hours. These two components of working conditions, although analyzed separately, are intimately connected.

#### **4. Spain: Good Will as the Premise of Regulation**

The historical under-regulation of domestic work in Spain has run parallel on the expectation the law has that employers and employees should be able to agree on working conditions using their good will and being flexible with each other's needs. This assumption, as I discuss in this sub-section, is often problematic in labor situations in which, power inequalities take over good will and often misuse it. The pictures most interviewees drew of their experiences generally translated into long work days in which work and non-work time were regularly confused and mixed up.

Household work in Spain has historically remained outside labor law, being jurisdiction of by civil law (Martínez Veiga 1995). On August 1985, ten years after the beginning of Spanish democracy, and after domestic workers' organizations, labor unions, and progressive political parties applied political and social pressure, the first socialist government in Spanish history promulgated Royal Decree 1424/1985 (RD 1424/1985 hereafter), which regulated, for the first time, labor relations for "Household Employees" (See Castelló 2007; López Gandía and Toscani Giménez 2006) According to RD 1424/1985, household work involves "remunerated services in the family household realm." These services are defined as those conducted "at or for the home," and include the care of the home as a whole or partially, the care of family members, childcare, gardening, driving cars, and other activities developed as part of domestic tasks" (López Gandía and Toscani Giménez 2006:17) .

The Royal Decree provided more rights for household workers and including reproductive workers. Household work, however, has remained a special kind of labor relation. While technically wage and overtime rights are equal to other workers, the law is less protective in terms of paid time off, dismissal, and contract renewal. In addition, as I discuss below, there are many aspects of working conditions law leaves for the employer and the worker to resolve on their own. More than twenty years after the creation of RD 1424/1985, domestic workers enjoy fewer labor rights than workers in other economic sectors (López Gandía and Toscani Giménez 2006). Spanish unions have denounced the regulation of this work as precarious, since it is based on personal relationships, trust, and work conducted in the intimate space of the family.

The low value placed on domestic labor, which translates into the treatment of household workers as “kind of workers” rather than “actual workers” (Rojo Torrecilla et al. 2004) runs parallel to its historically feminine character. What makes household work unique, according to Spanish jurisprudence, is the fact that it takes place within a “special business realm” (i.e. family household). This involves the worker’s insertion into the “intimate circle of the family” (López Gandía and Toscani Giménez 2006). RD 1424/1985 regulates household work on the following two premises: 1) the personal nature of the contract established between the employer and the employee, and 2) the key role mutual trust and good faith have in the relationship between the two parties. These result in labor regulations distinct from those in other economic sectors and characterized by the following elements:

- 1) The employer’s need for flexibility limits the worker’s rights.
- 2) The existence of constitutional rights in terms of personal and family privacy limits the application of labor rights.
- 3) RD 1424/1985, differently from law regulating other labor activities, does not require the existence of a written contract regulating working conditions. The personal aspect of the relationship, mutual trust, and the goal not to burden the employer supposedly explains this exemption. The law legalizes the “informal economy” as the “natural space” for this kind of work.

Labor unions have argued it does not make sense to create a law such as RD 1424/1985 to regulate a labor relationship, since the law leaves many aspects of the relationship to the good will and mutual trust of the employer and employee (López Gandía and Toscani Giménez 2006). Good will is left to determine the regulation of the most important aspects of work, such as the duration of the work day, work schedules, breaks, holidays, contract duration, and wages. This under-regulation resembles civil law and a private contractual relation rather than a labor contract. It places workers in a position of weakness. While the reliance of RD 1424/1985 on good will, as I discuss below, parallels an under-regulation of domestic work, this has different meanings for employers and employees: While it is *staying out* of the household to respect the

employing family's privacy rights, it is *neglecting* the worker by under-regulating her labor conditions. What does this under-regulation look like in terms of Filipino domestic workers' wages and work hours in Barcelona?

#### **4.1. Work Hours: *You Never Know. It Always Depends on the Employers...***

Article 7.1 of RD 1424/1985 states the work week of a domestic worker is 40 hours. The schedule will be "freely established by the representative of the family household (the employer), and the regular working hours should never exceed nine a day." Those workers who reside in the employer's house are entitled to at least eight hours of rest between two working days. Those workers who do not live at their employer's are entitled to ten hours. In addition, live-in domestic workers are entitled to two non-remunerated hours a day for meals.

The establishment of a 40-hour work week, as well as the maximum of a nine-hour work day is identical to the regulation of "standard" labor activities in Spain. Overtime compensation is also the same as that established in the general "*Estatuto de los Trabajadores*." What is different is that, since employers can freely establish the work schedule and the law does not require him/her to create a written contract describing work conditions, workers may need to be permanently available to meet the employers' changing needs. The employer can unilaterally change the schedule, and the worker cannot object.

The regulation of work time caters to employers' needs and flexibility rather than workers' rights. Another example is the inclusion of what RD 1424/1985 calls "presence time." "Presence time" are those hours the employer and the worker agree upon during which the latter is not strictly working but agrees to be available for emergencies and/or do light tasks such as opening the door or answering the telephone. This "presence time" takes place outside of the hours of the work day. RD 1424/1985 does not make explicit whether these hours should be remunerated, leaving it to employers' discretion. Domestic work is probably the only labor sector in which law gives employers discretion on whether they should pay or not workers during a period of time in which the latter are in the work place and make themselves available to employers.

The existence of “presence time” endangers the right to overtime pay in the sense that if the law allows for workers’ presence and light work outside of the working day without necessarily requiring its remuneration, it may indirectly transform over-time hours into “non-work- merely presence- time.” Besides making the implementation of overtime provisions problematic, the concept of “presence time” adds confusion to the labor relationship, since some activities included under it (e.g. care, presence, watching a baby during his/her nap) are typically part of regular work time. Differentiating activities conducted during “work time” and “presence time,” besides the quantity or intensity the work, means that any work conducted beyond the 8 daily does not need to be counted as labor or be paid, since it can be considered presence time. is that employment law establishes a 9 hour maximum per day and, any task conducted beyond this limit needs to either be paid as overtime or to be conceptualized as non-labor. “Presence time” affects the remuneration the workers receive and the amount of hours they end up working and/or being available to work. It is also symptomatic of how easily the line between work and non-work time is crossed. The employer’s ability to impose labor obligations on the worker beyond the legally established work day raises interesting questions about the definition of “work time” and “time off” and about the worker’s ability to use her “time off” at her will.

This legislative void expects employers and workers to act on good will to define work time and time off. It expects the worker to adjust to the changing needs of the employer, and it assumes the employer will not abuse the worker’s flexibility. Good will, however, should never be the premise on which labor law is based. Unequal power relationships characterize all labor relations. The flexibility the law assumes (and promotes) has the potential to accentuate the power differential in the context of domestic work. If the worker decides to extend her work day to do the employer a favor, she should do it with the employer’s recognition that she is “sacrificing” a right, and therefore expecting a compensation for it, rather than as a result of an expectation of “good will” that both the employer and the law place upon her, or as López Gandía and Toscani Giménez state:

The need for flexibility should not translate into deregulation. Rather, the law should establish certain limits within which both the household head's needs and the worker's rights and guarantees are taken into account<sup>426</sup> (López Gandía and Toscani Giménez 2006:50).

The problems stemming from flexibility and ambiguity are all present in the regulation of rest time. Article 7.3 of RD 1424/1985 states that "household workers have the right to a weekly rest of 36 hours." Of these, at least 24 hours must be consecutive and preferably on Sunday. The two parties will agree on the distribution of the remaining hours." Besides the fact that workers in Spain have a weekly rest of 48 uninterrupted hours, which coincides with Saturday and Sunday, the fact that the law leaves the definition of uninterrupted rest time up to the two parties to negotiate makes again work conditions dependent on good will. Given the power differential present in domestic work, good will is actually a euphemism for the employer's good will, which should not be the cornerstone of the law but an additional factor once the worker's rights have been clearly regulated. The following are two vignettes exemplifying the diversity of employers' application of this law.

Nelly, a 61-year old woman from Luzon worked for a lawyer and his family in a wealthy neighborhood in Barcelona. She started to work for this family in 1991, when their son was a couple of months old. The child was sixteen at the time of the interview, and Nelly felt she had raised him. She had worked as a live-in since the beginning and enjoyed the breaks the law prescribes. When the boy was still young she took care of him during the day. When he started going to school she would remain alone in the house, since her employer and his family were at work all day. It was during this time that she did all the cleaning, shopping, and other household tasks. She ate on her own and took her breaks in the afternoon. Regarding her weekly rest time, she left her employers' house on Thursday after lunch and returned on Friday morning. She also had a longer rest period between Saturday after lunch until Monday morning. She stayed in an apartment she bought with her sister few years ago. Her work days were strictly eight to nine hours and her time off equaled the 12 and 36 consecutive hour periods, one of them coinciding

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<sup>426</sup> Original in Spanish. My translation.

with the weekend, which the law recommends.<sup>427</sup>

Bernarda had not been as lucky as Nelly. Her first job in Spain had been as a live-in domestic worker for a family residing in Sitges, a coastal town one hour from Barcelona. Her work day was from 8am to 10pm, and included cleaning, cooking, and taking care of two children. Her daily break was one hour instead of the two the law prescribes. In terms of her weekly rest, she took it between Wednesday after lunch and Thursday night. Her employers ignored the recommendation of the law to make at least part of the rest period coincide with Sunday. In addition, since she only had about 30 hours off, her employers failed to provide her with the total of 48 hours off that the law *prescribes*. Bernarda's long work days, sometimes as long as 14 hours, are symptomatic of how the existence of "presence time" erased her right to eight to nine hour work days. She was never paid for overtime.<sup>428</sup>

Nelly's and Bernarda's vignettes illustrate some of the possible effects of the current regulation of household work in Spain. While in Nelly's case it seems her employers acted on good will and respected Nelly's her rights, Bernarda's employers failed to respect both the recommendations and the obligations of RD 124/1985. Cases such as Bernarda's indicate that the law cannot expect employers always to act out of good will. Because of this, the law should clearly regulate work conditions and guarantee workers' rights.

The Spanish legal inclusion of "presence time" and its regulation of rest time are of special relevance for the theorization of domestic work as located in an "intermediary position" between the private and the public sphere. The location of the domestic worker -particularly the live-in- subverts the boundary between both realms (See Castelló 2007). She is present in the house as a worker. The premise of flexibility and good will shaping the law, however, gives preeminence to the family logic of the private world over the salary logic of the public one. Since the boundaries between labor power and non labor are diffused with the existence of "presence time" and ambiguous definitions of rest time,

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<sup>427</sup> Interview 11, Barcelona, Nelly, January 2007

<sup>428</sup> Interview 21, San Barcelona, Bernarda, March 2007

it is not clear whether the employer is entitled only to a clearly defined amount of the worker's time- which coincides with the worker's exertion and sale of her labor power- or if the employer can expect the woman living in her house to become a laborer at any time, and therefore, profit from her work at any moment and in any quantity.

#### **4.1.1. Endless Work Days: Because When We Say *Fija* We Mean *Fija***

I designed a long questionnaire for my interviews with immigrant women and I asked the same questions to interviewees in San Francisco and Barcelona. One of the things I learned during that process was that, upon the researcher's entry to the field and the contact with the research subjects, sometimes there is a need to transform the research and analysis tools. This certainly happened to me when I started doing fieldwork in Barcelona<sup>429</sup> and, while it may seem a methodological anecdote, it pushed me to think further about some of my initial conceptualizations and premises.

The last section of my interview questionnaire focused on gathering information on the women's working conditions and social location in the receiving countries. Its goal was to contrast the women's actual experiences with employment regulations in Spain and the United States. One of the questions I asked during the last part of the interview was "How many hours a day/week do you work?" I initially thought obtaining this information was key to drawing a picture of the women's work days and weeks. As I noted above, most of my interviewees in Barcelona were live-ins, and all live-out interviewees had previously worked as live-ins, so all of them had first-hand experience with this kind of arrangement.

When I started to conduct interviews I noticed that I never got a straightforward answer to this question. I was expecting a concrete answer but, for the most part, I got surprised facial expressions and the simple response of "*fija*." In Spanish, *fija* literally means fixed, and it is the equivalent of the English expression live-in. I would usually repeat my question in case they had not understood me. I did so thinking I already knew (because they had told me at the beginning of the interview) they were *fijas*, and at that point of the interview I was interested in finding out how many hours they spent working

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<sup>429</sup> I conducted fieldwork in Barcelona after fieldwork in San Francisco and before traveling to Manila.

for their employers, regardless of whether they lived with them. Their responses, however, remained consistent, “*fija*.” Looking back, I realized that while I thought they were not understanding me, they were thinking I was not understanding them. For them their answer was obvious. They were right. They understood my question, but were trying to tell me their experiences as *fijas* was not something that could be easily described using measuring criteria such as the number of hours worked.

Only when I began did I realize that the mismatch between my questions and their answers went beyond methodology and was symptomatic of a need to re-conceptualize the notion of domestic work. The hours domestic workers work cannot be counted as they are in other job sectors because they are never clearly defined to begin with. Work and non-work time are not clearly separated. Just as an illustration, when I asked Concha, for example, how many hours she worked, her response was simply “*fija*.”<sup>430</sup> After I asked the same question in many interviews, Adelina responded energetically: “*Fija!* It means *fija*, that you live there...” She clearly stated: “When you say *fija* it is from you wake up in the morning until you go to bed, you know?” and, laughing at my surprise, she exclaimed “Because when we say *fija* we mean *fija!*”<sup>431</sup> During my interview with Adelina is when I realized I had to rephrase my question, since it did not capture the women’s perception of their working reality. The way they understood and lived their experiences as *fijas* comprised something that was not necessarily evoked with the question I was using. As I discussed above, RD 1424/1985 offers a confusing definition of work time versus “presence time” and time off. As a result, I started encouraging interviewees to provide descriptive narratives of their daily and weekly work routines. I did so in order to understand their perceptions of the organization of their work and non-work time without imposing my own definitions. In the following sections I discuss some of their narrative descriptions.

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<sup>430</sup> Interview 4, Barcelona, Concha, December 2006

<sup>431</sup> Interview 12, Barcelona, Adelina, February 2007

#### 4.1.2. Daily Breaks

RD 1424/1985 establishes that live-in domestic workers are entitled to at least two hours off daily for the main meals.<sup>432</sup> This time is not computed as work and therefore is not remunerated. Most interviewees stated their employers respected this break. While the law expects the worker to have at least two hours off to enjoy their meals, the women's experiences with this provision varied significantly from one another and from the law.

Concha's first job in Spain was as a *fija*. She worked in a house with other Filipino domestic workers. She was in charge of cooking for the whole family, taking care of the three children, and other household tasks including washing clothes, ironing, shopping, and cleaning the house. When I asked her what time she started working and what time she stopped, her response was that she began every morning at 8am and finished at 11pm. I asked if she had any breaks at all during the day. She said she had a one hour long break between 5 and 6pm. However, she explained laughing, since the two older girls came back home from school at that time, she would use that hour to take them to the park. During informal conversations with other Filipino women they told me that being in charge of children, as was Concha, made their work particularly difficult. In particular, the need to adjust to the children's schedules, such as their time at school or babies' naps, made it quite difficult for them to take breaks. Many of them would rest while the baby was taking a nap. But this was not really a break, since they were still responsible for the child.

The fact that Concha did not take her legally allowed break to take her meals and rest afterwards was not unique. My interviews revealed a scenario in which break time for meals was rarely taken for meals and at meals time. Interviewees often said their break was from 5pm to 7pm, 4pm to 6pm, or, like Concha, from 5pm to 6pm. The main reason interviewees said their breaks were on those times was that there was less work then (dinner in Spain is about 9pm or 10pm). In other words, the employer's meal takes

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<sup>432</sup> Emphasis added. The law, again, establishes a minimum and leaves it up to the employer to alter the standard. Despite the existence of "at least," none of the interviewees had more than two hours of daily rest.

preference over the worker's. As a result, many interviewees explained they actually never stopped working to have their meals, and, as Paulita explained, "We do not have an hour or two to eat, we only have fifteen minutes. We need to keep working, so we eat fast, there, standing up in the kitchen."<sup>433</sup> According to Adelina, this varied across work sites and depended on each employer's life-style:

If you are only in charge of the baby, after bathing him and feeding him, you can eat and go to your room. If both the husband and the wife work and come home at 10pm and they want you to serve them dinner... [M]any Filipinas have to be awake until midnight or 1am. And the following day they have to get up at 7am to give them breakfast!<sup>434</sup>

Interviewees also had different responses about their night breaks. Bernarda, for example, explained that although her work day technically ended after dinner, "When the employers have guests I would finish at 2am or later. They do not pay me extra! [Since] I am *fija* they do not pay me anything extra, even if there are guests."<sup>435</sup> Delfina, on the contrary, explained that when her employers asked her to stay up until late at night to help entertain their guests, she would agree to do it with the expectation or understanding she would be able to take some time off the following morning and, thus, start her work day a little later.

RD 1424/1985 promotes this flexibility around schedules and breaks. The worker adapts her living schedule (such as meals and rest time) to the employer's schedule. The household is a living space for both of them, but the worker organizes her own time around her employer's needs. While the law expects this flexibility from both parties, interviewees complained that, while they tried to be accommodating, their employers often were not. Bernarda, for example, worked from 8am to 4pm. She had a one hour break until 5pm, and then she worked until 11pm. One day she fell asleep during her break time and only few minutes after her break was over her employer was knocking on her room's door demanding her presence in the kitchen: "I overslept for five minutes and

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<sup>433</sup> Interview 20, Barcelona, Paulita, March 2007

<sup>434</sup> Field Notes, Barcelona, April 2008

<sup>435</sup> Interview 21, Barcelona, Bernarda, March 2007

he was already knocking!”<sup>436</sup> Bernarda’s anecdote is a symptom of the risks involved in expecting flexible and accommodating behavior based on the good will of both parties in any labor relationship. How do you legally regulate flexibility and good will? How do you legally guarantee that good will is present in both sides? In a context where one party has the upper hand, how do you guarantee that the assumption of good will does not result in the reality of abuse?

#### **4.1.3. Time away from the House**

Article 7.1. of RD 1424/1985 states that once an employee finishes both her work time and her “presence time” she is free to leave “the family household.” However, not many interviewees spent much daily time away from their employers’ house, and their exits were often limited to their days off.

In early March of 2007 I went to the Philippine consulate in Barcelona to process my visa to travel to the Philippines to conduct fieldwork. I tried to go early since the Consulate only opens two hours a day, but by the time I made it to the building, there was already a long line of approximately 40 people, all of them Filipinos, waiting to process paperwork, inquire about legal conditions, and renew their passports.<sup>437</sup> As the line became shorter, people in the waiting area, mostly women, started asking me if I was going to the Philippines and we had an animated conversation about my trip and their places of origin. One young woman sitting in one corner was quiet and seemed worried. Later on she started talking in Tagalog with another woman sitting next to her and suddenly started to cry. I realized the young woman hardly spoke any Spanish. Her companion approached me in a broken Spanish, and told me her friend was very worried because she had come to the consulate on her afternoon break time and promised her employer she would be back in the house by 6pm. Now she was worried that her employer would think she “was just hanging out.” The woman then asked me if I would mind calling her employer to assure her that the woman was still in the Consulate waiting

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<sup>436</sup> Interview 21, Barcelona, Bernarda, March 2007

<sup>437</sup> Since March 2007 the Philippine government, in recognition the rapid growth of the Philippine population in Barcelona, has changed its status, and the consulate in Barcelona recently obtained regular status and therefore, is now open during regular office hours.

in line. According to her, since I was “Spanish” the employer would believe me. I was shocked. Both the woman’s fear of retaliation and her belief I would have more credibility than herself since I am Spanish were upsetting. Since she was practically the last one in line, everyone in the waiting room agreed to let her go in next and it was the consular staff who made the phone call.<sup>438</sup> This situation validated Elena’s testimony. As a former live-in domestic worker and current president of one of the Filipino immigrants’ organizations in Barcelona, explained that “many employers do not usually allow the worker to leave the house.”<sup>439</sup> This happens despite the fact that RD 1424/1985 states that once the work day and the “presence time” are over, the worker does not have any obligation to stay in the house. The problem is that the work day is usually not clearly defined and regulated. Witnessing the episode at the Consulate and remembering Elena’s testimony, I could not help but wondering about the flexibility and good will of the woman’s employers.

Most women reported that since their responsibilities lasted all day long, they usually left the employer’s house only during their weekly breaks. In other words, they spent more than two thirds of the week in their employer’s house either working, briefly resting, or being “present” and available to work in case their employers needed them. Their status as workers and non-workers was only distinguishable during the time they left their employer’s home. Besides the weekly breaks, few of them enjoyed break time during the regular work day.

Even those who had extensive time off during the week, usually stayed in the employer’s house anyway. Viviana, for example, explained there were a couple of days a week- besides her days off- in which she did not have to work in the evenings. When I asked her if she went out during that time, she responded “I cannot go out, that’s the problem...” When I asked her why she could not go out, she started laughing and said she “had to watch the house.” She would stay, bored, with nothing to do besides watching T.V., snacking, and making sure that no one would break in. Thus, even if her employers

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<sup>438</sup> Field Notes, Barcelona, March 2007

<sup>439</sup> Interview 2, Barcelona, Elena, November 2006

considered that time as “time off,” she was not free to leave the house if she wanted. Even though she was guarding the house, her time was defined as “just sitting around and watching T.V.,” and she was not paid for those hours.<sup>440</sup> Similarly, Paulita explained there were a couple of days a week when she was done with work at 6pm, and she just tried to “kill time” until it was time to go to bed. She said she would do little things like fixing the garbage, washing dishes, or “other non-senses.” When I asked her why she did not go out during that time, her response was “No, because I am *fija*, I am *fija*.”<sup>441</sup> Interestingly, Paulita considered those hours as time off. However, she spent them doing minor house work and understood, since she was *fija*, she was not supposed to leave the house.

There may be several factors behind Viviana and Paulita’s “choices.” Certainly, the existence of “presence time” in the Spanish regulation of household work helps explain their presence in the house doing light tasks even if technically their work day is over. Their location as immigrant workers may also partially explain it. Some women said that even when they had some hours off during the week, most of their friends were working in other houses with different hours “off,” so it was difficult to find a friend or a relative to spend some time with. The location of their employers’ houses in wealthy residential neighborhoods, segregated and far away from the city center, may be another reason the women could not easily spend a short time away from the house. The fact that they were tired after long work days also meant they felt like staying “home” resting. However, their “home” was also their employer’s home and their own work place. Staying at “home” resting thus often resulted in additional tasks, since their mere presence translated into their availability to work in their employers’ eyes.<sup>442</sup>

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<sup>440</sup> Interview 22, Barcelona, Viviana, March 2007

<sup>441</sup> Interview 20, Barcelona, Paulita, March 2007

<sup>442</sup> In subsequent sections I discuss that, even if being a *fija* supposedly means that the worker’s only home is their employer’s, Filipino women in Barcelona come up with different strategies to find a place that is exclusively theirs.

#### 4.2. Domestic Workers' Wages: The Law and Reality

RD 1424/1985 states that domestic workers' minimum salary should be the same as other workers, which in Spain is called Minimum Inter-professional Salary (*Salario Mínimo Interprofesional*). This salary is calculated monthly and assumes a 40-hour long week. If the work week is shorter than that, the salary is supposed to be prorated accordingly. In 2006 the minimum salary for any activity in agriculture, industry, and services, without distinction of sex or age was fixed in 18.03 Euros (\$27.92) a day or 540,90 Euros (\$837.74) a month (RD 1613/2005).<sup>443</sup> The figures for 2007 were 19,02 (\$29.45) and 570,60 (\$883.73) respectively (RD 1632/2006).<sup>444</sup> RA 1424/1985 states this salary may be increased through individual or collective negotiations. Despite the equality of the general minimum wage and that for domestic workers, it is worth emphasizing that the minimum wage in Spain is far below the mean monthly income. In 2007, the mean income was 1686,18 Euros (\$2,611.52) in Spain and 1879,15 Euros (\$2,910.39) in Catalunya.<sup>445</sup> This means the minimum wage is only one third of the average income in Spain. While the minimum salary of a domestic worker is supposedly comparable to other service and industrial workers, it is still much less than what skilled and professional workers make. The Minister of Labor acknowledged this in 2007, when he declared the minimum salary was not a reasonable minimum threshold for workers in Spain (Agencias 2007). RD 1424/1985 also states that in cases in which domestic work includes non-monetary benefits, such as housing and food, the two parties may agree on an amount to be deducted from the worker's salary. This deduction may be up to 45% of the total salary. In 2006, the Law allowed employers to deduct up to 244 Euros (\$377.90) a month, which, given the existing minimum wage, would leave the worker's monetary salary at 297 Euros (\$459.90) a month. Although RD 1424/1985 regulates salary increases, its language is very weak. Article 6.3 establishes "the worker is entitled to a

<sup>443</sup> [http://noticias.juridicas.com/base\\_datos/Laboral/rd1613-2005.html#a1](http://noticias.juridicas.com/base_datos/Laboral/rd1613-2005.html#a1) (accessed May 5, 2008).

<sup>444</sup> <http://www.lexureditorial.com/boe/0612/22959.htm> (accessed May 5, 2008). I include information on minimum salary on these two years since my fieldwork and interviews with workers in Spain took place both in 2006 and 2007.

<sup>445</sup> <http://www.elmundo.es/mundodinero/2007/09/20/economia/1190291524.html> (accessed May 2, 2008).

monetary salary increase of a 3% every three years of work for the same employer, with a maximum of three trienniums.” This equals a 1% a year as long as the worker stays with the same employer. Thus, the law does not guarantee wage increases parallel to inflation and increase of costs of life.

RD 1424/1985 wage provisions present similar problems to those discussed in terms of work hours: In subtracting the cost of food and accommodation the law again only provides general guidelines. It up to the two parties to decide exactly what will be deducted. The 45% maximum salary deduction is excessively high, but it leaves it up to the employer to lower the percentage. It seems as if RD 1424/1985, which regulates household work after decades of its exclusion from employment law, dares to regulate it only timidly. Flexibility and personal and informal relations are expected to fill the gaps that the law has left open.

The result is that my interviewees’ monthly wages ranged from 250 to almost 1,000 Euros a month, with the average about 700 to 750 Euros. Live-ins or *fijas* generally earned less, since they supposedly saved money staying and eating at their employer’s. *Fijas* also usually worked more hours than those women working as live-outs or *interinas*. Yet, *interinas* also tended to work long hours, ranging from 8 to 12 per day, and they did not have meal breaks. The following vignettes are meant to illustrate the effects that reliance on good will has on the wages of Filipino domestic workers in Barcelona.

#### **4.2.1. Making above Minimum Wage**

In this subsection I examine some of my interviewees’ testimonies on their wages. With but few exceptions, all interviewees made above the legal minimum wage. The minimum wage, however, corresponds to an eight hour day, and most of my interviewees worked many more than eight hours. Filipino domestic workers in Spain, particularly those working as *fijas*, work 12 to 14 hours a day. It is then reasonable to argue that a salary paying for 40 hours a week falls short to remunerate Filipino domestic workers for all the time they work and/or are present in the employer’s house.

Nelly started working as a live-in for her current employers in 1992. When she started her job her employers' son was two months old, and at the time of the interview he was sixteen. She explained her relationship with her employers was about more than "just the job" and she never dared to request a particular amount for her salary. When she started the job her employer set her pay at 542, 20 Euros a month and told her that she would raise it 30 Euros a year. After Nelly's her first five years of work this happened, but after that time her salary was never increased again. She does not know why, and she does not ask "I never ask, I never ask, because I am contented, I am satisfied. Everything I need, every time, if I request them, 'can I go?' Yes.' They never deduct anything from my salary." Nelly was making 750 Euros a month at the time of the interview plus a 100 Euros a month allowance her female employer gave her. Despite her employers did not keep their promise to raise her salary every year, Nelly seemed happy with how things have worked out. Her employers recently petitioned Nelly's daughter through a job offer and are helping pay for her Spanish classes. They have also agreed to let Nelly move out from their house and stay in her own apartment with her daughter. The flexibility Nelly's personal relationship with her employers provides her, such as being able to take time off from work and the favors she has obtained from them, make up for her "salary freeze."<sup>446</sup>

Adelina had worked for a Spanish diplomat in Kuwait in the mid- and late 1980s. Her salary had been almost \$2,000 a month. She eventually moved to Barcelona to work for the same employers as a live-in. She was unpleasantly surprised when her initial salary in 1991 was 451 Euros a month.<sup>447</sup> As I explained above, Adelina's employers used to restrict her movements and did not allow her to leave the house after her work day. In 2000, Adelina decided to move out with friends. Her employers froze her salary for two years in protest but at the time of our interview she was still working for them as a live-out from 8am to 4pm Monday to Friday. Her salary was of 965 Euros a month, and the highest of all the women I interviewed. Adelina was one of the few live-out women in my sample. This is the reason her salary is comparatively so high.

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<sup>446</sup> Interview 11, Barcelona, Nelly, January 2007

<sup>447</sup> The minimum salary back then was of 320,04 Euros, RD 8/1991, [http://www.stes.es/adpu/salario\\_minino.htm](http://www.stes.es/adpu/salario_minino.htm) (accessed on May 11, 2008).

#### 4.2.2. When One Cannot Find a Good Employer

Not all interviewees made above the minimum salary. Purisima's first job in Barcelona was as a live-in domestic worker. After seven months of working her employer died, so she had to look for another job. She then started working for an Indian family as a live-out. She worked from Monday to Friday six hours a day cooking, cleaning, washing, and ironing, among other household tasks. She did not have a formal contract and they were paying her under the table. Her salary for 30 hours of work a week was of 250 Euros a month and she had to pay her own social security. That was in 2005, after the RD 2388/2004 established 513 Euros as the minimum monthly wage for the year.<sup>448</sup> Since she was working 30 hours a week, she was entitled to 385 Euros, still a ridiculously low amount of money on which to survive in Barcelona. After few months, she quit her job to start working as a live-in for a Spanish family in the Bonanova, a wealthy neighborhood in Barcelona. There she also did all kinds of household tasks in addition of taking care of her employer's three-year old son. She made 600 Euros for 5 and one half work days a week that would last "since I woke up until I went to bed" (approximately 8am until 10pm) with a two-hour break in the afternoon." One month after she started the job, she was fired without explanation or previous notice. A few weeks later she got another job as a live-in. She initially agreed with her employer that her salary would be of 700 Euros. However, after her first month, her employer paid her only 600 Euros. She complained about it and her employer gave her the difference. However, one month later she fired her. Through her friends and relatives she eventually found another job as a live-in. The initial salary for that job was 650 Euros a month. However, after a couple of months of working there, her employer started being late with his payments or paying her only half the salary. Four months later, and having only received partial monthly salaries, Purisima used her paid vacation time to go to the Philippines to visit her family. When Purisima returned from the Philippines she found out that her employer had hired someone else, "a Boliviana, because she is cheaper." Without previous notice, Purisima

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<sup>448</sup> <http://www.boe.es/boe/dias/2004/12/31/pdfs/A42764-42765.pdf> (accessed May 11, 2008).

was fired. At the time of our interview, she was unemployed and still trying to get the money her last employer owed her.<sup>449</sup> Purisima explained that upon her arrival to Spain she had been very motivated to work hard and send money to her family back in the Philippines. However, she was becoming discouraged by her inability to find a “good employer.” In her view, once she found someone with “good intentions and good heart” she could start making more money and not worry about being fired or underpaid.

Besides verbally abusing her, restricting her access to food, making her sleep in the barn, and imposing long working days, Paola’s employers paid her far below the minimum wage. During those two years, the early 1980s, Paola made 84 Euros, which was less than half the minimum wage of 171,08 monthly Euros the law (124/1982)<sup>450</sup> established. A few years after leaving that job and processing her immigration papers, she found out that, despite her employers told her that they were paying her social security, they had not.<sup>451</sup>

Despite most interviewees were making above the minimum wage, there were exceptions. Purisima and Paola experiences shed light on the dramatic reality of employers paying far below the minimum in a context in which the women were newcomers, did not speak Spanish, had a vulnerable legal status, and were desperate to work at any rate. Also, Paola and Marina’s employers’ failure to pay their social security shows how employers are not always acting on good will.

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<sup>449</sup> Interview 13, Barcelona, Purisima, February 2007

<sup>450</sup> [http://www.boe.es/g/es/bases\\_datos/doc.php?coleccion=iberlex&id=1982/01748](http://www.boe.es/g/es/bases_datos/doc.php?coleccion=iberlex&id=1982/01748) (accessed May 2, 2008).

<sup>451</sup> Interview 24, Barcelona, Paola, March 2007. A similar thing happened with Marina, who was 72 years old at the time of our interview. When I asked Marina why she had not retired yet, she replied that for many years her employers, who were among the upper aristocratic families in Barcelona, had failed to make her social security payments for many years. Consequently, Marina was still working to make enough contributions in order to get a decent retirement benefit to go back to the Philippines (Interview 16, Barcelona, Marina, February 2007).

### 4.2.3. A Home Outside the Employers' Home

One reason for their low wages could be that employers were subtracting part of the 45% of their salary to compensate for housing and food expenses. As noted, RD 1424/1985 sets the maximum at 45% and the employer can agree- out of good will- to deduct a lower percentage.

Scholars and labor unions have challenged employers' ability to subtract up to 45% of a worker's salary in order to pay for food and housing. The fact that the worker is supposedly saving money staying with her employers justifies lower salaries among *fijas*. Despite the lower salaries of *fijas*, Filipino women are heavily concentrated in live-in domestic work, particularly during their first years in Spain. This supposedly translates into a stable living situation and in fewer expenses. Interestingly, though, most interviewees who worked as *fijas* were renting an apartment with relatives or friends. A couple, such as Nelly and Adelina, had actually bought their own apartments, despite the fact that they slept at their employers' most of the week. The fact that Filipinas usually have a home outside their employers' home challenges the validity and fairness of the legally sanctioned salary deduction to pay for food and accommodation. Whether they bought or rented, the women explained they paid for their own apartment so they could have a space to rest and relax during their days off and to avoid having to stay at their employers' during their nights off. Nelly remembered the importance of *pisos*<sup>452</sup> during her first years in Barcelona:

When I recently arrived here my sister was, I think that... in a 35 square- meter apartment, there are only two rooms... the whole flat was like this room and that room, including the kitchen. Sometimes there were more than ten people in that small place... but it's only for meeting place for the weekends only, they meet there, they eat together, so I lived with them for that time, and later on, because most usually they were interns, *fijas*... they sleep at the employers'. My sister and I eventually bought an apartment, we have the house, my sister and me, [but] we sleep in our work.<sup>453</sup>

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<sup>452</sup> Apartments.

<sup>453</sup> Interview 11, Barcelona, Nelly, January 2007

These apartments were packed with Filipinas cooking and eating together during the weekends and interviewees highly valued them as places to retreat and disconnect. Viviana was, at the time of the interview, living at her employer's and simultaneously paying rent in another apartment where two other Filipino women lived. She would stay in her own place during her nights offs.<sup>454</sup> Besides providing privacy, relaxation, and a meeting point for friends and family, these apartments, as Purisima's case illustrates, also provide women with housing stability in case that they suddenly lose their jobs. In addition, having housing is a requirement to petition a relative under family reunification provisions.

Besides women's ability to create their own space and homes outside their "homes" at their employers', having outside housing is relevant to my discussion of the law. Their position as live-ins does not mean they are not spending money to maintain their own home. The law assumes that, because they sleep at their employers' for most of the week, they do not have their own space and, therefore, do not have housing and food expenses. In other words, it assumes they do not have life outside of the employers' home. According to Adelina, employers usually know their domestic employee owns or rents a place and do not usually subtract "housing or food" money from domestic workers' salaries. But, while the amount is not formally subtracted, *fijas* make less money than live-outs and the fact that they live at their employers' explains the salary differential. The law is indirectly sanctioning lower salaries for *fijas*, despite their longer work days. However, they are actually not saving rent money for being live-ins and the law should not make this assumption. It should not penalize them either for sleeping or living for part of the week at her employer's. Ultimately, they sleep there because employers want someone who will be available for most of the time.

##### **5. Reproductive Labor in California: Exempted from Employment Law**

Hondagneu-Sotelo's (2001) work constitutes one of the most comprehensive examinations of labor conditions of reproductive workers in the United States and their

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<sup>454</sup> Interview 23, Barcelona, Viviana, March 2007

regulation by California and federal law. I elaborate on her discussion, particularly regarding the minimum wage and overtime pay in light of my own research findings.

### 5.1. Overtime and Wage Provisions

Since the inclusion of domestic work under the Fair Labor Standards Act in 1974, all workers, including undocumented immigrants, have the right to receive the minimum wages and overtime pay. Due to the very nature of a federal state, employment law is written and enacted at different levels. Thus, the current federal minimum wage of \$5.15 an hour sets the minimum from which states often depart. In California the minimum wage is \$6.75 an hour,<sup>455</sup> a substantial improvement from federal law. But this needs to be put in perspective. According to a National Low Income Housing Coalition report, in 2006 a minimum wage earner, in order to afford the fair market rent for a 2-bedroom apartment in the San Francisco Bay Area, would need to work 135 hours a week, 52 weeks per year.<sup>456</sup> The average weekly wage in San Francisco County is of \$1460 (U.S. Department of Labor 2007), and the 2006 median yearly income for the state was of \$54,385 (U.S. Census Bureau 2006). Not all states set a higher minimum wage than the federal government does. Overall, thirty-one states set a minimum wage higher than the federal one, and nineteen states apply the federal minimum.<sup>457</sup>

The application of the minimum wage law to reproductive labor is highly problematic. Domestic workers are not awarded protection under key laws such as the

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<sup>455</sup> These were both the Federal and California Minimum Wages at the time of fieldwork in 2006. They have been raised since then.

<sup>456</sup> <http://www.nlich.org/oor/orr2006/data.cfm?getstate=on&getmsa=on&msa=451&state=CA>

<sup>457</sup> These are: Alabama - none, Alaska - USD7.15, Arizona - USD6.75, Arkansas - USD6.25, California - USD7.50, Colorado - USD6.85, Connecticut - USD7.65, Delaware - USD6.65, District of Columbia - USD7.00, Florida - USD6.67, Georgia - USD5.15, Hawaii - USD7.25, Idaho - USD5.85, Illinois - USD7.50, Indiana - USD5.85, Iowa - USD6.20, Kansas - USD2.65, Kentucky - USD5.85, Louisiana - none, Maine - USD6.75, Maryland - USD6.15, Massachusetts - USD7.50, Michigan - USD7.15, Minnesota - USD6.15, Mississippi - none, Missouri - USD6.50, Montana - USD6.15, Nebraska - USD5.85, Nevada - USD6.33, New Hampshire - USD5.85, New Jersey - USD7.15, New Mexico - USD5.15, New York - USD7.15, North Carolina - USD6.15, North Dakota - USD5.85, Ohio - USD6.85, Oklahoma - USD5.85, Oregon - USD7.80, Pennsylvania - USD6.25, Rhode Island - USD7.40, South Carolina - none, South Dakota - USD5.85, Tennessee - none, Texas - USD5.85, Utah - USD5.85, Vermont - USD7.53, Virginia - USD5.85, Washington - USD7.93, West Virginia - USD6.55, Wisconsin - USD6.50 - Wyoming - USD5.15. These figures are as of July 2007.

national labor relations law, employment discrimination laws, and the federal occupational safety law. Regarding minimum wage, household or domestic employees who do personal care work are explicitly excluded from the right to earn minimum wage and overtime pay under federal law, which is limited to people doing housekeeping as opposed to strictly care work. In terms of overtime pay, live-in employees are not covered by overtime time regulations under federal law either, regardless of the nature of their work. California employment law does provide minimum wage to care workers, but it does exempt them from overtime pay provisions.<sup>458</sup> Caregivers are considered under California law personal attendants rather than employees. A personal attendant includes babysitters and means “any person employed by a private householder or by any third party employer recognized in the health care industry to work in a private household, to supervise, feed, or dress a child or person who by reason of advanced age, physical disability or mental deficiency needs supervision” (Division of Labor Standards Enforcement 2003). Only if the care giver or personal attendant spends at least 20% or more of her work time doing housekeeping work will she be entitled to overtime pay.<sup>459</sup>

This exemption has a significant impact on Filipina migrants, since they are concentrated in care giving positions. According to the 2000 Census, in California alone, 9,685 Filipinas work in personal care and service occupations. This figure is conservative since it does not include the undocumented workers or women working under the table. These exemptions also have an important impact on women—as opposed to men—within the Filipino community, since it is women who are largely concentrated in these occupations. According to the US Department of Labor, 94.5 percent of childcare workers are women, as well as 87.6 percent of personal and homecare aids (US Department of Labor 2005).

The following table, designed by the California Household Workers’ Rights Coalition, summarizes the 2006 status quo of overtime provisions in California:

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<sup>458</sup> Other states, such as Wisconsin, the District of Columbia, Florida, Montana, and Arizona also exclude domestic workers and caregivers from overtime provisions.

<sup>459</sup> Interview 47, San Francisco, Employment Attorney, August 2006

California general overtime provisions in 2006 recognized as overtime hours those conducted beyond between 8 and 12 hours a day or over 40 hours per week, whichever is more. In addition, all hours less than or equal to 8 on the 7<sup>th</sup> consecutive day of work are also considered over-time. This first set of overtime hours must be paid at 1.5 times the regular hours. Those hours worked above 12 a day and above 8 hours on the 7<sup>th</sup> consecutive day of work must be paid at 2 times the regular hours. Live-in domestic workers' overtime only starts, according to the law, after the 9<sup>th</sup> hour in a work day or 45 hours in a week, whichever is more. In addition, up to 9 hours worked during the 6<sup>th</sup> and 7<sup>th</sup> consecutive day of work will be paid at 1.5 the regular wage and over 9 hours on the 6<sup>th</sup> and 7<sup>th</sup> consecutive days of work at 2 times the regular wage. Personal attendants or care givers (i.e. nannies, caregivers for the elderly) are exempted from overtime provisions and all the hours they work, regardless of the number, and the amount of days consecutively worked, are considered regular hours. Assembly Bill 2536, which was designed by a California household workers coalition and presented in Sacramento by Assembly member Cindy Montañez in 2006, initially aimed to equate live-in domestic workers and personal attendants' overtime rights to the rest of workers. I participated in their lobbying and legislative efforts and discuss below its evolution in order to illustrate the legal treatment of reproductive labor.

Something worth emphasizing from the regulation, which is related to the comparative effort undertaken in this study, is the somewhat different nature of the regulation of reproductive labor in Spain and in the United States. Spanish Law does include domestic work in its minimum wage provisions. I have argued that minimum wage in Spain has not kept up with life costs increases in the past years. This, rather than being a problem unique to reproductive labor, needs to be posed in terms of excessively low wages for the total population. There needs to be a substantial increase of the minimum wage in Spain and this, obviously, must include domestic work. Minimum wage in California is among the highest in the country. However, as I have shown, it is far below the average and median incomes in San Francisco County and the State of California. Regarding the regulation of reproductive labor, the situation in the United States is somewhat different from that in Barcelona. First, federal law excludes care

givers and live-in domestic employees from the right to minimum wage. California employment law, although it provides minimum wage to those workers, it does not entitle them to overtime provisions. Second, while Spanish law makes the definition of over time (and its retribution) confusing, California law explicitly denies over time benefits to care workers. As my research results indicate, even when they are legally entitled to minimum wage, many of them do not get it. In the subsequent sections I discuss the impact of California employment regulation of overtime on my interviewees in San Francisco, particularly in terms of wages and work time. I divide my discussion into three distinct groups of interviewees: live-ins, live-outs, and In-Home Support Services home care providers.

#### **5.1.1. Live-In Caregivers: *We don't think by hours***

Live-in caregivers were the group working the longest hours and receiving the lowest salaries. The exemption of personal attendants from overtime provisions in California employment laws partially explains the lower salaries. Their employers, in addition, often failed to pay them the minimum wage.

Due to her delicate health, Emilia had to stop working as a teaching assistant in Richmond. Two years after her arrival to the United States, in 1995, Emilia met a Filipino woman who owned a care giving agency and offered her a job. Her first job was in Antioch, so her daughter would drive her from San Pablo on Monday morning and would pick her up on Friday. She had the weekends off. When I asked her how many hours she worked, she responded:

We are thinking monthly or weekly, it's not by hours. When I was there I was working all the time. Since I am sleeping there, they wake me up if they need anything and I get up in the middle of the night.

She did this job up to 1998 and stopped after her client died. Her salary was, for the more than three years that she stayed there, \$55 a day (\$1100 a month). At that time, California minimum wage was set at \$4.25<sup>460</sup> an hour. Emilia estimated that, excluding the times she had to get up during the night, she would usually work 14 hours a day.

<sup>460</sup> <http://www.dir.ca.gov/lwc/MinimumWageHistory.htm> (accessed May 12, 2008).

Considering that the minimum wage in 1995 was of \$4.24 an hour, if she had been paid for those hours at minimum wage and, as AB 2536 initially proposed, obtaining overtime pay after the 8<sup>th</sup> hour worked, Emilia should have been paid \$72.10 a day (\$1442 a month). If we calculate all the hours she stated to work considering all of them as regular hours (not overtime), her salary should have been of \$59.50 a day (\$1190 a month). Both her exclusion from overtime provisions and her employer's failure to pay her the minimum wage, had an important impact on her salary.

Rosa, the twenty-six-year-old undocumented Filipina care provider introduced earlier, had quit her job taking care of an eighty-year-old woman in 2005, several months before I interviewed her. In addition to strict care work, she was expected to clean, wash, cook, and iron. She regularly had to lift her employer and change her diapers. Her work days went from early in the morning until her employer fell asleep. She did not have her own room but rather slept in the same room as the elder lady she assisted. The line between her personal and work time was continually being crossed. Her employer would constantly wake up in the middle of the night and Rosa had to get up to help her go to the bathroom or assist her with other needs. She only had Saturdays and Sundays off, and even on Sundays her employer pressured Rosa to accompany her to Church, which she often did. Her salary was of \$800 a month, a sum that compensated her at a lower rate than minimum wage and without consideration of overtime. Considering that Rosa only had one day off a week and that she estimated working 14 to 15 hours a day (excluding those times she had to wake in the middle of the night as well), she was being paid \$37,50 a day, which translated in approximately \$2,50 an hour or \$4,25 dollars an hour below California minimum wage that year. Another possible reading of her work situation was that the hours that she spent at her employer's which she was not strictly working, such as watching TV with the old lady or accompanying her to church, were not considered real work time. While the Spanish concept of "presence time" is not explicitly present in U.S. or California employment regulation of care work, I suggest that it is present *de facto* in its treatment and perception by employers and society. The absence of overtime rights may respond to the existing notion that care givers spend many hours during their work day in which they are not "strictly working," but rather watching a

child or accompanying an elder while she watches T.V. While this argument makes sense in terms of the less physical effort the care giver needs to make when she is not strictly working, it does not acknowledge two facts: 1) even if she is not actively or physically working she may still be doing emotional work, which may bring stress to her, and 2) during that time she cannot be doing anything else or be somewhere else. She is not free to leave or to stop paying attention to her client and/or employer. Another argument employers and legislators use, as I discuss below, is that if employers were to pay all the hours that live-in caregivers are present in the employers' house and include overtime pay, many people could not afford to pay them. This argument certainly does not make sense when applied to wealthy families. In the context of middle and lower income employers, it raises issues on what the responsibility of the state should be to guarantee the care people need as well as reproductive workers' rights.

Eileen arrived to San Francisco in 2001. Her daughter had been working as a caregiver for several years and one of her former clients was looking for a live-in care provider. Eileen stayed at her employer's house from Monday to Friday and, when I asked her how many hours she worked, similar to interviewee's in Barcelona, she replied: "we don't count the hours, because it is live-in! Day time and night time!" She took care of her client's medication- both during the day and at night-, cooked her meals, helped her eat, and took care of all her needs, including personal hygiene and household cleaning. Although she stated the lady was very nice, she eventually left the job because she was only making \$150 a week. Her next job was in a private care home owned and run a Filipino family. According to her, she worked both as a caregiver and a cook and she was the only worker in a facility housing 15 clients. The 16 months Eileen stayed in the job were among the most stressful in her life:

[E]ven if [the employers] are Filipinos and we have the same language, they exploited me. I work in the kitchen, I have to serve them, I am alone... cooking, serving, putting the places, taking care of them, going upstairs to take the food to the clients...

She worked 6 days a week, and her only time off was from Saturday after lunch until Sunday 6pm. Her monthly salary during that time, despite the hard work and the enormous amount of hours was \$800<sup>461</sup>.

As I explained in the previous chapter, Arnie entered the United States in 1999 on a tourist visa and during her first year in the country she worked as a caregiver under the table. During that time she worked with no work authorization at private homes and for agencies. She usually found the jobs through personal connections as well. Her salaries ranged from \$40 to \$75 a day and, when I asked her how many hours she worked, she replied, “as a live-in it depends on their needs. And at night I cannot sleep. In the morning, I take a shower and then I shower her. I cook her food, I clean the house, I wash the clothes.” Arnie explained that while at her jobs in private homes with only one client she felt more isolated, working in a care home was harder because she had sometime 6 clients for herself:

The owner was a Filipino American and my co-worker was Filipina, a tourist like me (...) I had to work all day, all day job, 24 hours! The clients could call you anytime. You have no recess. You sleep but there is a monitor in the room, and they call you at any time.<sup>462</sup>

One explanation for Arnie, Emilia, Eileen, and Rosa’s wages below the minimum may be the fact that they enjoyed lodging and meals at their employers. The California Department of Industrial relations establishes the costs of meals and lodging may be deducted from or credited against the minimum wage. Similarly to RD 1424/1984 in Spain, California Employment law establishes maximum amounts that the employer can deduct from the worker’s salary. These are \$31.75 a week for a private room or \$26.20 a week for a shared room. In addition, the following daily amounts may be deducted for meals: \$2.45 for breakfast, \$3.35 for lunch, and \$4.50 for dinner. For a live-in employee working 5 days a week, these deductions add to \$206 a month in meals and \$127 in lodging. While this sanctioned deduction would actually be a reason for employers to pay

<sup>461</sup> Interview 32, San Francisco, Eileen, July 2006

<sup>462</sup> Interview 45, San Francisco, Arnie, August 2006

low wages, California Employment Law requires the employer and the employee to sign a voluntary written agreement on the amount to be deducted. None of the interviewees reported to have signed such an agreement. However, this provision has the potential, like Spanish law, to deduct great quantities from live-in workers' salaries. Similarly to RD 1424/1985, California law does not acknowledge care workers, most likely, have their own apartment or house, where, as Emilia and other interviewees explained, they go during their days off.

### **5.1.2. Live-Out Shift Care Givers**

While many interviewees reported having worked as live-in caregivers during their first years in the United States, most of them eventually moved to live-out, shift care work. Despite not including overtime pay either, this work modality offers a more standardized measurement of work time and, therefore, higher hourly pay.

More recently Arnie had been doing live-out care giving jobs in 12 hour shifts. According to her, this work arrangement included higher wages, since it is hourly paid, and allowed her to go home to rest. Even if she was still not getting overtime pay, she was earning above the minimum wage or an average of \$10 an hour, which usually translated into \$120 a day.

Maribel explained that in her own experience hourly live-out care work was better paid. She was part of a community in South San Francisco composed of Filipino men and women from Mindanao, the Southern part of the Philippines. A great amount of them were undocumented and most of them, men and women, worked as caregivers. Before her first job taking care of a man with Alzheimer's, Maribel had never worked as a caregiver. At that job, which was Monday to Friday from 6am to 6pm, she made \$80 each day or \$6.65 an hour, which was a little below the California minimum wage of \$6.75. She did not get overtime pay either. However, as she acquired more experience and moved to other jobs, her salary progressively increased and, at the time of our interview, she was earning \$17 an hour. While her salary significantly increased since she started working as a caregiver in 2004, she was still not being paid for overtime.

Other interviewees such as Paca or Lola had similar working conditions as Arnie and Maribel's, although none of them as making as much as \$17 an hour. My interviewees' average pay for live-out shift care work was of \$10-12 an hour without having hours beyond the 8<sup>th</sup> paid above this amount. The level of formalization in terms of time organization this scenario presented led into higher wages than live-in workers. With live-out shift work, given the difficulties to measure care as opposed to other kinds of work, their employers set a minimum hourly standard. This arrangement benefited the workers. The live-in arrangements, as Emilia explained during the interview, force the worker to broadly think about her work in terms of weeks. This fails to acknowledge all the hours the worker spends "away from her life," and is at her employer or client's availability. Day or night shifts seemed to address this issue, since what was being paid was the worker's availability, whether this involved proactive work or "just" custody. "Presence-time" *à la Spanish* does not take place in live-out care work in the San Francisco Bay Area. Hourly pay acknowledges that while the worker is in the workplace she, regardless of her concrete activities, is working and, therefore, not enjoying her own free time or her family's company, among other things.

Overall, Filipino women doing live-out care work in the U.S., therefore, enjoyed better work conditions than her live-in counterparts. Like their counterparts in Spain, they tended to work on live-in jobs upon their arrival to the United States and tended to eventually move to live-out jobs. A formalization of the work conditions, particularly the measuring of work time, raised the standards. In addition, live-out workers got to go home at the end of their shift and to spend down time or time with their families and friends. This does not change the fact that they were not being paid overtime rates and, given the high life costs in the Bay Area, the average of \$10-12 that I found is not a lot. If they managed to make ends meet was because they worked many hours a week, sometimes up to 60-75. Stories like Maribel's also indicate that there are many undocumented and documented workers who are making below minimum wage.

### 5.1.3. Caring for the State: In-Home Support Services Providers

There was a group in my sample which did not consist of live-in workers or live-out shift care givers. They worked for a state-funded in-home care program. Union organizing within this program has raised conditions and gained health benefits for these workers. Yet, workers in this program are not paid overtime either. Further, their situation illustrates the neoliberal government declining support for social services.

Eight of my interviews were working for the San Francisco In Home Support Services Public Authority and Consortium. This program, which exists all over California and is organized along counties, provides in-home care to low income seniors and people with disabilities. As I presented in Chapter VII, there was a high concentration of Asian and Pacific Islanders, and Filipinas in particular, working in this program in San Francisco County. The homecare workers usually have clients as their employers.<sup>463</sup> However, it is the state of California<sup>464</sup> who funds the program. SEIU, the union currently organizing homecare workers all over the state, bargains and negotiates for working conditions with representatives of each county. Although SEIU has been making important organizing efforts within this sector all over the state, not all the counties are organized or have achieved a Collective Bargaining Agreement. San Francisco County has been organized since 1995, however, and all homecare workers working in this county in 2006 made \$10.65 an hour. Differently from the previous cases, this salary also included health insurance and social security contributions for their retirement. Given the formalized recruiting procedures, only Filipino women who had a green card or had become U.S. citizens could access this work. Overall, according to my interviews with program managers, the majority of the workforce is composed of women of color, many of which are immigrant.<sup>465</sup> In San Francisco County alone there are about 17,000 clients receiving this modality of in-home “public care”<sup>466</sup>.

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<sup>463</sup> Field Notes, San Francisco, April 2006

<sup>464</sup> And to a lesser extent the federal government and each county.

<sup>465</sup> Interview 28, San Francisco, Government Employee, July 2006

<sup>466</sup> Interview 27, San Francisco, Government Employee, July 2006

According to a union representative, the In-Home Support Services Program benefits all parties involved. It benefits clients since, despite their disability or dependency, are able to live in their own home with dignity and do not need to be institutionalized. It also benefits other low income people, particularly immigrant women, since it creates employment. Lastly, it benefits the state as well, since providing home care is six times cheaper for the state than institutionalizing clients.<sup>467</sup>

The way the program works is that a social or eligibility worker assesses the client's needs and establishes how many hours of care that person should obtain. The services offered range from strict care work for clients with severe disabilities to helping the elderly with some of their household tasks. Therefore, some clients may need as much as 213 of care a month, which is the maximum allocated, and others are only allocated few hours a day or a week for in-home support. As a result, a home care provider may be working full time for the same client or few shifts for different clients. The social worker decides the length of care workers' shifts, though, and even if the home care provider considers that the client needs more attention or if she is not able to finish the tasks assigned to her within her allocated time period, she is not entitled to work more hours than the amount the social worker establishes. IHSS workers are not allowed to work and/or be paid overtime either.<sup>468</sup> According to my interviewees, however, it was usually really hard to end the work on time and, although they would ask the social worker to allocate more hours, they were told in response to do their job faster.

Nieves, a 38 year old single mother of three worked for the IHSS program in San Francisco County taking care of two elderly women who lived together. They were mother and daughter. The social worker assigned four hours of care to each, so Nieves worked eight hours a day Monday to Friday in their house. During the interview, Nieves explained that "once you have worked your hours you cannot work overtime and, ironically, you cannot get another job." Nieves described a regular work day at the ladies' the following way: She started cooking breakfast and giving it to them. She gave them

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<sup>467</sup> Interview 17, San Francisco SEIU organizer, June 2006

<sup>468</sup> Interview 17, San Francisco, Union Representative, June 2006

their medication, took them to doctors' appointments, helped out with house cleaning, cooked the other meals, and helped out with the shopping. Nieves complained that 4 hours for each client were not enough and stated she was not being paid for all the hours she worked. Emotional attachment with her clients made her stay beyond her schedule and she estimated that some days she worked "over 12 hours."<sup>469</sup>

Ruth, a 62 year old widow and mother of four, at the time of our interview had been working for two years as a home care provider of an old lady. Her client's apartment building was full, according to Ruth, of Filipino women taking care of low income elderly people. She was in charge of cooking for her client, monitoring her medication, as well as cleaning the house. The social worker assigned 95 hours a month. This was Ruth's only job besides some ironing and sewing that she did under the table to make ends meet. When I asked Ruth if she ever worked beyond the 95 monthly hours allotted to her, she explained her client could not be left alone and sometimes her daughter would need someone to stay with her if she had to work late. Since the social worker would not allot more hours and IHSS does not allow for overtime work, the client's daughter would ask Ruth to stay longer in those instances. Sometimes she would pay those hours from her own pocket. According to Ruth, she paid her at \$8.50, a lower rate than her regular \$10.65 an hour. Other times, however, the client's daughter would just ask Ruth to stay longer as a favor, and did not pay her for that time at all.<sup>470</sup>

After working as a private live-in caregiver for a couple of years, Eileen eventually became an IHSS homecare provider. She explained during the interview that besides not increasing her hours when she stated she could not do all the work within the time she social worker had allotted to her client, the eligibility worker had recently reduced her hours from 88 to 78 a month. When she complained about it, the social worker's response was that she should work faster:

It's not enough. They cut the hours but I still have to do the same things. She needs a lot of time, she needs a lot of attention, but [the social worker] just tells me that I need to be a fast worker! I work fast, but really, my job should be full

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<sup>469</sup> Interview 16, San Francisco, Nieves, June 2006

<sup>470</sup> Interview 34, San Francisco, Ruth, July 2006

time. I also do cleaning, and cooking, I wash her because she is bedridden and if I try to bathe her she scratches me...<sup>471</sup>

According to Eileen, the hour reduction responded to a budget cut that was affecting all home care workers in the state: “They are cutting services down. I learned this is a policy of the governor. They are reducing public services.” Eileen’s reading of her reduction of hours was accurate, since the California Assembly and the Governor have been using social services, including Medi-Cal and IHSS, cuts to reduce state deficit. This has translated into hour deductions or the exclusion of services such as cooking, shopping or housecleaning from the program during the past years. A home care workers’ organizer confirmed this trend during our interview. According to him, the union is constantly watching changes in state budget, since they could severely affect the financing of the IHSS program:

We have a governor who is not very sympathetic [to workers’ rights] and he always tries to balance the budget when here, in California, we have a deficit of 30 plus millions. Thus, he always balances the budget cutting at the bottom instead of... I don’t know, there are many ways to balance the budget. There are many people with lots of money, who make more than \$500,000 a year, and these people pay the same taxes [as the rest]. But there are many options, they could pay a little more to balance the budget. But for [politicians] the easiest way is to cut and take away from most vulnerable people, the ones who are in most need. They say: ‘let’s cut there, it’s the most simple.’<sup>472</sup>

The interviewee is pointing at the increasingly marked neoliberal character of the government in California, which parallels governments in other places in the country and the world. A growing emphasis on fiscal balance and a trend toward reduction in social expenditure and services have taken place since the 1980s. While the interviewee’s reflection specifically refers to the In-Home Support Services program, it also sheds light on how the state is failing to “tax” more privileged social groups in order to maintain a balanced budget. This illuminates the connection between low social spending and lack of protection of low wage workers such as caregivers. As I discuss in the next section, the

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<sup>471</sup> Interview 32, San Francisco, Eileen, July 2006

<sup>472</sup> Interview 17, San Francisco, Union Organizer, June 2006

effects of neoliberal deregulation go beyond public social programs and also reach care workers and their labor rights.

## **5.2. AB 2536: Toward an Improvement of Reproductive Workers' Employment Standards**

### **5.2.1. Drafting the Bill**

In 2002, women from *Mujeres Unidas y Activas* (MUA), *People Organize to Win Employment Rights* (POWER), and the *Raza Centro Legal Women's Day Labor Program* came together to discuss the main challenges reproductive workers in the San Francisco Bay Area, mostly immigrant women, faced in their workplace. They created a local coalition and decided to conduct a research project, involving over 200 interviews with workers in the sector. Domestic workers and care givers themselves conducted the interviews in order to assess the existing needs and problems within the sector. They found out these workers routinely experienced exploitative labor conditions and the average weekly wage for household workers working 50 hours or more per week was \$200. The local coalition started conversations with CHIRLA (Coalition for Humane Immigrant Rights) and the Filipino Workers Center, both in Los Angeles. These conversations led into the formation of the California Household Workers' Rights Coalition. During their research they realized there were several areas in which household or reproductive workers in California did not receive protections from employment regulations, such as overtime, safety and health issues, anti-discrimination, and workers' compensation rights, among others. They drafted a proposal and approached Assembly woman Cindy Montañez to introduce it as a bill and attempt to enact statewide legislative change. Montañez agreed to move the proposal forward but considered that rather than trying to change all the conditions at once, a bill focusing on one of the points would be more likely to succeed in Sacramento. After many discussions, they presented a proposal to equal live-in domestic workers and care givers' overtime provisions to those of all workers. In addition, they included punitive provisions

for employers who did not pay according to the law or paid late. This was how AB 2536 was born.<sup>473</sup>

The bill went through various Assembly and Senate committees and hearings during my fieldwork time in San Francisco. As a volunteer at the Filipino Community Center, I joined the member organizations of the coalition to go to Sacramento at the different hearings. While I was representing the FCC, the other groups knew about my research and agreed to have me as an observer of the process. Being able to witness this legislative effort was extremely informative, since it allowed me to understand the priorities at place in the context of reviewing current policy, as well as the mobilization of different political actors and stakeholders. Although I cannot describe the process step by step, since it was arduous and lengthy, I want to provide some highlights I think are relevant to my discussion of state regulation of care work.

### **5.2.2. Evolvement and Defeat**

During initial conversations with Assembly members, the coalition was already forced to make some concessions in order to move the bill forward, such as excluding live-in domestic workers or any care giver already making \$10.13 or 1.5 times California Minimum wage of \$6.75.

One of the main challenges the bill faced was when it reached the Appropriations Committee, which is the committee in charge of assessing the fiscal impact of policy reforms. Usually, if the committee assesses that a particular bill is potentially going to cost the state of California more than \$150,000, they put the bill on suspension and it never makes it to the Assembly floor. Given that the state of California, as mentioned above, employs thousands of home care providers through its In-Home Support Services Program, the bill could potentially have a great financial impact on the state. I thought this dilemma was interesting, since it seemed that such a committee was a “gatekeeper” in its ability to “kill” any bill they considered too expensive regardless of its social importance or relevance. Since the state has an allocated budget for the IHSS program, both state legislators and care recipients within the program argued that if the state had to

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<sup>473</sup> Interview 5, San Francisco, La Raza Centro Legal, April 2006

pay for overtime hours it would need to reduce hours allotted to clients and many of these would need to be institutionalized.<sup>474</sup> Given the situation, the coalition had to agree to eliminate In-Home Support Services care providers and care givers working for MediCal beneficiaries from the bill in order to ameliorate the fiscal impact of the bill and obtain therefore enough votes to make it pass through the Appropriations Committee.

Soon after they did this, however, opposition from both private agencies, care homes, and senior and disabled people themselves continued to emerge. For the most part, agency owners' argument was that they could not afford to pay for overtime and, if AB 2536 passed, they would need to close their business. In addition, groups from the senior and disabled people communities came forward arguing that many of them were low-income and if they were required by law to pay overtime to their care worker they would need to simply dismiss her and be institutionalized instead. This raised issues among some Assembly members who, given the financial cost elderly and disabled people's institutionalization would bring to the state of California, stated they would vote NO to AB 2536.<sup>475</sup>

There was consensus within the coalition that this could not become an issue between care workers (mostly immigrant women) and the disabled and the elderly community, since, according to initiative's leaders, both groups are marginalized and victims of insufficient state support and resources.<sup>476</sup> The goal was to increase care workers' labor standards, but not at the stake of other marginalized groups. The following is what one of the coalition's leaders stated few days after a Senate hearing in which several disabled people testified about the negative impacts that the bill, if passed, would have on them:

[W]e did not want this to be seen, [we did not want this] issue to be perceived as an 'us versus them'. And I think that this is what was so frustrating about Wednesday, since that is exactly what it was, you know? Household workers on one side and people with disabilities on the other.<sup>477</sup>

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<sup>474</sup> Interview 17, San Francisco, Union Representative, June 2006

<sup>475</sup> Field Notes, San Francisco, May 2006

<sup>476</sup> Interview 22, San Francisco, MUA, June 2006

<sup>477</sup> Interview 22, San Francisco, MUA, June 2006

Protests from the senior and disabled communities, opposition from Assembly members who thought this bill would create enormous direct and indirect fiscal burdens on the state, and the disagreement of private home care and agency owners, made the coalition change the language of the bill and limit the overtime pay improvement to nannies or personal attendants in charge of taking care of children versus those caring for the elderly or disabled clients. They considered they had a long term coalition building work to do with the elderly and people with disabilities communities before they could include the caregivers of these populations under overtime provisions. After having been approved at the Assembly with 59% of the votes and at Senate for 60%, however, governor Arnold Schwarzenegger vetoed AB 2536 on September 30, 2006 citing concerns about the negative impact that care givers' higher wages would have on low-wage employers and the industry in general (See California Immigrant Policy Center 2006; Krajcer and Johnson 2006).

### **5.2.3. Relevance of the Bill**

The narration of the different challenges and opposition AB 2536 encountered, as well as its eventual defeat, is relevant to understand some of the reasons behind care givers' exclusion from certain employment laws, particularly overtime benefits. The Governor's reason to veto the bill was the financial burden this would create on low-income clients and the industry in general. He failed to acknowledge, though, that AB 2536 was making state low emphasis on social spending clear. Once the bill made it through the Appropriations Committee and, after the coalition excluded IHSS workers from its beneficiaries, the "fiscal burden" argument could not be made anymore, since the Appropriations Committee had given the bill green light. Then, the Senate floor witnessed a parade of people with disabilities testifying against the bill and vividly explaining how much hardship it would bring on them. While their claims were extremely valid, as the coalition members acknowledged themselves, they masked the fact that if those folks were institutionalized, this would have an impact on state finances,

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since they would most likely enter public care homes. Further, if those folks could not afford to pay for their care worker's overtime, maybe it was because they were not receiving enough support from the state. Thus, the scenario was really about the failure of the state to provide enough resources for elderly and disabled clients and its refusal to increase support to these communities and improve work standards of care workers. Yet, the reason given to veto it was that it harmed already vulnerable people, and the main opponents to AB 2536 (i.e. agency and care home owners and the Republican Party) actually presented themselves as the advocates of the elder and disabled people's rights. As the above quoted interviewee stated:

[T]here is a strong show of force from the disability community. They say that there are a lot of people who are not on MediCal or IHSS, but are still poor and they won't be able to pay overtime, so they will have to be institutionalized. So it looks like we will have to find a way to exempt all poor people who cannot afford to pay overtime. I mean, the real question is 'where do you draw the line?' And I think that the major concern is, *these poor household workers are the ones who are really subsidizing the lack of resources of the health care system*. So I think that it is really disturbing for us to see two oppressed communities pitted against each other: household workers and the disabled and senior. So, I mean, when *the real issue is lack of state resources*, we need to find a way to come together with the disabilities community and the senior community to make sure this bill does not harm them, but we also need to develop more long term relationships to advocate for more resources for, you know, all poor people in general [emphasis added].

The interviewee tackled the issue which is probably one factor behind care workers' exclusion from overtime provision, but which goes beyond it. AB 2536 posed a dilemma for the distributive relations and priorities of the state. While care workers were claiming their right to be remunerated as the rest of workers, agencies and care home owners complained this would hurt their business. In addition, policy makers also showed opposition to a bill that would, directly or indirectly, force the state to free more funds for the care of the elderly and the disabled and for low wage workers' labor standards. While low income clients' inability to pay for overtime was supposedly the reason behind the defeat of AB 2536, the reality is that both agency and care home owners, as well as the state itself, benefited from the defeat. This masks the fact that, ultimately, if the elderly and disabled, specifically those who are low income, cannot afford to pay more to their

care givers is because they are not getting enough support from the state to do. Thus, the dilemma was posed in terms of conflicting interests of two marginalized groups in terms of their access to state distribution relations, but it was business and the state itself the ones which benefited the most from the defeat of AB 2536. While the coalition acknowledged the importance of making sure AB 2536 would not negatively affect other marginalized populations, its defeat also meant wealthy clients continued to be exempted from paying overtime. While these, including agencies, could afford to pay for overtime, the bill was killed in its totality arguably to defend low income clients' rights. The fact remains, though, that care work continues to be socially and politically under-valued and, after the defeat of AB 2536, also underpaid.

Besides reminding us of the historical exclusion of reproductive workers from employment rights, AB 2536 also makes state priorities and its failure to provide for the weakest clear or, in other words, it shows its neoliberal nature. As another coalition member stated:

[T]o say that you are going to try to improve women's rights within this particular sector, which [has been] historically isolated and marginalized and left out of labor law in this country... but then, on top of that, to get them to throw down money in an era where the status quo is not to... is for the state not to get involved in shit? And just to create capital, create opportunities for capitalists to make money. That's what the status quo is right now, the state fundamentally is there to manage and to create opportunities for profit to be made. People don't want to talk about it that way, but people don't talk about the state as having a responsibility to its people, that's not the status quo anymore. Neo-liberalism is changing the concept of what is the responsibility of the state toward its people. And it's profit over people now.<sup>478</sup>

According to the interviewee, this trend is affecting the more marginalized groups in society and, therefore, is not racially neutral. The main victims of the most important social service cuts in the past two decades, such as Welfare Reform in 1996, have been immigrant communities and U.S. citizens of color. The opposition AB 2536 created, and the reasons behind its defeat, are not very different. As I explained above, 2006 was an

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<sup>478</sup> Interview 18, San Francisco, POWER, June 2006

important year in terms of immigration policy reform, in which both immigrant rights advocates and opponents engaged in an agitated and politically charged nation-wide debate. Conservative rhetoric criminalized immigrant populations, identifying them as potential terrorists and responsible for the depletion of government resources. While social justice organizations reacted all over the country to contest these accusations and opposed the most severe anti-immigrants' rights bill proposed ever, their discourse was often merely reactive and ultimately failed to alter the generalized perception of immigration as a problem to be solved. Within this context, the California Household Workers' Rights Coalition refused to engage in arguments that criticized their bill for being an "immigrants' bill" and stated that AB 2536 was a workers' bill: all reproductive workers, regardless of their race and/or nationality, should be entitled to overtime rights. This is true and, given the anti-immigrants political climate, made sense at that moment as a strategy to frame the issue. It is also true that most workers the defeat of AB 2536 affected negatively were poor immigrant women of color. Ironically, the same was the case for the clients whose rights were asserted to stop the bill and who, two years after this story, continue to be victims of limited state resources and support.

## **6. Toward a Comparative Analysis**

### **6.1. On Flexibility and Neoliberal States**

The regulation of reproductive workers' wages and work time in Spain and California, presents some specificities which seem to stem from the marked gendered construction of the work: it is inherently women's real and outside of government jurisdiction. Also, the legal treatment of this sector in both countries echoes broader political-economic processes that have promoted the deregulation of labor markets and have limited unskilled workers'- especially those in the services sector- wages, purchasing power, and life quality. This has been reflected, for example, in the stagnation of minimum wages for a long time in both Spain and the United States. The under-regulation that has characterized reproductive work, however, presents unique characteristics in the trend of deregulation of labor markets that has characterized the neoliberal economy in the past decades. Besides confirming the weak role governments

have had in protecting workers' rights, the political treatment of reproductive work can teach us a lot about the relationships that states establish with the private realm, particularly the family household.

Flexibility and good will continue to be present in the regulation of reproductive labor. Spanish legislation of domestic work, particularly with RD 1424/1985, bases the regulation of this activity upon these premises. The existence of the notion of "presence time," and the fact that the law leaves upon the employer and workers' good will the definition of several working conditions, guarantee the informality and flexibility that characterizes the family sphere. However, it does not acknowledge the power asymmetry that characterizes this labor relation and it establishes, for example, that her working conditions will often be defined according to her employer's needs. I have shown how the work days of Filipino domestic workers in Barcelona, far from responding to the 8 hour daily maximum established in the law, usually goes up to 13 and 14 hours. Their work time and resulting remuneration are shaped by the employers' expectations- which the law validates- that the worker will be available for them beyond her legally and even contractually established work hours. While flexibility is an important component of family relationships, when applied to a labor relationship like the one under study it leads, in agreement with Tadiar, into "the inseparability of 'women's work and women's bodies (273). In other words, the law allows the employer to appropriate the worker's labor power in distinct ways from other labor sectors. Within domestic work, the employer buys more than a concrete and clearly defined amount of labor power (measured in amount of tasks to be conducted in a given amount of time) and purchases instead abstract-labor time and "the laborer itself as the embodiment of infinite labor-time." Differently from strict family relations, in the context of this labor relation, flexibility means the woman's labor power is at the disposal of the employer whenever he or she may need it. The logic of flexibility perpetuates the construction of women in disposition to serve the needs of others. This runs parallel to the worker's racialization as a being for her employer and which can be invaded, intervened, or requested at any time. The domestic worker performs the labor that guarantees her employer's reproduction. Her wages, long work days, and difficulties to enjoy her own private life beyond the

work time and space that define her as a worker, also represent the difference between her human value and her employers'. The premise of flexibility is not explicitly present in California regulation of care work but, as my research shows, is implicit in its exemption of care givers from over time provisions and many employers' expectations.

The lack of overtime rights also places care givers as a second-class type of workers. Gendered notions of care work as non-productive and belonging to the private certainly lie behind its under-regulation. Hondagneu-Sotelo has established that what makes paid reproductive distinct is not being a bad job but rather, the fact that it is regarded "as something other than employment" (2001:9). This view of reproductive work is also shaped by the subordination by race and immigration status of the women who do the job. Particularly care work involves attachment, intimate knowledge, deference, and patience, among other feminized and racialized characteristics. This interaction remains antithetical to the model of manufacturing with which we tend to see employment. According to Hondagneu-Sotelo, in the context of reproductive, and particularly care, work, standardization, as well as efficiency and productivity assessment in terms of labor inputs and outputs remain irrelevant. While I agree with her, I still think reproductive work has a fundamental commonality with "manufacturing kind of work" which makes its regulation an urgent task: In both cases the worker is selling her time. Regardless of the nature of the labor power she sells, when she is in the employer's home she is working or available to do so. Since this is not questioned in other labor activities, it should not be overlooked in the context of reproductive labor either. However, the long working hours of many care givers and their underpayment in the U.S., similarly to the Spanish context, creates a scenario where their time does not seem to belong to themselves but to the employers. This resembles, again, social and legal constructions of reproductive workers along class, gender, and racial lines. As an interviewee from a migrant workers' rights organization suggested, most of the labor activities which are currently excluded from employment law are jobs that were historically done by slaves. While immigrant populations have replaced African American men and women in reproductive tasks in the U.S., the current racial construction and legal exclusion presents a continuation with the past. Capitalism has also historically relied on women's (free)

labor in the home to reproduce the future generation of labor. While poor and working-class women have worked both inside and outside the home, middle- and upper-class women used to stay at home working for free or with the help of remunerated minority women's labor. An increasing incorporation of women into the labor market frees up numerous reproductive jobs for less privileged women: while this job used to be done, for the most part, for free, it has become necessary to monetarize it. The low wage and limited rights that it presents ultimately keep it affordable and benefit the productive sector of the economy. While the racialization of reproductive labor has been more recent, the same argument applies.

The under-regulation of reproductive work, as my narration of the development and eventual defeat of AB 2536 illustrates, also shows the priorities of the state of California in terms of its distributive relations toward the private sector on the one hand, and its failure to provide for some of the most marginalized social sectors, such as low-income disabled and elderly communities on the one hand and immigrant care givers on the other. The defeat of AB 2536 saves care giving agencies and individual wealthy employers from having to pay additional money to their care providers. It prevents state "intrusion" into agencies' business and into the household of the private employer. The opposition and eventual veto to the bill mean much more than the government taking sides with business and wealthy employers. It also responds to the unwillingness of state to provide more support to some of the most vulnerable communities in California. The argument stating that if care givers were to be paid for over time the amount of people who would need to be institutionalized at the expense of the state is just one indicator of this. Similar to Filipina migrant workers subsidizing the meager social expenditures of the Philippine government through their remittances, Filipino, and other, caregivers in California, after the defeat of AB 2536, continue to subsidize the low social spending through their exclusion from certain wage rights.

The fact that the California Household Workers' Rights Coalition excluded In-Home Support Services workers from the bill to avoid its suspension at the Appropriations Committee illuminates the relevance saving money has for the state, regardless whether the expenditure of that money may be socially relevant and necessary.

The refusal to include the IHSS program in the bill had an impact on its workers, since it meant they were not going to receive additional work hours or overtime pay. Ultimately, the defeat of the bill saved money both to the state and the private sector and perpetuated the already unequal distribution of resources, support, and services. These take place within larger gender, class, and racial intersecting dynamics: it was precisely immigrant women of color and low income communities who lost the most. On call at all times and without remuneration reflecting this time, Filipino domestic and careworkers encounter a triple standard of sacrifice: the gendered expectation of selflessness similar to norms of conduct set for housewives, with the additional racialized and classed view of them by their employers as servants, placing them under a heavy cultural expectation of self-abnegation (see Fitzpatrick and Kelly 1998). When the worker is undocumented, she enjoys less leverage to assert her limited rights, or to move into another job, or both, even if she technically has the same rights as her documented counterparts. In the Spanish context, Immigration Policy and a weak and often ambiguous regulation of household work generate the arrival of immigrant women to conduct this work for low wages and endless work days. Rather than improving its already weak Welfare State, therefore, the Spanish government, through a hyper-regulation of immigration flows and an under-regulation of reproductive labor, creates a pool of workers with limited rights.

## **6.2. The State and the Household**

The state in Spain and the United States does not intervene “the private” to inspect labor violations in the reproductive labor sector. During an interview with a lawyer at the California Division of labor Standards Enforcement Office she explained that the Bureau of Field Enforcement usually concentrates on traditionally exploitative industries, such as garment, agriculture, restaurants, construction, janitorial work, car wash, among others. The Bureau conducts the inspections to make sure employers follow state employment law standards. Other inspections are conducted upon a complaint or a lead from a worker. However, although there is a generalized knowledge that a lot of abuses take place in the context of domestic work, “[inspectors] are not likely to go to a household, where there is

just one worker. They go to places where there are many people working.”<sup>479</sup> This was confirmed by interviewees at the Equal Employment Opportunity Commission<sup>480</sup>, the State of California Department of Fair Employment & Housing<sup>481</sup>, and the San Francisco Office of Labor Standards Enforcement<sup>482</sup>. Although caregivers in California are entitled to minimum wage, as I have shown, they do not always receive it from their employers. The lack of enforcement, though, which interviewees from enforcement agencies acknowledged themselves, makes the existence of rights meaningless<sup>483</sup>. The inspection of private households is seen as inefficient in a context where there are not enough labor inspectors to address all the employment law violations in the state or, in other words, when the government does not allocate enough resources to make sure labor law is respected.

Lack of enforcement goes beyond the inexistence of labor inspections in private households and includes the difficulties encountered in the administrative cases workers file against their employers. As one of the leaders of MUA stated recently, “the workers often win the cases but they never see a cent.”<sup>484</sup> Besides the ideology that sees household work as none of government business and not being worth checking, the emphasis on efficiency quoted above is related to a scenario, again, where in order to have the technical and human capability to enforce labor rights, government agencies need to obtain resources. However, according to an organizer of low wage workers in San Francisco, that this not happening:

[The care giving industry] is so decentralized... how are the rights exercised and how are the laws enforced? We have to enforce them, it's not like it is in the card for the local government to fund this kind of accountability, this kind of enforcement... That is a huge problem with work stuff anyways, all the

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<sup>479</sup> Interview 50, San Francisco, Government Employee, August 2006

<sup>480</sup> Interview 49, San Francisco, Government Employee, August 2006

<sup>481</sup> Interview 51, San Francisco, Government Employee, August 2006

<sup>482</sup> Interview 4, San Francisco, Government Employee, March 2006

<sup>483</sup> Interview 35, San Francisco, La Raza Centro Legal, July 2006

<sup>484</sup> E-mail follow up on Interview 22, San Francisco, Mujeres Unidas y Activas, April 2008

labor enforcement, you know, is under-funded and defunded. And it is not an accident.<sup>485</sup>

Lack of enforcement and inspection are also a constant in Spain. While interviewees in California particularly emphasized the insufficient resources to inspect all work places, Spanish interviewees focused on the privacy issues inspection of the private household poses. These stem, along similar lines as RD 1424/1985 in Spain, from the inviolability of the private sphere. According to union representatives, similarly to California, labor inspectors in Spain regularly visit certain companies for issues such as immigration, health and safety, or working conditions. Sometimes the inspection stems from workers' complaints. Labor inspectors cannot enter the family household, since it is seen as part of the private realm and, therefore, not a workplace.<sup>486</sup> In this, sense, "private or civil law prevails over employment rights."<sup>487</sup>

The ambiguous standards of RD 1424/1985, the exclusion of care work from overtime provisions in California Employment Law, and overall weak enforcement mechanisms stemming from insufficient budgets for this task, ultimately benefit the main historical employers of reproductive labor: the upper classes. In addition, regardless of policy-makers' intentions, the under-regulation and inexistent monitoring of domestic workers' labor conditions allows to maintain labor standards low. This is important in a context of insufficient government support for reproductive tasks, which has forced many middle class families to externalize or privatize their reproductive needs. Raising standards for this labor, which would result in higher reproductive labor costs, would, most likely, make government (ir)responsibility in providing for families clear. This would lead into a discontent among the working and middle-classes for insufficient government services for families. The under-regulation of reproductive work, and the thousands of women who conduct it in precarious and invisible conditions, masks, both in Spain and California, government lack of support to working families.

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<sup>485</sup> Interview 18, San Francisco, POWER, June 2006

<sup>486</sup> Interview 7, Barcelona, Union Representative, November 2006

<sup>487</sup> Interview 9, Barcelona, Union Representative, December 2006

The analysis of the regulation of reproductive labor makes us challenge the private-public divide and the meaning of “private” itself. The household may be the private space of the employer but its public nature for the worker should be legally and socially acknowledged. By not regulating the household- both as a family and a work space- the state refuses to intervene it in different ways: 1) it does not support mothers/daughters/wives in their double shifts or dependent populations through distributive policies. To make up for this, 2) it supports, though under-regulation, employing families (women) to hire reproductive laborers for low wages. This means that 3) it does not support immigrant reproductive workers who work and live in it to obtain decent work standards. The state neglects different social groups- mostly women- suffering different kinds of oppression in different ways and degrees. This negligence acts to perpetuate the oppression of the least privileged, since those with more access to resources can always resort to the (underegulated) market of care labor. In the case of women who, due to low reproductive labor costs, can afford hiring a domestic or care worker, the state stays away from the household and it guarantees the perpetuation of its patriarchal structure and the sexual division of labor accentuated by larger class and racial societal divisions. In the case of immigrant reproductive laborers, whose transfer from the Philippines receiving states facilitate, the latter neglect the private household and with it the racialized and feminized working class that guards, cleans, and feeds it.

The private-public divide is a fallacy in this context. Whether the state neglects the household (read women) or stays away from it (read relatively privileged women), it is making a political and, therefore, public decision. The under-regulation of the microcosm of the household reflects larger social forces such as class privilege, racial discrimination, and gender oppression. And despite official discourses, these should be, and indeed are, government business.

## CHAPTER IX

### CONCLUSION

#### 1. Summary

A historical overview of Philippine-U.S. relations and of the location of the Philippines in the world system shows that its economy and political system have been, since its birth as a country, highly dependent on core countries and Western financial institutions. While historically the Philippines specialized in exporting coconut and sugar, among other raw materials, in the 1970s President Marcos found a new export product for the country to ameliorate its perennial economic crisis: people. Philippine labor migration has since grown exponentially and become increasingly feminized. The growth in female migration has coincided with a high demand for reproductive workers all over the world, and currently Filipino women migrate to almost 200 countries to conduct this work.

As the number of migrant women started to increase significantly in the late 1980s, migrant workers' organizations and the media started to publicize cases of abuse of Filipino domestic workers. According to many organizations, given the institutionalization of migration, the government needed to become more proactive in protecting workers overseas. The Contemplacion case in 1995 created one of the gravest legitimacy crises the Philippine government labor export program has ever faced. Flor Contemplacion, a Filipino domestic worker in Singapore, was convicted of killing her Filipina co-worker and her employer's son. Despite the existence of insufficient evidence and the Philippine President's pleas for her life, Contemplacion was hanged. Filipino migrants all over the world marched in protest against what they saw as an example of both Filipino migrant women's vulnerability and the inability of the government to protect its own people. This crisis was the main catalyst behind the creation of RA 8042.

RA 8042 was the first comprehensive law a sending country created to regulate migrant workers' conditions overseas. While some of its provisions, such as repatriation funds and the creation of "country teams" have been a step toward protecting Filipino migrants, the challenges of implementing this law soon became obvious. The Philippine government has continuously struggled to obtain the collaboration of receiving countries to protect Filipino migrant workers in the form of bilateral or multilateral agreements. Receiving countries have usually also refused to alter their immigration and labor laws in order to further protect migrant workers. In addition, insufficient resources to provide quality services to migrants and corruption among government employees and officials and recruitment agencies have made protection even more difficult. Migrant workers' organizations have insisted the main reason behind the continuation of problems has been the insufficient political will of the Philippine government to allocate more resources for migrants' protection, to negotiate more aggressively better conditions for migrants with receiving countries, and to enforce RA 8042 by ending illegal recruitment and other corrupt practices. All these factors- the weak geopolitical position of the country, insufficient resources, corruption, and lack of political will- lie behind the continuation of abuse and exploitation of Filipino women overseas.

The 2006 Lebanon War had an effect similar to Contemplacion's execution eleven years before. The war revealed the precarious work conditions Filipino domestic workers had to endure in that country. The Philippine media widely publicized images of Filipino women jumping off balconies of their employers' homes and denounced, once again, the abusive treatment migrant women face in countries like Lebanon. Facing another threat to its hegemony, the government approved the new Household Service Workers Reform Package that same year.

The goal of this reform has been to increase migrant domestic workers' protection. Besides improving problems such as salary and recruitment fee regulations, the main feature of the Reform Package has been the enhancement of women's skills. Since 2007, Filipino women who want to migrate as domestic workers must go through training and assessment. If they migrate to particularly dangerous regions, such as the Middle East and certain Asian countries, they also have to complete a language and cultural

orientation. These two provisions are meant to increase workers' protection through their professionalization. The emphasis the Reform Package places on skill acquisition however, often amounts to blaming Filipino women for the abuse they receive, since, according to government officials, once women stop making mistakes in their workplaces employers will have no reason to abuse them.

While skills are always helpful in conducting any job, a protective policy focusing on enhancing workers' skills does not address the roots of their abuse, which reside in the gender, class, and gender dynamics occurring in the workplaces, the regulation of their work, and their status as immigrants. Employers expect Filipino domestic workers to behave in gendered and racialized subservient ways, and the legal bodies of receiving countries do not acknowledge domestic labor as "real work" labor. Yet, the government does not question why employers often feel entitled to abuse arbitrarily Filipino women or even its own inability to change the legal bodies of receiving countries.

The Reform Package attempts to protect Filipino women by further commodifying them. Training, assessment, and orientation increase women's exchange value and therefore justify the new salary increase to \$400. This commodification is conducted through a racialization and feminization of Filipino women and their consequent portrayal as elite domestic workers. Thus, parallel to its protective efforts, the Reform Package is also a marketing strategy to promote the *Filipino Brand* all over the world.

The long term effects of the Reform Package remain to be seen. However, shortly after its passage, and as a result of the 100% salary increase it enacted, deployment of Filipino domestic workers started to decline substantially. On the one hand Philippine recruitment agencies worry about this decline and have predicted it will create an increase of contract substitution and other illegal practices. On the other hand, government officials acknowledge that a decline of deployment was one of the motivations behind the creation of the Package and hope women losing jobs in countries such as Saudi Arabia or Kuwait will be re-deployed to countries like Spain and Japan. In addition, they hope to redirect Filipino female migration toward higher echelons in the health care sector. Besides creating more revenue through more remittances, these sectors are better regulated than domestic work, and the government hopes this reallocation will

reduce the abuse and exploitation Filipino women have to endure. In other words, the Reform Package is one way for the Philippine government to “price its women” out of the domestic work market and move Filipino women into better paid and safer sectors without offending receiving government with selective bans. While this can be read as a sign the Philippine government is navigating complex and hierarchical international relations and unilaterally imposing conditions to protect Filipina migrants, some questions remain to be answered. It is not clear how the government plans to relocate all the migrant women who will lose their jobs in the Middle East and Asia; it is not clear how the government will make sure the new regulations are implemented and enforced in the receiving countries; it is not clear to what extent the government is enacting change at the local level so Filipino women can find jobs in their own country and stop migrating.

What is clear is that migration has not resulted in the economic development it once seemed to promise. Rampant unemployment continues in the Philippines and triggers further migration. Unless the Philippine political class rethinks its development strategies and comes up with people-centered policies, it does not seem the need to migrate is going to end anytime soon. In the meanwhile, migrant women’s remittances continue to substitute underfunded state social services and programs.

Mainstream migration scholars have categorized Spain and the United States as belonging to two different types of immigration regimes. The United States has been characterized as having one of the most liberal immigration policies in the world, and Spain has been portrayed as having a restrictive immigration policy that limits entry to immigrant workers only. While there are sound historical and conceptual reasons behind this classification, an examination of immigration policy in these two countries from the perspective of Filipino women illuminates a different scenario.

While it is true that Spanish regulation of immigration has emphasized the entry of the laborers the economy needs, its explicit inclusion of domestic work in immigration law has facilitated the immigration of Filipino women conducting this kind of labor. Spanish law is full of rigidities, which do not acknowledge the complexity of migrant women’s migration projects. As a result, Filipino women have resorted to family and

friendship networks in order to both abide by and circumvent the law. In addition, they have manipulated rigid legal categories in order to facilitate their relatives' migration.

Unlike Spain, the U.S. has not specifically facilitated the entry of immigrant women to conduct the reproductive tasks the country has such demand for. An initial examination of U.S. immigration law shows its emphasis on family reunification and, indeed, this is the mechanism most women in my study used to enter the country. A more in-depth analysis of their experiences, however, shows that family reunification in the United States presents grave problems, such as long backlogs. Filipino women, consequently, are resorting to other entry mechanisms, such as tourist or temporary work visas. The use of these channels almost invariably leads to the perpetuation of their undocumented status, or what I call the "normalization of irregularity." Both documented and undocumented Filipinas tend to concentrate in the care giving sector. In the case of undocumented women, once they find a job as caregivers, it is practically impossible to legalize their status through an employment visa. Contrary to the characterization of the U.S. immigration regime as a liberal and permissive one, it is precisely its rigidity that triggers the normalization of irregularity. Given the absence of a program specifically regulating the entry of reproductive workers and providing them with rights and stable immigration status, Filipino women who cannot or do not want to follow the family reunification path often fall through legal cracks and remain in legal and labor vulnerable situations. The only program the U.S. government has for the immigration of domestic workers exists to cater the reproductive needs of the business and diplomatic elite. Given the few rights these immigrant workers have, their migration actually resembles trafficking scenarios. Since these are sanctioned by the law itself, this program amounts to legalized trafficking.

The rigidities of immigration law in both countries has forced Filipino women to look for illegal mechanisms to migrate. In addition, it has also triggered the growth of networks such as illegal recruiters or agencies that facilitate women's illegal migration and profit from it. They sometimes lead to cases of illegal trafficking, illegal recruitment, fraud, and exploitation. Rather than focusing responsibility on migrants or networks

acting as intermediaries, one of my goals in this study was to highlight the responsibility states have in creating these scenarios through rigid and unrealistic immigration laws.

Finally, while Spanish immigration law directly facilitates the transfer of reproductive labor from the Philippines, the U.S. government does not. Yet, this transfer is taking place in both countries since Filipino women- among other immigrant groups- have an important presence in the reproductive labor sector both in Barcelona and in San Francisco. The difference is that Spain explicitly acknowledges its need for this labor, while the United States relies on its vast undocumented population to conduct it. In addition, in the U.S. family reunification also brings a foreign labor force into the reproductive labor sector. There are two additional factors important for understanding the absence of a program specifically regulating the entry of reproductive workers into the United States: state gender bias in failing to acknowledge the importance of reproductive labor for the U.S. economy and society, and the class bias consisting of the increasing limits placed on the entry of low skill and poor immigrants.

As I show, however, immigration policy in both countries is not the only thing directing Filipino women to the reproductive labor sector. Racially segregated labor markets and accreditation barriers are two others. Labor markets both in the U.S and Spain present a segregation in which White citizens tend to concentrate in professional and well paid jobs while immigrant women of color predominate in the reproductive labor sector. While Filipino women find similar problems having their academic degrees recognized in both receiving countries, language plays a different role in each country. While their English proficiency may facilitate their incorporation into the U.S. job market, some informants argued that Filipinos are victims of discrimination due to their accent. It seems, nevertheless, that the fact they do speak English helps them reach the better paid and considered jobs within reproductive work than, for example, Latina immigrants. Filipinas encounter a harder reality in this regard in Spain. They usually do not speak Spanish upon their arrival, and, in the particular case of Barcelona, they struggle with the difficulties in learning Catalan. This severely limits their job opportunities. Racialized and gendered ideological constructs of the Filipino woman as the ideal and elite maid, which correspond to those the Philippine government promotes,

are an additional factor behind their concentration in the sector and their difficulties accessing professional positions.

After describing the labor transfer from the Philippines to Spain and the United States and the way the three governments regulate it, I next examined how the two receiving governments regulate reproductive labor within their borders. As in most countries in the world, Spanish and U.S. employment law does not fully recognize reproductive labor as “real work.” While Spanish law is characterized by guaranteeing the informality of the labor relationship, employment law in California, similar to federal law, explicitly excludes care work from overtime provisions. The under-regulation of reproductive labor in both countries makes three things clear. First, both governments tend toward deregulation and privatization of the sector. This is demonstrated through a neglect of workers’ rights and social services and programs that benefit them. Second, reproductive labor continues to be seen as women’s work, non-productive, and therefore irrelevant. Third, the regulation of reproductive labor in both countries illuminates a complex, and somewhat contradictory, relationship between the state and the private household, in which the former simultaneously protects and neglects the latter. The state protects the intimacy, flexibility, and economic interests of the household (i.e. employers), while it neglects the rights of the workers living and laboring in it. Similarly to the role Filipino women’s remittances have in making up for state retrenchment in the Philippines, it is the flexibility, precariousness, and, particularly in the U.S., low cost of reproductive labor what allows working Spanish and U.S. families, as well as other collectives, to hire immigrant women to make up for the lack of reproductive support they receive from their respective states. At this point a key dimension of the international transfer of reproductive labor comes full circle. It becomes clear that Filipino women’s work subsidizes both sending and receiving states. And it is precisely for this reason that an examination of globalization from the perspectives of migrant reproductive workers is my departure point. It is women like the ones in my study who, in far more ways than are acknowledged, are running the global economy. Without them everything would fall apart. And it is their transfer and exploitation that allows neoliberalism to however precariously survive.

## 2. Research Answers

In this study I have looked at globalization focusing specifically on the South-North transfer of reproductive labor and the way three states, the Philippines, Spain, and the U.S., regulate this transfer. I have also discussed the effects this regulation has on Filipino women. I examined the regulation of the transfer of reproductive labor for two reasons. First, reproductive labor, despite its invisibility, makes globalization possible. Second, the state has a key role in shaping globalization and the international transaction of reproductive work.

The main questions guiding my analysis have been the following: how do states regulate the South-North transfer of reproductive labor? In particular, how do the Philippines, Spain, and the United States contribute to or shape this transfer through their migration and labor laws? And how do Spain and the United States regulate the immigration and reproductive labor of Filipino women?

The Philippine government contributes both indirectly and directly to the migration of Filipino women who end up taking jobs as domestic and care workers all over the world. The implementation of neoliberal policies has perpetuated a cycle of poverty and unemployment which, in turn, have triggered female migration. The Philippine government has also directly regulated migration through the creation of a complex bureaucratic apparatus in charge of it. The two main features of this regulation have been protection and promotion. While the government has conducted aggressive marketing to locate Filipino women in the international labor market, public criticism in the country has obliged it to provide protection to Filipinas overseas in order to maintain political hegemony. Overall, although the Philippine government has been a pioneer in the creation of protective policies for migrant workers, these have not addressed race, gender, and class dynamics as the main reasons for abuse. The achievement of protection faces numerous challenges and, despite the economic benefits stemming from migration in the form of remittances and the important role Filipino women fulfill as reproductive workers in almost 200 countries, they continue to face serious exploitation and abuses. The

Philippine government, thus, has put a mechanism in place that promotes women's migration but simultaneously has failed to keep them safe. Given the strong opposition this failure has triggered in Philippine civil society, it remains to be seen what the next steps the Philippine government will take in its regulation of labor migration will be.

Filipino women are heavily concentrated in the reproductive labor sector in both Spain and the United States. While they work mainly as domestic workers in the former, they tend to occupy jobs as caregivers in the latter. What is common to both countries is that they heavily depend on immigrant women- including Filipinas- to conduct various reproductive tasks. Immigration policy has had an important role in this transfer of reproductive laborers into both locations, although my research shows some differences between both immigration systems.

Spanish immigration law, markedly focused on the kind of labor the Spanish economy needs, contributes directly to the immigration of Filipino women who work as domestic workers in the receiving country. The law prioritizes domestic labor in its award of work visas. This creates an opportunity for Filipino women, who usually have friends or relatives already working in Spain, to migrate to that country as domestic workers. Given the rigidities of immigration law, as well as weak family reunification provision, family and friendship networks have become crucial to provide access to job offers that ultimately make migration possible.

U.S. immigration law does not encourage the immigration of reproductive workers and, in fact, has discouraged the entry of low skill and income immigrants in the past two decades. Since 1965 U.S. immigration law has prioritized the entry of family members. Family immigration was in fact the most common entry mechanism among my interviewees in the San Francisco Bay Area. Family immigration, however, has presented many problems for the Filipino community in the past years, the main one being long backlogs. As a result, Filipino women often resort to tourist or temporary work visas to enter the United States. When they do this, caregiving is often the only work sector opened to them. Regardless of their entry mode, Filipino women in the San Francisco Bay Area were highly concentrated in this sector. Those enjoying permanent residence or U.S. citizenship tend to have better work conditions while undocumented immigrants or

those on work visas suffer more precariousness and exploitation. Although, unlike Spain, the United States does not have a specific program regulating the entry of reproductive workers, family reunification is bringing a lot of women from the Philippines who end up working as such. In addition, growing problems and rigidities of U.S. immigration law provoke Filipino women's resort to temporary labor or undocumented immigration, which, more often than not, places them in informal and unstable sectors such as caregiving.

I have argued that the transfer of reproductive workers from the Philippines to Spain and the United States is related to weak government support to working women, families, and citizens in general in both locations. Given the current existence of a "care void" in both countries, many families resort to hiring an immigrant woman to conduct reproductive labor in their homes. Both Spanish and U.S. employment policy under-regulate reproductive labor. Spanish law sanctions a blurry labor relationship between employers and domestic workers in which the former can legally impose on the latter long working days for low wages. Employment law in California exempts caregivers from overtime provisions. This results, particularly for live-in caregivers, in long and under-paid work hours. In both cases under-regulation keeps the cost of reproductive labor low and therefore relatively affordable for those social groups who do not obtain support from their governments. Thus, while under-regulation responds to government gender bias and, especially in the United States, to a historical racialization of reproductive labor, I argue that it also has an economic function. It is part or a larger trend of deregulation of labor markets and privatization of services and ameliorates state neglect by making private reproductive services affordable to the middle classes.

### **3. Future Directions**

I do not want to end without suggesting new directions into which I would like to take my research. While Part III is a comparison of U.S. and Spanish immigration law, on the one hand, and labor law on the other, I think it is necessary to analyze how these two bodies of law intersect and what consequences this has on Filipino women. For example, while in the United States federal employment law states that all workers, including the

undocumented, have the same labor rights, immigration law often supersedes labor law. This means that undocumented workers are often deported after authorities find out about their undocumented status when they file an employment claim. Most undocumented U.S. immigrants do not access the rights the law provides them on paper. The fact that all workers have the same rights is, in reality, a legal fiction. The same happens in Spain but in reverse. RD 1424/1985 does not require employers to create a written contract to describe working conditions and to prove the existence of the labor relationship. However, Spanish immigration law requires the submission of a work contract to renew work and residence permits and even to petition relatives. Many immigrant domestic workers, therefore, cannot access their right to bring their families because they do not have a written work contract. Family reunification, thus, constitutes for them a legal fiction. I found multiple cases of both during my research, and I would like to direct future research and analysis into this direction.

It would also be interesting to expand the comparative scope of this research. A comparison is needed between the Philippines and other sending countries in order to understand clearly world trends in the regulation of labor export. Also, adding other receiving countries, particularly in Asia and the Middle East, would shed additional light on different modalities of reproductive labor transfer and would help us learn more about Filipino women all over the world.

Finally, I would like to develop further the linkage between policy and the experiences of migrant women, particularly in the Philippines. As I discuss in the methods appendix, most of my interviews there were with government officials. Given that the Reform Package was designed only few months before my trip to the Philippines, I intend to return in the next two years and conduct additional research on the effects this has had for Filipino migrant domestic workers. Unlike my current discussion of Philippine migration policy, I would like the stories obtained from interviews with migrant domestic workers to provide the guiding themes to analyze the effects of the Household Service Workers Reform Package on them. Their explanation of their experiences as domestic workers overseas provides the scenario to be connected with

policies such as the Reform Package in order to elucidate, keeping in mind the goal of the policy, to what extent this is being effective.

## APPENDIX A

### RESEARCH METHODS

#### 1. Introduction

This dissertation relies on the complementary use of documentary research, participant observation, and in-depth interviews. My non-probability sample for the in-depth interviews was drawn from several populations- Filipino women in Barcelona (20) and the San Francisco Bay Area (22); government employees (10); representatives from non-profit organizations and unions (17); and immigration and employment attorneys in both cities (7). In addition, I conducted interviews in the Philippines with government officials and employees (14), returned migrant workers (5), and migrant workers rights' organizations (7). Overall, the total number of interviews I used for this study was 88. I also had multiple informal conversations with many informants. The information I gathered from these conversations became part of my field notes. I first conducted fieldwork in the San Francisco Bay Area from November 2005 to August 2006. Subsequently I did so in Barcelona from September 2006 to March of 2007, and, in April 2007, I travelled to the Philippines, where I gathered data until June of the same year. My participant observation activities included migrant worker organizations meetings and activities, rallies, government trainings, public hearings, migrants' conferences and gatherings, and parties, among many others.

Each research method teaches us different things about our object of study. While in-depth interviews tell us what informants say they do, participant observation shows us what they actually do or, at least, what they are willing to do in front of us. Document analysis helps us examine relatively and variously objective versions of a particular

reality (i.e. the particular content of a law or the reconstruction of an event). The value behind methodological triangulation is that, by using multiple methods, we strategically approach our object from different perspectives or access points. The three research methods I used in my research allowed me to approach immigration and employment legislation from different levels (i.e. women's views of migration, newspaper articles, legal texts, position of migrant workers' organizations, etc) that complement each other.

I began research in both San Francisco and Barcelona with a few in-depth interviews with migrant Filipino women. I designed an interview questionnaire (Appendix B) and used the same in both sites. These interviews were geared toward identifying the main issues women face both before their departure from the Philippines and in the receiving countries. The questionnaire was divided into three parts. The first part focused on their life in the Philippines and the steps they had to take to migrate. The questions in the second part inquired about the women's conditions and challenges upon arrival in the receiving countries. The third part focused on their labor conditions.

Once I identified the main issues from these initial interviews, I proceeded to interview government employees I thought could help me develop the emergent themes discovered in the interviews with migrant women. My interviews with non-profit organizations and union representatives served to contextualize the information I was obtaining both from women and government employees. Interviews with employment and immigration attorneys were particularly useful to understanding how the law, as my main object of study, applied to and shaped the experiences of Filipino women. These interviews also complement the information I gathered through my analysis of diverse documents.

My research is located in Dorothy Smith's tradition of institutional ethnography. Institutional ethnography takes people's everyday life experiences as a departure point to understand and unmask the power relations within institutions and their consequences for people's lives (Smith 2005). Although I insert my research in Smith's tradition, I do not consider it a strict or orthodox institutional ethnography. While immigrant women and their experiences constituted my departure point, they were so in a broad sense. My research was inductive, since I approached the field expecting to discover different ways

in which gender, class, and race dynamics shape immigration and employment law. I did not start by analyzing a concrete institutional process or a particular law. My goal was to get a sense of how immigration and employment regulations shape the migration of women from the Philippines and their labor conditions in the receiving countries. The comparative nature of my research added difficulties. Instead of focusing on a concrete issue, document, or section of the law, which could have disrupted the comparative goal, I took a general approach to both case studies to obtain an understanding of how the transfer of reproductive labor from underdeveloped countries and its regulation take place in both contexts. While this is different from Smith's (1987) concrete analysis of the school system, for example, the spirit of my research remains faithful to her goal of untangling the power relations taking place at the institutional level, which shape people's everyday life experiences. Rather than problematizing people's experiences, my goal was to problematize the institutions, and therefore, power itself.

## **2. Data Gathering in Barcelona and San Francisco**

### **2.1. Interviews with Women**

I accessed Filipino women for the interviews through various non-profit organizations and unions both in San Francisco and Barcelona. In San Francisco these were the Filipino Community Center (FCC), Filipinos for Affirmative Action (FAA), SEIU, and the In Home Support Services Consortium (IHSS). I relied on snowball sampling, asking each interviewee at the end of our interview if they knew of anyone who might participate in my study. Securing access was initially very difficult. In the beginning of my research process I found it extremely difficult to find women willing to be part of the study. I volunteered at the FCC for five months, establishing contacts within the immigrant rights' movement before I could obtain solid enough contacts to give me access to interviewees. As I mentioned in Chapter VI, this difficulty stemmed from the political climate in 2006, when, as a result of different attempts at immigration reform, immigrant communities were criminalized in the media and the political arena. Many immigrant people, therefore, particularly the undocumented, were afraid of speaking about their situation with strangers.

In Barcelona I accessed most of my interviewees through the Centro Filipino, an organization that provides legal, cultural, and other kinds of services to the Filipino community in the city. I also interviewed three women I met through personal contacts. The access in this city was much easier than in San Francisco. My guess is that, besides existing climate of fear, and therefore mistrust, existing in the United States, Filipino women in Barcelona were overall more active in the Centro Filipino than my interviewees in San Francisco were in the FCC. Once I became close to one of the Centro leaders it was easy for me to access interviewees. While in San Francisco I joined a Filipino activist group- the FCC- and was very active with them, it soon became clear that the FCC, mostly composed of young Filipino American progressive activists, was also struggling to access the San Francisco Filipino community and gain their trust. The Centro Filipino in Barcelona, in contrast, was composed of the very Filipino women I aimed to interview. Therefore in Barcelona I achieved a much greater integration into the community. Women in the Barcelona community welcomed me and were not reluctant to be part of my study. In addition, the director of the Centro was very supportive of my research from the beginning, and every time I visited the Centro she would ask women to talk to me. Since she was one of the most respected leaders in the community, the fact that the invitation to participate in the study came from her was decisive. My immersion in the Filipino community in Barcelona was much easier and happened quicker than it had in San Francisco. From the beginning, I obtained invitations to parties, meetings, and celebrations, and people were willing and happy to be part of the study.

Interviews were voluntary, semi-structured, open-ended, and confidentiality was offered to all respondents. The names used to identify them in this study are all pseudonyms. This was particularly important in this research, since I was concerned about the women's legal vulnerability. In both countries, but particularly in the United States, there has been a political backlash against immigrants, and society has increasingly seen immigration as a "problem." Guaranteeing confidentiality was a way to help women feel safe when sharing their stories. It was also a way to protect them from any potential negative consequences that could result from their identification.

The interviews I conducted were face-to-face. In San Francisco, besides two interviews located at the Filipino Community Center and two in my own apartment, the rest took place at the women's homes. To make it easier for the interviewees, I usually offered to meet them at their homes throughout the Bay Area. This also helped overcome some of the resistance I found among Filipino women in San Francisco to being part of the study. Despite some initial fears, interviewees were generally very cordial and opened up rather quickly. They usually offered me food. After the first few interviews, and knowing how important food is in Filipino culture, I would cook a Spanish dish to bring with me and thank them for their time. At the end of my research I wrote letters to all of them thanking them for sharing their stories and opening up to me. Some of them replied and we have continued exchanging letters since then. A few other women also continue to email me and we "chat" on-line regularly. In Barcelona, I conducted three interviews in cafés, one at the interviewee's house, and all the rest took place in the Centro Filipino. My frequent presence at the Centro and participation in its social events helped me develop long term relationships with some of the women. They invited me to visit them when I went to the Philippines, and I continue to visit some of them in their homes or meet with them socially independently from this research.

## **2.2. Interviews with Government Employees, Non-Profit Organizations, and Attorneys**

I began the interview process by focusing solely on interviewing Filipino women. However, after I had gathered sufficient data to expand the interview sample, my interviews with them took place simultaneously with interviews with government employees, non-profit organizations, and both immigration and employment attorneys. My interview questionnaires with each of these groups varied according to the particular work they were doing.

Interviews with migrant workers' or non-profit organizations helped me make sense of the social and political context in which women were located. I selected them following two criteria: They needed to be working with Filipino immigrant women and/or addressing issues relevant to my study, such as employment or immigration law.

These interviewees shared with me some of the main challenges the Filipino community and immigrant people in general faced. They were also extremely helpful in leading me to additional interviewees. My interviews with representatives from non-profit organizations also became a link between the “micro” and “macro.” In line with institutional ethnography, they helped me see how connections between women’s experiences and the state were being politicized. An important part of my analysis of U.S. employment law stems from my interviews, and also participant observation, with the California Household Workers’ Rights Coalition, while some of my discussion of Spanish labor law is inspired by the analysis of *Comisiones Obreras*’ (a Spanish union).

The goal of my interviews with U.S. and Spanish government employees was to discern how immigration and employment law was enacted and to make sense of some of the motivations behind this enactment. While the interviews with Filipino women provided me with information about the challenges Filipino reproductive workers face in Spain and the United States, interviews with government employees shed light on how the legal scenario in which these migrant women are inserted is structured. This data-gathering strategy ran parallel to my analysis of the law itself, which I discuss below. My interviews with government officials and employees in San Francisco were limited to people in employment and discrimination law administrative agencies and members of the In Home Support Services program. I repeatedly tried, via e-mail and phone, to contact representatives both at the Department of Labor and ICE (Immigration and Customs Enforcement) and Homeland Security, but after numerous attempts, I never received a response. I was hoping to obtain their perspective on the formulation and enforcement of immigration law, but their position on these issues is necessarily absent from my study. This constitutes one of the weaknesses of my study. In Barcelona, I formally interviewed three government employees in charge of work and family immigration. I also engaged in informal conversations with four local politicians and labor officials.

My interviews with employment and immigration attorneys were crucial to helping understand the application of the law. Some of the attorneys worked at non-profit organizations and others privately practiced for profit. They knew how the law was

impacting immigrant populations. Different attorneys had been in charge of dozens of cases and knew what the trends, the biases, and the main problems with the laws and their implementation were. For example, while according to U.S. immigration law an undocumented person could legalize their situation through a work visa petition, lawyers knew that, given the different requirements of the process, this hardly ever happened. These interviews were also very useful in helping me interpret the law, which can be difficult for someone who has not studied or practiced it. As a matter of fact, lawyers became my main allies in the theoretical portions of this work.

### **2.3. Primary and Secondary Data Analysis in Barcelona and San Francisco**

After the initial interviews with Filipino women in both the United States and Spain, I read both immigration and employment law and selected the parts referring to situations mentioned during the interviews. I analyzed them simultaneously with my in-depth interviews and my participant observation. Combining the three methods was like putting a puzzle together, since sometimes information I obtained in interviews would force me to re-examine legal documents and vice versa. This ran parallel to my study of other scholars' interpretation of the law. Other documents I utilized included newsletters from non-profit organizations, press releases, newspaper articles, on-line documents, and publications from the non-profits and unions I mentioned above. I also obtained important statistical information from the Spanish and the U.S. Census. Due to limited scholarship on Filipino migration to Spain, I spent few weeks in the Barcelona historical archives reviewing newspaper articles since the 1960s that would shed light on Filipinos' arrival in the city and the relationship between Spain and the Philippines. I was fortunate to have a research assistant for that week, Ángel Ezquerro, my father, who helped me go through dozens of newspaper issues and find some interesting articles regarding the Filipino community in Barcelona.

### **2.4. Participant Observation**

Participant observation in San Francisco included informal conversations with informants, attendance at rallies, conferences within the Filipino community, organizing meetings at the Filipino Community Center, legal workshops, legal clinics, press releases,

and lobbying trips to Sacramento. Most of these activities were part of my work as a volunteer at the Filipino Community Center. While I initially saw this part of my research as a way to obtain contextual information, some of the activities ended up providing more. My presence as a volunteer at legal clinics and workshops, for example, helped me get acquainted with immigration law and the different problems people in the Filipino community were encountering. My lobbying trips to Sacramento with the California Household Workers' Rights Coalition allowed me to witness some key moments in a crucial attempt to change discriminatory employment law. For example, I was present in meetings with policy makers who, though acknowledging that changing discriminatory employment practices against caregivers was necessary, would not support reform since it would cost the state "too much" money.

My participant observation activities in Barcelona were of a similar nature, though less intense and not as frequent. While I collaborated at the Centro Filipino, I never became a full time volunteer. However, I attended several of their activities, legal workshops, and meetings. I did not regularly attend meetings at the Centro, however, because they were conducted in Tagalog. The higher intensity of my participant observation activities in San Francisco was due to the fact that 2006 was a key year in terms of immigration debate and reform. There were several rallies during my time there and many informative and organizing events were constantly taking place. During my fieldwork in Spain, things were quite quiet in terms of immigration politics. There were more rallies and political discussion in 2008, an election year and the time I was writing my dissertation. While I attended some of the rallies and followed the discussion in the newspapers, TV, and radio, this did not translate into an intensive data gathering process.

### **3. Data Gathering in the Philippines**

Conducting fieldwork in the Philippines was a real challenge. While I spent almost three months in the country, only two of these involved active research. During this time I conducted 25 in-depth interviews and did some participant observation and considerable document analysis. I was privileged enough, due to some of the funding I received to support my research, I could hire a research assistant. Emily Roque was a recent

sociology graduate at Ateneo de Manila University and was of incredible help during my time in Manila. She accompanied me to meetings, helped me become familiar with Manila's crazy public transportation system, took me to the hospital when I was sick, translated, transcribed interviews, conducted a couple of interviews herself, and put up with my stress and often lousy mood. My research in the Philippines would just not have been possible without her.

While chapters about the receiving countries are mostly based on information gathered through in-depth interviews with Filipino women, most of my interviews in the Philippines were with government officials and employees and, to a less extent, representatives from migrant workers' organizations. Thus, Chapters II, III, and IV do not directly constitute an analysis of the state from migrant women's perspective or institutional ethnography. Given the limited time I spent in the Philippines and the difficulty of interviewing migrant women during that time, I mostly used the testimonies from migrant workers' organizations' representatives, many of them former migrants, to identify the main issues deserving attention and study.

### **3.1. Interviews**

As explained above, in Barcelona and San Francisco my entry points were interviews with Filipino migrant reproductive workers. However, my main research targets in the Philippines were government officials and employees. While I also interviewed representatives from non-profit organizations, recruitment agency owners, and returned migrants, more than half of my interviews were with people working within the Philippine migration machinery. I initially researched the Philippine Overseas Employment Administration and the Overseas Workers Welfare Administration websites and contacted their administrators. This was not an easy task. Research in the Philippines required a degree of formality that I did not need in Spain or the United States. While in these two countries an informal contact or even an email or phone call could usually get me an interview, in the Philippines I had to follow a more elaborate protocol. I wrote endless letters and faxes to numerous government officials using the University of Oregon letterhead to introduce myself and my research. I would usually need to call each

office before sending the fax to ask them to turn the fax machine on. After sending it, I would call again to confirm they had received it. Then I would wait a few days, and, if they had not called me, I would call again to follow up. Regarding letters, I soon learned that it was more efficient for me to take a taxi to deliver a letter by hand than putting it on the mail. I did this several times.

Government informants had different reactions to my calls and letters. Government officials were usually kind but distant. Government employees were easier to access, though I suspect that on more than one occasion they had to ask for permission of their supervisors before they could talk to me. Overall, though, they always got back to me and agreed to be part of my study.

The process with non-profit organizations was similar, although their fax machines were even less efficient than those at the government offices. It sometimes took me a few weeks before I could successfully send a fax. Their initial reactions to my contacts were a mix of sympathy and skepticism. Political life in the Philippines has been full of repression and violence for decades and, though the country is a formal democracy, censorship and threats are still used to quiet dissenting voices. I soon learned that working on migrant rights in the Philippines may be a life threatening activity and this certainly explained initial mistrust. This is also the reason I do not mention the name of the organizations when citing them in the dissertation and use the generic name of “migrant workers’ organization.” These interviews were among the most enriching in all my research. Some of those groups have been working on migrant workers’ rights for many years and are immensely committed. Their analysis of Philippine migration went far beyond mere regulation of migration flows and included the political-economic context in which migration occurs. As I explain below, I ended up doing volunteer work for one of the organizations and became acquainted with a couple of others by interviewing several people within the groups. The few interviews I conducted with returned migrants were made possible by my contact with these organizations.

Given the variety of each interviewee’s tasks, I tailored my questionnaires to each occasion. Regarding government officials and employees, I asked specific questions about the particular tasks they did in their job. Some questions were common to all of

them, such as their view on the Household Service Workers Reform Package or their opinions about Filipino migrant women's competitive advantages. The same was the case for migrant workers' organizations, although the questionnaires for this population were more similar to each other.

Clifford Geertz (1996) argues the conclusions we make from our research are often stories of stories or, in other words, our interpretation of someone else's interpretation of reality. While I do believe it is possible to establish knowledge from qualitative methods, I faced some challenges when interpreting the data I obtained during my fieldwork, particularly from the in-depth interviews. The divergence between different interviewees was clearest in the Philippines. I identified different degrees of validity in the interviewees' responses. Returned, often distressed, migrant workers described their experiences working overseas. They often shared very tragic stories, implicitly challenging government discourse that the protection mechanisms in place are working. It is important to clarify that they never expressed a political agenda aiming to debunk the labor migration program. While they often expressed their discontent at the lack of help received from Philippine Embassies, they did not say the government program was fundamentally problematic. Although my study constitutes a story of stories *a la* Geertz, it is no coincidence that my departing point lies in the stories coming from the migrants themselves. Since migrant women are the ones suffering the effects of labor migration in their own bodies and lives the effects of labor migration, they possess the most authority to teach about how migration is working. My ultimate evidence of how things are lies with them.

Unlike migrant women I interviewed, interviewees at the migrant worker organizations did have an articulated political discourse in regards the government labor migration program. While most of the organizations provided different services to returned migrants, they were also politically invested, to different degrees, in the goal of my research in unmasking the political-economic contradictions of the Philippine labor export program. Pressuring the government to enact substantial changes in that program and denouncing its political responsibility in the perennial economic crisis of the country were some of their main tasks. These political tasks led them to respond to my questions

in accordance with their organization's political agenda. They focused on the failure of the Philippine government and even other non-government organizations in providing satisfactory protection to migrant workers. While migrants' responses tended to be descriptive, those of non-profits were more interpretative. This was definitely helpful, but it sometimes felt as if they were more interested in fighting their war with the government through my research than in actually telling me the truth or even answering my questions. Yet, to be fair, their interpretative versions still came from direct experiences and contact with migrant workers themselves. The information gathered from my interviews with migrant organizations members and leaders served initially to contextualize the main issues a mobilized civil society has been raising, as well as to understand government and migrants' responses to particular situations.

The interviews with government officials and employees added further complexity to the tension between description and interpretation. My interviews with government officials often, though not always, resembled the promotion brochures the marketing department made for different agencies involved in labor migration. While the main goal of interviewing people working in the government was to contrast actual policy with their own interpretations of it, officials went on and on explaining the wonders of the labor migration program. Initially I would leave their offices at the end of the interview feeling they had spent two hours lying to me. As I continued conducting interviews I started to wonder whether they were lying or just reporting the only reality they could see from their physical and social locations, which was the coherent legal propositions designed in their offices. Whichever, I became convinced that their role during our interviews was to tell me how things should be according to government policies. However, it was their distance from the ground that made them mix how things should work (e.g. in terms of protection) with how they did work. The main effect was to mask the impact their inability to protect migrant workers had on the latter's well-being. The only time a government official candidly expressed his views on immigration, was when the tape recorder was off.

Government officials' jobs are to make the labor export program work. They design the policies aiming to enhance migrant workers' protection but are also invested in

maintaining government hegemony. They are constantly thinking about how things should be in terms of protection, and they constantly conveyed this during the interviews. The problem was they often substituted the “should be” with “are.” This may seem a minor grammatical distinction, but it is actually a rhetoric shift that avoids responsibility and often moves it from the government to migrant workers, employers, or receiving governments. The effect of such a rhetorical shift is to mystify reality and mask some of the inherent problems in the labor migration program.

There were a few cases in which government officials refused or were reluctant to provide the documents I requested. For example, though I explicitly asked to have more concrete data on migrant domestic workers’ demographics, they never gave this data to me. Other times, rather than giving me easily available data, they created unnecessarily difficult bureaucratic hurdles that eventually stopped me from accessing the documents. I remember one particular case at the POEA library in which the librarian was particularly hostile when I requested technically publicly available documents. I read this as a “save facing” strategy and resistance to show the most problematic sides of the labor migration program to a foreign researcher.

Conversely, I felt the information government employees provided in the interviews resembled more that of migrant women than government officials’ in the sense that they provided faithful descriptions of the hardships taking places in Embassies and Consulates. First, they had the first-hand knowledge of how things were actually working, since they had often been in overseas posts and worked directly with migrant workers. Second, they were not invested in the image of the government I could show in my dissertation. In fact, stemming from the certainty that thousands of Filipinos abroad were suffering abuses and exploitation, their own frustrations often came across during the interviews. Although their job was to protect them, they were constantly struggling with the obstacles limited political will, limited resources, and corruption placed on their jobs. While government officials presented a very politically invested image of reality and migrant workers constituted the proof the reality was unreal, government employees were not so politically invested in the outcome of my study. They witnessed migrant workers’ experiences and provided helpful information based on first-hand knowledge.

While I gave migrant workers pseudonyms, I referred to the rest of the Philippine interviewees using four generic titles: government employee, government official, migrant workers' organization, and private recruitment agency. Unlike the denominations I used for informants in Barcelona and San Francisco, for those in the Philippines I did not specify the name of their organization or department in order to avoid identification. This created some controversy during my research. I became friends with some of my informants, and they eventually would ask who my next interviewee would be. I repeatedly and politely tried to explain I had to be very careful regarding my interviewees' identity. I also tried, unsuccessfully, to explain that university regulations and U.S. federal law imposed strict rules on the management of interviewees' identities. Interviewees from non-profit organizations often saw my refusal to share other interviewees' identities as a sign of mistrust. While they thought I was sympathetic to their organization's goals, they suspected the reason why I was not revealing the identities of other participants was that I was "playing a double game" or pretending I agreed with them when in actuality I was in favor of the government. This was stressful for me, since I did not want to break anyone's trust, it and required some diplomacy and tact on my part.

### **3.2. Participant Observation**

My participant observation in the Philippines was quite limited. I sat once a week for few hours at the POEA lobby to observe the dynamics taking place in the building. My main goal was to get a sense of the different steps migrants needed to follow with this administration in order to migrate. I attended few Pre-Departure Orientation Seminars and Pre-Employment Orientation Seminars in the POEA building. Emily Roque joined me in these trainings and was in charge of taking most of the notes and translating them. I attended a big labor rally on May 1<sup>st</sup> during which I talked to some labor representatives. It was particularly interesting to notice the presence of some migrant workers' organizations and the alliances they establish with local labor groups. I also attended an Asian Migrant Domestic Workers Conference in Manila, which was very useful for learning more about the challenges this population faced all over the continent. After one of my interviews with the owner of a private recruitment agency I was invited to attend

the assessment process the new Reform Package required of migrant domestic workers, which took place in the facilities of the agency.

### **3.3. Document Analysis**

I analyzed three kinds of primary data in the Philippines: newspapers, government documents, and migrant workers organization documents.

First, I researched media archives looking for newspaper articles addressing the Lebanon Crisis and the resulting Supermaid Program and Household Service Workers Reform Package. The two newspapers I researched were *The Philippines Daily Inquirer* and *The Manila Times*. For this part of the research I obtained crucial help from my assistant Emily Roque. She conducted an electronic search using key words such as Lebanon; Reform Package; Supermaid; OWWA; Department of Labor; and POEA. The goal of this search was to document the events that had led up to the creation of the Household Service Workers Reform Package. Since these had taken place less than a year before I got to Manila, they had yet to be included in any scholarly article or book. Consequently, I had to refer to primary documents to understand the events between the War in Lebanon in July 2006 and the 3/07 enactment of the Reform Package. While Emily collected all the articles she found using the above mentioned keywords, I selected, read, and analyzed them. The information provided in Chapter IV, in which I relate the War and the creation of the Reform Package stem from this document analysis.

One highlight of my analysis of newspaper articles was that they often did not mention controversial information. For example, in Chapter III I cite an interviewee from a migrant workers' organization stating that former Labor Secretary Patricia Santo Tomas had made an agreement with Saudi authorities to lower Filipino domestic workers' wages by 25% in exchange for Saudi investment in the Philippines. While this agreement between Santo Tomas was raised in few interviews with migrant workers' organizations, I was unable to document it in the media or even with interviews with government officials. The same happened with several sensitive issues that came up during my fieldwork, such as fraudulent expenditure of public money and corrupt connections between politicians and recruitment agency owners. Since this absence of certain

sensitive issues in the media became a pattern during my research, I interpreted it as a lack of government transparency and even media censorship in a context where migration is such a politically relevant and controversial issue and media censorship has been recurrent in the past. While I introduce some controversial cases as stemming from conversations with migrant workers' organizations and migrant workers, I was not able to corroborate them through newspaper articles or legal cases.

Second, I also used government statistics, brochures, information on bilateral agreements, and other documents, such as information booklets the government publishes for future migrants. These documents came from POEA, OWWA, the Department of Labor and Employment, FDA, and TESDA. I usually obtained them after conducting interviews with employees or officials in these agencies. These documents have been particularly useful in making up some of the tables in Part II of the dissertation. I also include an appendix at the end of the dissertation with a summary of all the bilateral agreements the Philippine government had signed up to 2006. Finally, I examined migrant workers organizations newsletters, reports, and, in one instance, several records of legal cases of returned migrants. This last group of documents greatly complemented the information I gathered thorough my interviews with returned migrants.

#### **4. Social Location**

My own social position undoubtedly had an important impact on my research. As my research location changed three times, so did the relationship between my social location and that of my informants. During my time as a participant observer and volunteer at the Filipino Community Center (FCC), in San Francisco, for instance, I was often reminded in different ways that I was "the only White person in the room." Friends I eventually made told me their initial fear had been that the only reason I was there was because of my own research and career rather than trying to support the community. The fact that I am not Filipina made it hard for them to understand my presence and they initially did not believe that I was also committed to enhance the rights of Filipino immigrants, and immigrants in general, in the United States. While activists at the FCC

initially mistrusted me, they ultimately involved me in Center activities and supported me in accessing potential interviewees.

Filipino women in the Bay Area exhibited mistrust in a different way. Generally, at the beginning of the interview I made an effort to tell them I was not a U.S. citizen and my own family was also far away... They were often sympathetic to that, and always treated me very warmly. They often gave me presents and invited me to eat in their homes. But there were two main factors that reminded me of the distance between them and me. One was the fact that I do not speak Tagalog fluently, and therefore conducted the interviews in English. I know that they often felt limited in their ability to explain themselves to me. This undoubtedly had an impact on the information they shared with me, particularly sensitive information, such as gender violence. My constant efforts to use Tagalog words and my interest in learning their language often made them feel more relaxed since they saw I was making an effort to build a bridge between them and me. They realized I struggle with language proficiency myself and that put their difficulties with English in perspective. This certainly helped highlight the commonality of some of our experiences and establish rapport.

My Whiteness was a second factor creating distance between Filipino women and me. Although Filipina interviewees frequently commented on “how beautiful my White face was,” and expressed warmth toward me, I always felt that the fact that I am a White Spaniard was relevant to them. Besides warmth, they treated me with respect and sometimes with deference. This was despite most of them were much older than I was. But there were very few instances in which I felt interviewees saw me as an equal. Being White made me an outsider. This constituted both an advantage and a disadvantage. While I am sure I missed many nuances that only language and cultural proficiency could have helped me understand, some Filipino friends told me they felt the fact I was an outsider was a positive thing. According to them, I was questioning things that they, having grown up in the community, had never questioned before. For example, one of them told me that listening about my research she realized her Filipina aunt had spent many years “trafficking” and exploiting Filipinos by bringing them to the U.S. on tourist visas and keeping their passports from them. When she was little she always thought her

aunt was doing them a favor by helping them migrate and pursue a better life, but now she realized Filipinos often took advantage of each other. In addition, the fact I was someone Filipino interviewees perceived as having more cultural and social capital than they did, often made them share some hard stories with me in the hopes I could help them. Some women, for instance, asked me if I could help them get a job or a visa. One of them even asked me for money. I always kindly declined and reemphasized my research as the reason for our conversations.

My relationships with Filipino women in Barcelona were smoother. I initially thought the research process would be harder in Barcelona since, while in the U.S. I was also an immigrant, in Spain I was part of the White majority with Spanish citizenship. Yet, I felt much more accepted in the community in Spain. In part, explaining to the members of the Centro Filipino members that I had been working with the Philippine community in California, that I had a Filipino partner for a few years, and that I was travelling to the Philippines within several months, may have contributed to their warm welcome. As a matter of fact, my trip to the Philippines coincided with the vacations of few of my interviewees in Barcelona, and I had the privilege of staying with their families and traveling around the country with them. As a result, I can currently eat for free in some Filipino restaurants in Barcelona and maintain really good relationships with several community members. The main difficulty I encountered in Barcelona was that, since most interviews took place in the Centro Filipino, sometimes it was difficult to obtain privacy since the Centro was always crowded with Filipino men and women. As a result, my interviews in Barcelona were constantly interrupted and even a couple of them were conducted in a room where there were other people.

Finally, my social location shaped my fieldwork in the Philippines in two fundamental ways. First, my presence as a White, Spanish, female researcher from a U.S. university had an impact on how interviewees and informants perceived me. Being White in the Philippines opens a lot of doors for you. While I do not mean this literally, sometimes it did happen literally. One day I went to POEA with Emily, my research assistant. As I explained in Part II, hundreds of people line up at the building every day and patiently wait their turn to process their migration papers. Security personnel often

guarded the doors into each floor to make sure people entered gradually. As a result, there are always people waiting in the stairways. Beginning with my first time in POEA, and due to my ignorance of this process,<sup>488</sup> I would confidently walk into the offices and no security guard ever stopped me. One day Emily came with me. As I entered the door and walked toward one of the offices, I realized she was not with me. I looked back and saw the security guard had stopped her and would not let her in. I went back to the entrance and explained to him that I was a researcher and had an appointment with so-and-so and Emily was my assistant. He apologized, smiled timidly, and let Emily in. Not only had the guard taken my word and, without further checking, let Emily in, but also, unlike Emily (a Filipino woman), I was never stopped or asked any questions at all.

For the most part, I think, my Whiteness helped me in my research in other ways as well. Migrant workers' organizations in the Philippines welcome Westerners as volunteers or researchers, since they are interested in letting the world know of some of the injustices happening in their country. They also think that, since the Philippine government is always so interested in looking good to "the rest of the world," my presence as a White Spaniard would ensure, for example, that labor hearings were cleaner and fairer. Overall, after the initial skepticism that my presence created, which made sense in a context where migrant workers' rights activists risk their physical integrity due to government repression, I felt migrant workers and their organizations welcomed and trusted me. They hoped my research would be publicized and would sway public opinion toward their cause. I hope that as I continue to publish and disseminate my work in different for a, I will be able to keep up with their expectations. They treated me warmly and I can confidently say that I made really good friends during my months in the Philippines. I know they will be part of my life for a long time. One way in which I tried to both break the ice and to show "I cared" through my blog. Right before I travelled to the Philippines I decided to write a blog to be in touch with my friends and family back in the U.S. and Spain. In the blog I reflected on my experiences and my perceptions of the political reality in the country. After few weeks I gave my informants the address to the

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<sup>488</sup> Probably due to my White arrogance as well.

blog and they started reading it. I think this was decisive since it made them realize I was “transparent” and I was not on “the government side.” The address to the blog is:  
<http://sandrafilipinas.blogspot.com/>

Being a White Spaniard studying at a U.S. university also gave me credibility with government officials and employees. Several of the officials I interviewed had previously worked in the Embassy in Madrid, so it was easy to break the ice while talking about Spain and the Filipino community there. As I mentioned above, all government interviewees I contacted either agreed to be part of the study or referred me to someone they thought would be more helpful to me. I had the feeling sometimes, though, that having a Spanish researcher investigating their labor program made them defensive, and all their responses were geared toward demonstrating the efficiency and other good qualities of government regulation of labor migration.

During my interviews with government officials they often tried to impress me with their knowledge of Spanish culture, literature. The common history between our two countries was always a theme in the interviews, and I felt they showed respect for my belonging to the “mother land.” At the same time, though, I was usually very intimidated by the class difference between us. There was coldness in their kindness I was never able to define. I often thought it was probably because they saw me as a mere student while they were some of the most important government officials in the country. I also wondered to what extent they saw me and my research as a threat.

## APPENDIX B

### QUESTIONNAIRE FOR INTERVIEWS WITH FILIPINO WOMEN

#### ❖ Mini Oral History and General Views

Before I begin with specific questions I would like you to tell me a little bit about your life:

- 1) Who and how many people live in your household now? Did anyone in your household stay behind (in the Philippines)?
- 2) How old are you?
- 3) What is your educational level?
- 4) What is your occupation and that of other family members?  
(partner/spouse, siblings, parents)
- 5) Do you have other relatives living in the U.S. or in other countries?

#### ❖ Experience with Sending State

Now let's talk about your experiences with the government of the Philippines.

- 1) Where are you from in the Philippines?
- 2) How did you decide to come to the United States/Spain?
- 3) When did you leave your country? Did you live in other countries before you came to the United States/Spain?
- 4) What did you do for a living before you decided to leave? How was it? Did it allow you to take care of your family?
- 5) What kind of public/social services did you have access to back in the Philippines? What about your family?

6) Once you decided to leave the Philippines, tell me all the things (i.e. paperwork, selling property, contacting relatives overseas) that you did in order to migrate?

7) Did you work with any (migration) agency and/or institution in your home country? If yes, tell me a little bit about that process. Who did you talk to? What was the goal of the contact? Was it a public or a private agency?

8) If you left as a temporary migrant worker, can you describe the terms of your contract with agency/institution? For example, did you have to pay any fees? Did your contract ensure any protections while working overseas?

9) Did you go through any training with the agency/institution in order to migrate?

10) Did they offer different options in terms of the jobs you could do overseas? If yes, what were those options?

11) Did your government (or any related agency) make any promises to you when you decided to leave?

12) Do you currently have any contact with agencies/institutions from your home country?

13) What are your rights as a Filipina outside of your country? Or in other words, what services by the Philippine government do you currently have access to?

14) What were your expectations upon your arrival? How did you envision your life here?

15) How is your relationship with your family back home? Do you send them money? What is that money for?

16) Do you envision yourself staying here forever or will you eventually go back?

❖ Conditions of Entry

1) How long have you lived in this country?

- 2) Did you migrate independently or did you join a family member residing here? Tell me more about it.
- 3) Did you face any challenges to enter this country?
- 4) How long have you been here for?
- 5) Describe your (immigration) status during the first couple of years here.

❖ Experience with Receiving State

Now let's focus on your situation in this country (Spain/US) and your experiences with the government.

- 1) What are the terms/conditions of your current (immigration) status?
- 2) Can you go back and forth between the Philippines and Spain/the US as you wish?
- 3) Do you depend on your spouse's status?
- 4) Do you have a job? What is it? What are the job conditions?
- 5) What tasks do you do? How many hours do you work? Are you part of a union?
- 6) What kinds of challenges do people from your occupation face in this country?
- 7) Have you always worked? Have you always had a work permit? Have you always worked legally? If not, describe conditions of illegal work.
- 8) Do you make enough money to support your family? If not, how do you do it? Do you get paid for overtime? Do you think that you get paid for all the hours that you work?
- 9) Do you send a percentage of your salary to your family back in the Philippines? How much is that?
- 10) Why did you become a care provider/domestic worker?
- 11) Have you ever been a victim of harassment within the workplace?
- 12) Have you ever been victim of sexual harassment within the workplace?
- 13) Does your immigration status allow you to change jobs/employers as you wish?

- 14) Do you see yourself as being an independent and autonomous woman?
- 15) How much do you make an hour?
- 16) Does your employer pay your social security?
- 17) Are you part of any organization? Union? Community Center?
- 18) Are you married? Do you feel safe in your marriage?
- 19) What state/federal/county agencies are you in contact with?
- 20) What is it like to “deal” with these agencies?
- 21) What kinds of services do you have access to? (i.e. childcare, elderly care, food stamps)
- 22) Do you ever feel fear? Are you scared of the police coming to your house and sending you home? Do you feel vulnerable?
- 23) Do you feel safe in this country?
- 24) Do you ever feel sad about being away from home? What are some of the saddest things?
- 25) Can you think of ways in which your migratory experience has been different from the men’s in your family or other men that you know?
- 26) Can you think of ways in which your migratory experience has been different from people from other countries’?
- 27) How do you think immigrants from the Philippines are perceived and treated in the US/Spain?
- 28) Have you ever felt that you were being a victim of racism? How so? Did you ever feel that this racism came from government officials or workers?
- 29) What do you miss the most about being in your own country?
- 30) Tell me what has been the most challenging and most rewarding about being an immigrant.

## APPENDIX C

### ABBREVIATIONS

CHIRLA	Coalition for Humane Immigrants Rights
CMA	Center for Migrant Advocacy
CFO	Commission of Filipinos Overseas
DFA	Department of Foreign Affairs
DOLE	Department of Labor and Employment
EU	European Union
FAMA	Federated Association of Manpower Agencies
FAA	Filipinos for Affirmative Action
FCC	Filipino Community Center
GCC	Gulf Cooperation Council
GPB	Government Placement Branch
ICE	Immigration and Customs Enforcement
IHSS	In Home Support Services Consortium
ILO	International Labor Organization
IIRAIRA	Illegal Immigration Reform and Immigrant Responsibility
IRCA	Immigration Reform and Control Act
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MUA	Mujeres Unidas y Activas
NSB	National Seamen Board
OEDB	Overseas Employment Development Board
OFW	Overseas Filipino Worker
OWWA	Overseas Workers Welfare Administration
PASEI	Philippine Association of Service Exporters, Inc
PDOS	Pre-Departure Orientation Seminar
POEA	Philippines Overseas Employment Administration
POWER	People Organize to Win Employment Rights
RA 8042	Republic Act 8042 or Migrant Workers and Overseas Filipinos Act
TnT	Tago nang Tago (always hiding)
TESDA	Technical Education and Skills Development Authority
VAWA	Violence Against Women Act

**APPENDIX D**  
**BILATERAL AGREEMENTS**

**Memorandum of Understanding between the Department of Labor and Employment (DOLE) of the Republic of the Philippines and the Department of Manpower and Transmigration of the Republic of Indonesia Concerning Migrant Workers**

**Date of Signing**                      18 January 2003

**Status:**                                      Entered into force on 12 June 2003

**Agreement**                                  Provides the framework within which detailed proposals for cooperation in the promotion and protection of the welfare and rights of migrant workers are to be considered between Indonesia and the Philippines.

**Highlights:**

Priorities for joint initiative and cooperation:

Promotion and protection of welfare and rights of migrant workers;

Training and certification of migrant workers; and  
Provision of legal aids for the protection of rights of migrant workers.

Forms of cooperation envisaged under the MOU include:

Exchange of experts and staff of relevant government institutions;

Exchange of information, material, programs and systems in relevant fields;

Exchange of experience in all cooperating fields through meetings and networking system;

Development of joint efforts to promote and project the welfare and rights of migrant workers;

Development of joint efforts to provide legal aid for the protection of the rights of migrant workers;

Development of collaborative training, joint research and development;

Cooperation with labor-sending countries and host governments on the promotion and protection of migrant

workers welfare and rights; and  
Other forms of cooperation agreed upon.

A Steering Committee composed of senior officials of both Parties shall be established to review the operation of the MOU. Joint Working Groups in receiving countries, formed through the respective embassies or labor offices, shall be formed as needed to promote and project the welfare and rights of their migrant workers.

**Memorandum of understanding on Technical Cooperation on Labor and Employment between the Government of the Republic of the Philippines and the Government of the Lao People's Democratic Republic**

**Date** 27 July 2005

**Status:** For ratification

**Agreement Highlights:** The Philippine government through DOLE will provide technical assistance to the Lao PDR's Ministry of Labour and Social Welfare (MOLSW) on labor capability building programs.

The specific areas for cooperation will be on the following:

Labor administration;  
Labor migration;  
Employment promotion;  
Occupational safety and health; and  
Gender equality.

The Lao PDR government will arrange for the sourcing of funds from donor agencies, UN system organizations, and other international organizations, for the implementation of the projects under this MOU.

### **Memorandum of Understanding between the Philippines and Papua New Guinea**

**Date of Signing:** 14 March 1979

**Status:** Expired

**Agreement Highlights:** The MOU presented the details, terms and conditions and protocol on the deployment of Filipino Workers in Papua New Guinea's State Services (public sector) as Non-Citizen Contact Employees.

It contains the procedures on recruitment: selection by the Overseas Employment Development Board (OEDB) of qualified Filipino workers, interview by the Papua New Guinea's Public Services Commission (PSC), issuance of passport and other documents, and fees to be paid to the OEDB by PSC (processing fee and worker's welfare fund contributions, plus airfare of accepted Filipino workers).

It also provides for the least amount of salary that a worker can remit per month (at least 30% of gross monthly salary), and the repatriation of the worker's remains in case of death to be shouldered by the PSC.

The preservation and protection of Filipino workers' rights and welfare were also guaranteed by the PSC in this agreement.

### **Memorandum of Understanding between the Ministry of Labor of the Republic of Korea and the Department of Labor and Employment of the Philippines on the Sending of Workers to the Republic of Korea**

**Date of signing;** 23 April 2004

**Status:** Renewed on 20 October 2006

**Agreement Highlights:** The MOU enabled the Philippines to participate in the Employment Permit System (EPS) of Korea, affording Filipinos in Korea to have rights and privileges equal to their Korean counterparts. It meant better protection and higher wages for Filipinos working in Korea.

**Memorandum of Understanding between the Department of Labor and Employment of the Philippines and the Ministry of Labor of the Republic of Korea on the Sending and Receiving of Workers to the Republic of Korea under the Employment Permit System**

**Date of Signing:** 20 October 2006

**Status:** Active

**Agreement Highlights:** The MOU enables the Philippines to continue to participate in the EPS of Korea, which enables foreign workers in Korea to have rights and privileges equal to their Korean counterparts.

Under the system, deployment of foreign workers to Korea is done through a government-to-government recruitment, without the involvement of private recruitment agencies.

The POEA is designated as sending agency while the Human Resource Development Service of Korea is designated as receiving agency, for the implementation of the agreement.

Job seekers are required to pass the Korean Language Proficiency test and health examinations to qualify for deployment under the EPS.

The MOU will ensure, among others, that workers will be charged only the actual expenses in job application; master visa issuance; preliminary education for Korea-bound OFWs; advanced flight reservation to avoid postponement; support and active cooperation between the two countries; improvement of existing computerized contract cancellation on the part of employer of OFW.

**Memorandum of Understanding on Special Hiring Program for Taiwan between the Manila Economic and Cultural Office in Taipei and the Taipei Economic and Cultural Office in the Philippines**

**Date of Signing:** 12 January 2001

**Entry into Force:** Enters into force upon signing

**Validity & Termination:** Valid for 2 years subject to extension by mutual agreement by Parties

**Status:** Renewed on 20 March 2003

**Agreement Highlights:** The MOU affords an alternative direct hiring facility for OFWs.

**Memorandum of Understanding on Special Hiring Program for Taiwan between the Manila Economic and Cultural Office in Taipei and the Taipei Economic and Cultural Office in the Philippines**

**Date of Signing:** 20 March 2003

**Status:** Renewed on 30 March 2006

**Agreement Highlights:** A renewal agreement of the MOU of the same title signed on 12 January 2001, which offers an alternative direct-hiring facility of OFWs to Taiwan.

**Memorandum of Understanding between the Taipei Economic and Cultural Office in the Philippines and the Manila Economic and Cultural Office in Taiwan on the Special Hiring Program**

**Date of Signing:** 30 March 2006

**Status:** Active

**Agreement Highlights:** The MOU affords an alternative direct hiring facility for OFWs .It is the third agreement which was originally signed on 12 January 2001. The first renewal was signed on 20 March 2003.

**Memorandum of Understanding between the Government of the Republic of the Philippines and the Government of the Kingdom of Bahrain on Technical Education**

**Date of Signing:** 14 December 2003

**Status:** For Ratification

**Agreement Highlights:** The MOU covers the framework for the technical

education cooperation activities between RP and Bahrain on human resource development, skills training, people Exchange and technology transfer.

The technical education cooperation will be carried out through the following;

Joint conferences, symposia, workshops, and exhibitions for students, workers, trainers and training center management;

Joint research and technical studies in aid of implementing the identified cooperation areas;  
Joint training programs for workers, trainers and training center/school management:

Professional exchanges in technical areas to allow the conduct of training programs, studies, observation and consultation;

Exchange of professionals in the area of training center management;

Exchange and dissemination of research studies, and other similar informative materials;

Academia assistance for workers, students and teachers in the form of scholarships/fellowships;

Exchange of technology packages between private enterprises and training institutes including all necessary assistance for the implementation of Technologies;

Mutual recognition of skills and qualifications in areas to be identified and prioritized by the Parties; and

Such other forms of technical education cooperation as may be agreed upon by the two Parties.

### **Memorandum of Agreement Relating to Mobilization of Manpower between the Republic of Iraq and the Republic of the Philippines**

**Date of Signing:** 25 November 1982

**Status:** Expired

**Agreement Highlights:** Promoted and strengthened areas of cooperation in the field of labor, employment and manpower development;

Provision on the exchange of technical expertise and relevant studies to enhance employment promotion and

labor administration;

Provided for the details, conditions and protocols concerning the employment and mobilization of one Party's workers to the other:

Requirement of medical and skills certificates;  
Employment contracts in both English and Arabic languages, copies of which should be provided to the employer, both Ministries of Labor, and the worker;  
Workers to enjoy the duties and privileges accorded to nationals of the receiving country.

**Memorandum of Understanding between the Minister of Labor and Employment of the Republic of the Philippines and the Minister of Labor the Hashemite Kingdom of Jordan**

**Date of Signing:** 5 November 1981

**Status:** Expired

**Agreement Highlights:** Promote and strengthen areas of cooperation in the field of labor, employment and manpower development;

Employ Filipino workers in the public and private sectors;

Enhance welfare and well-being of workers and protection of worker's rights;

Periodic review on the implementation of the MOU and exchange of such review to improve the implementation of the MOU;

Exchange of information on relevant studies and researches, technical expertise to enhance employment promotion and labor administration ;

Recommend the conclusion of a Bilateral Labor Agreement that will employ appropriate protocols and procedures regarding the employment of nationals in either country, in particular, and on manpower development and labor administration in general.

**Agreement on Manpower between the Government of the Republic of the Philippines and the Government of the Hashemite Kingdom of Jordan**

**Date of Signing:** 3 November 1988

**Status:** Expired

**Agreement Highlights:** Outlined general procedures on recruitment such as advertising of job openings; standard contract provisions, free travel expenses for hired workers, and workers' rights in the other country.

Rights and privileges afforded to foreign workers were the same with the local workers in accordance with the provisions of the Labor and Social Security laws in the concerned country.

POEA and the Ministry of Labor in Jordan acted as the intermediaries in case of disputes in the employment contract.

Provided for the formation of a joint committee made up of concerned agencies from both countries, and tasked to provide necessary coordination for the implementation of the agreement, handled disputes arising out of this agreement, and proposed amendments to this agreement.

**Memorandum of Understanding on Labor and Manpower Development between the Government of the Republic of the Philippines and the Government of the State of Kuwait**

**Date of Signing:** 14 September 1997

**Ratification Status** Ratified on 27 October 1997

**Validity & Termination:** Valid for 4 years and automatically renewed for same period unless one of the parties express in writing the desire to terminate the Agreement

**Status:** Ratified on 27 October 1997 and entered into force on 21 May 1998 Expired

**Agreement Highlights:** Aims to strengthen the existing bonds of friendship

between them and support the bilateral cooperative relations based on equality and mutual benefit.

Supports the cooperation and enhances coordination in the field of labor and manpower development.

The two parties have agreed to provide necessary and relevant facilities for the fulfillment and promotion of the cooperation.

Provides for the facilitation of the mobilization and deployment of manpower between the two countries within the framework of the existing and applicable laws, rules and regulations of the concerned countries.

Provides for exchange visits and undertakes consultations to share knowledge and experience on job creation and generation.

Ensures that the Basic conditions of employment that are applicable to both the employee and the employer are set out in a mutually agreed individual employment contract which conforms with the relevant laws, rules and regulations of both countries. This would in effect help protect and promote the welfare of workers of the two countries.

Provides for the creation of a Joint Committee tasked to ensure the implementation of this Memorandum and to propose revisions on the agreement and resolve difficulties in its implementation.

### **RP-Liberia Memorandum of Understanding on Employment of Seafarers**

**Date of Signing:** 10 Augusts 1985

**Status:** Expired

**Agreement Highlights:** Philippine authorities ensured the competence and qualification of Filipino seafarers through a system of education, training, licensing, and certification. In particular, the POEA set up an effective system of authenticating documents and of certifying to the qualifications and positions of Filipino seafarers, which

assisted the Liberian authorities in the issuance of equivalent documents essential to the employment of Filipino seafarers onboard Liberian flag vessels.

The establishment of an information exchange program was called for between the POEA and the Bureau of Maritime Affairs in Liberia to ensure fast and effective flow of information on matters of mutual concern and interest.

There was also a provision on the pursuance of joint undertakings for the protection and enhancement of seafarers' welfare and training.

The development of legal arrangements for adjudicating criminal offenses, which may be committed by Filipino seafarers onboard Liberian flag vessels, was also provided.

**Agenda for Cooperation in the Field of Labor, Employment and Manpower Development between the Republic of the Philippines and the Socialist People's Libyan Arab Jamahiriya**

**Date of Signing:** 18 October 1979

**Status:** Expired

**Agreement Highlights:** Promoted and strengthened areas of cooperation in the field of labor and employment;

Availed Filipino expertise either individually or on corporations for the implementation of Libyan development projects;

Enhanced welfare and protected the rights of participating Filipino workers;

Exchanged labor information, studies and researches, technical expertise to enhance labor administration.

**Memorandum of Understanding between the Government of the Republic of the Philippines and the Great Socialist People's Libyan Arab Jamahiriya**

**Date of Signing:** 17 July 2006

**Status:** Ratified on 11 December 2006

**Agreement Highlights:** Envisions joint cooperation in the following areas:

Exchange of expertise and visits in the fields of manpower and employment;  
 Exchange of information, programs and systems in the relevant fields;  
 Exchange of expertise in all fields of manpower and employment through the joint meetings and the internet;  
 Exchange of points of view and ideas on the proper direction of manpower and fighting unemployment between the parties;  
 Promotion of joint efforts to enhance employment, particularly in the fields of medical professions and ancillary medical professions and construction, and consolidate the relation, and employment circumstances;  
 Development of joint cooperation in the fields of training of instructors; and

Other forms cooperation which may be proponed in the future.

A technical committee of competent officials from the Department of Labor and Employment and the General People's Committee of Manpower, Training and Employment which will meet annually or as the parties agreed.

The technical committee will monitor the MOU's implementation and is tasked to:

Assess and revise the MOU when necessary;  
 Control the procedures of exchanging expertise and technical labor; and  
 Discuss and settle any disputes that may arise due to the implementation of the agreement.

**Agreement between the Republic of the Philippines and the Government of the State of Qatar Concerning Filipino Manpower Employment in the State of Qatar**

<b>Date of Signing:</b>	10 March 1997
<b>Entry into Force:</b>	Enters into force after exchange of instrument of ratification or similar procedure by the Parties.
<b>Validity &amp; Termination :</b>	Valid for 3 years and thereafter renewed automatically for further periods, unless either party notifies the other party in writing the desire to terminate the agreement at least 6 months prior to intended termination date.
<b>Status:</b>	Ratified by the Senate on 4 March 1999. Expired
<b>Agreement Highlights:</b>	<p>This agreement formalizes / legalizes the deployment of Filipino workers in Qatar.</p> <p>It outlines the deployment procedures for the employment of Filipino workers in Qatar, as well as the provisions for a standard employment contract.</p> <p>A total of six (6) articles out of fifteen (15) in this agreement deal with the employment contract alone, more than in any other agreement the Department has, having provisions such as how many copies shall be accomplished and in what languages, accommodation and medical treatment, contract amendments, expiration, verification procedures and dispute settlement in cases of different interpretations of the contract.</p> <p>It provides for the payment of travel expenses incurred by the Filipino worker by the Qatari employer, and the allowable salary remittance to the Philippines in accordance to financial regulations of Qatar.</p> <p>It also involves the establishment of a Joint Committee comprised of three (3) representatives from each government which will meet once every two years and will: 1) coordinate the two governments in the implementation of this agreement; 2) formulate a model employment contract for approval of both governments; 3) interpret the provisions of this agreement in the event of any difference related thereto and resolve any difficulty</p>

which may arise from its implementation; and 4) submit recommendations for review or amendment of all or any of the articles in this agreement or part thereof, whenever it is necessary.

**Memorandum of Understanding for Cooperation in the Field of Technical Vocational Education and Training between the Government of the Kingdom of Saudi Arabia and the Government of the Republic of the Philippines**

<b>Date of Signing:</b>	1 October 2005
<b>Entry into Force:</b>	After 30 days as of the date of the later written notification by both parties through diplomatic channels indicating that their internal legal requirements of its entry into force have been complied with.
<b>Validity &amp; Termination :</b>	Shall remain in force until a written notice of termination is served by either party. The termination date shall be six months after such written notice.
<b>Status:</b>	For ratification
<b>Agreement Highlights:</b>	<p>The two parties shall endeavor to sustain and develop cooperation in the areas of technical education and vocational training (TVET), which will include but not limited to the following:</p> <ul style="list-style-type: none"> <li>Hosting of joint conferences, symposia, workshops and exhibitions for trainees, employees, trainers and technology institute managers;</li> <li>Conduct joint researches and technical studies which would help in enhancing TVET carrying out the identified cooperation activities agreed upon by both parties;</li> <li>Provide joint training programs for employees, trainers and technology institute managers;</li> <li>Professional exchanges in technical areas to allow implementation of the training programs, conduct studies and consultations;</li> <li>Exchange of professionals in the area of technology institute management;</li> <li>Exchange and disseminate researches, studies and other related information materials;</li> <li>Provide assistance to trainees and trainers in the form of scholarships/fellowships as per available opportunities;</li> </ul>

Encourage exchange of technology programs between private enterprises and technology institutes including all necessary assistance for the implementation of the said technical programs;

Mutual recognition of skills and qualifications in areas to be identified and prioritized by the Parties; and

Such other forms of technical education cooperation as may be agreed upon by the two Parties in the future.

Implementation of the MOU shall be in coordination with the Joint Commission Meeting formed by virtue of the RP-KSA Agreement on Economic, Trade, Investment and Technical Cooperation.

**Agreement between Philippine Overseas Employment Administration and the Directorate of Labour in Norway on Transnational Co-operation for Recruiting Professionals from the Health Sector to Positions in Norway**

**Date of Signing:** 26 June 2001

**Status:** Expired

**Agreement Highlights:** Under this arrangement, Filipino wishing to be employed in Norway as health professionals must apply to the POEA, while employers in Norway wishing to hire health workers in the Philippines must course their request through Norway's Directorate of Labour.

The agreement stated the general requirements for Filipino health professionals who wish to be employed in Norway: must have diploma or certificate of successful training in health practice, certificate of good standing as professional in the health sector, specialist authorization in case of a specialist, and be entitled to necessary travel documents and be prepared to take up positions as health personnel in Norway.

Information on available positions in the health sector in Norway can be found in the Internet. The directorate shall also provide POEA with relevant information to be distributed to interested candidates.

The agreement also required the Directorate to organize and administer intensive Norwegian language courses in

the Philippines for successful candidates under this agreement, and to pay the POEA's processing fees and contributions to the worker's welfare fund. The language training shall be administered in the Philippines and all costs including allowance of the language trainees shall be shouldered by Aetat. In the course of the language training the POEA shall ensure that successful candidates start processing the necessary documentations and apply for both authorization to practice and work permit in Norway.

**Memorandum of Understanding on Cooperation for the Management of the Migratory Flows between the Ministry of Labor and Social Affairs of the Kingdom of Spain and the Ministry of Labor and Employment of the Republic of the Philippines**

**Date of Signing:** 29 June 2006

**Status:** Active

**Agreement Highlights:** In 2006 Spain will hire on a pilot basis Filipino workers under the "generic" for the Healthcare Sector in Spain.

The experiences in the pilot implementation will form the basis for establishing a long-term stable collaboration for the management of migratory flows of qualified workers from the Philippines to Spain.

No fees will be collected from the job applicants during the pre-hiring process.

POEA and Spain's Directorate General of Immigration are named as implementing agencies.

**Agreement between the Government of the Republic of the Philippines and the Swiss Federal Council on the Exchange of Professional and Technical Trainees**

**Date of Signing:** 9 July 2002

**Status:** Ratified by the Philippine Government on 28 January 2003 and entered into force on 10 June 2003

**Agreement Highlights:** This agreement applies to the exchange of Swiss and Filipinos as trainees who will be trained and employed in

their own profession in the other country in professional and technical occupations for purposes of promoting professional development, cultural exposure and language skills development.

Minimum age for trainees is 18 years while the maximum is 35 years.

The necessary temporary immigration and employment permits shall be granted with a term of validity of 18 months maximum.

A quota not exceeding 50 trainees per calendar year for each country is permitted.

The rights and responsibilities of the trainee and employer, which include salary, living, health and accident insurance, taxes, working allowances, among other things, shall be in accordance with the domestic law in force in the host country.

Persons who wish to be admitted as trainees shall be primarily responsible for finding employment for themselves in the country of the other party; provided that the authorities in charge of implementing the agreement help trainees to find employment through appropriate channels and measures.

**Recruitment Agreement between the Government of the Republic of the Philippines and the Government of the United Kingdom of Great Britain and Northern Ireland**

**Date of Signing:** 8 January 2002

**Status:** Active

**Agreement Highlights:** This recruitment agreement of the POEA with the National Health Services (NHS) of the UK's Department of Health (DH) focuses on the employment of Filipino health professionals in UK.

Under the agreement, the POEA shall advertise the positions available in UK and shall be responsible for selecting candidates for interview ensuring that those candidates have the proper qualifications (such as nursing diploma an license).

Only 10 interviews per interview panel can be conducted per day are allowed in this agreement, to be conducted by the NHS Employer.

The DH will provide an electronic spreadsheet to log applicants which the POEA shall accomplish and e-mail back to DH.

The DH will be responsible for advertising costs which will arise and shall also conduct pre-employment seminars prior to the interview.

The POEA shall ensure that successful applicants will undergo Basic medical examinations and that the applicants shall have their proper documents with them before they leave for UK.

Work permit applications shall be processed by the NHS Employer for the successful applicant, while the applicants themselves shall apply for UK entry visa.

The cost of one economy class ticket to London is shouldered by the NHS employer for the successful applicant.

Other provisions of the agreement include the exchange programme for personnel of POEA to visit London to enhance client relations and workers' monitoring onsite, sanctions against successful applicants who do not take up employment, repatriation of employee's body in case of death, and fees and contributions to be paid to POEA by the NHS employer.

**Memorandum of Understanding between the Republic of the Philippines and the United Kingdom of Great Britain and Northern Ireland on Health Care Cooperation**

**Date of Signing:** 30 July 2003

**Status:** Ratified on 9 March 2004

**Agreement Highlights:** The Philippines and UK shall undertake a recruitment Project, to be carried out as follows,

To continue the recruitment Project with a view to sustainable recruitment and employment of nurses and

other healthcare professionals from the Philippines;

To intensify bilateral exchanges of policy thinking with regard to nursing workforce development and best practice in the delivery of healthcare;

To involve professional staff and healthcare managers in the project particularly in relation to education and training of Filipino nurses and other healthcare professionals, with a view for a Mutual Recognition Arrangement in nursing and other healthcare professions between the parties; and

To draw up an action agenda to implement this project, especially with respect to addressing any gaps in the entire process of recruitment of nurses and other healthcare professionals.

**Memorandum of Understanding between the Department of Labor and Employment of the Republic of the Philippines and the Commonwealth of Northern Mariana Islands**

**Date of Signing:** 14 September 1994

**Status:** Amended on 18 December 2000

**Agreement Highlights:** This MOU was an embodiment of the Commonwealth of Northern Mariana Islands' (CNMI) interest to hire Filipino workers for gainful employment in CNMI.

The MOU guaranteed the CNMI's observance of applicable laws for the protection of Filipino workers and DOLE's assurance of deploying only qualified Filipino workers.

It also stated the establishment of a CNMI-Philippines Liaison Office to foster close working relations with the DOLE to ensure that laws from both countries are complied with, and the DOLE to build a Filipino Workers Development Center attached to the Philippine Consulate office in the CNMI to promote and ensure the welfare and protection of Filipino Overseas Contract Workers.

The MOU provides that all Filipino workers who wish to

be employed in CNMI must first be processed by the POEA, and all documented Filipino workers already in CNMI will be encouraged to be members of OWWA.

**Amended Memorandum of Understanding between the Department of Labor and Employment of the Republic of the Philippines and the Department of Labor and Immigration of the Commonwealth of the Northern Mariana Islands**

**Date of Signing:** 18 December 2000

**Status:** The MOU is under review by both Parties for further amendment.

**Agreement Highlights:** This amended MOU reiterated the same provisions under the previous MOU signed on 14 September 1994 in Manila.

In addition, it called for the formation of a Joint Consultative Committee by the parties to promulgate its implementing guidelines, discuss issues and concerns and provide recommendations for the MOU's improvement.

It also provided for the enforcement duration of this agreement (1 year renewable automatically), which was accidentally omitted in the original agreement.

**Agreement between the Government of the Republic of the Philippines and the Government of the United State of America Relating to the Recruitment and Employment of Philippines Citizens by the United States Military Forces and Contactors of the Military and Civilian Agencies of the United States Government in Certain Areas of the Pacific and Southeast Asia**

**Date of Signing:** 28 December 1968

**Status:** Expired

**Agreement Highlights:** The agreement established procedures and conditions for the recruitment of Filipino citizens for offshore employment by the US Military Forces in certain areas of the Pacific and Southeast Asia.

**Agreement between the Republic of the Philippines and the United States of America of Employees' Compensation and Medical Care Programs**

**Date of Signing:** 10 March 1982

**Status:** Expired

**Agreement Highlights:** Extends the Philippines Medical Care Program and the Employees' Compensation Program to all Philippine national direct-hire employees of the US Forces in the Philippines, replacing the coverage for such Philippine national employees of the U.S. Forces granted by 5 U.S. Code, Section 8137 (the Federal Employees' Compensation Act).

**Memorandum of Understanding between the Department of Labour and Employment of the Government of the Republic of the Philippines and Her Majesty the Queen in the Right of the Province of Saskatchewan as represented by the Minister Responsible for Immigration and the Minister of Advanced Education and Employment (AEE) Concerning Cooperation in the Fields of Labour, Employment and Human resource Development**

**Date of Signing:** 18 December 2006

**Status:** Entered into force on 18 December 2006

**Agreement Highlights:** The MOU will enable skilled Filipino Workers to be hired in or immigrate to Saskatchewan, Canada under the Saskatchewan Immigration Nominee Program (SINP), where employers can nominate potential workers from other countries for faster processing of visa to Canada.

The AEE will ensure that only qualified employers can participate in the program, while the DOLE will ensure that only qualified sending/recruitment agencies can send workers to Canada under the MOU. The sending agencies in turn are to ensure that only qualified workers are deployed to Canada.

The Philippines Consulate General in Toronto will monitor all OFWs recruited under the SINP with a view of ensuring their protection and welfare in Canada.

A “mutual development of human resources” fund is to be set up, from contributions and donations from employers hiring workers through this MOU, which will be used to improve the education and training of youth in the Philippines.

A Joint Consultative Committee composed of 2 representatives from each country to review the implementation of the MOU.

## APPENDIX E

**RATIFICATIONS OF THE U.N. CONVENTION ON THE PROTECTION  
OF THE RIGHTS OF ALL MIGRANT WORKERS AND THE MEMBERS OF  
THEIR FAMILIES**

**International Convention on the Protection of the Rights of All Migrant  
Workers and Members of their Families**

**New York, 18 December 1990**

**Entry into Force:** 1 July 2003, in accordance with article 7(1)

**Registration:** 1 July 2003, No.39481.

<b>Participants</b>	<b>Signature, Succession to signature (d)</b>	<b>Ratification, Accession (a) Succession (d)</b>
Albania		15 Jun 2007 a
Argentina	10 Aug 2004	23 Feb 2007
Azerbaijan		11 Jan 1999 a
Belize		14 Nov 2001 a
Bolivia		16 Oct 2000 a
Bosnia and Herzegovina		13 Dec 1996 a
Burkina Faso	16 Nov 2001	26 Nov 2003
Cape Verde		16 Sep 1997 a
Chile	24 Sep 1993	21 Mar 2005
Colombia		24 May 1995 a
Ecuador		5 Feb 2002 a
Egypt		19 Feb 1993 a
El Salvador	13 Sep 2002	14 Mar 2003
Ghana	7 Sep 2000	7 Sep 2000
Guatemala	7 Sep 2000	14 Mar 2003
Guinea		7 Sep 2000 a
Honduras		9 Aug 2005 a
Kyrgyzstan		29 Sep 2003 a
Lesotho	24 Sep 2004	16 sep 2005
Libyan Arab Jamahiriya		18 Jun 2004 a

Mali		5 Jun 2003 a
Mauritania		24 Jan 2007 a
Mexico	22 May 1991	8 Mar 1999
Morocco	15 Aug 1991	21 Jun 1993
Nicaragua		26 Oct 2005 a
Peru	22 Sep 2004	14 Sep 2005
Philippines	15 Nov 1993	5 Jul 1995
Senegal		9 Jun 1999 a
Seychelles		15 Dec 1994 a
Sri Lanka		11 Mar 1996 a
Syrian Arab Republic		2 Jun 2005 a
Tajikistan	7 Sep 2000	8 Jan 2002
Timor-Leste		30 Jan 2004 a
Turkey	13 Jan 1999	27 Sep 2004
Uganda		14 Nov 1995 a
Uruguay		15 Feb 2001 a

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