

The New School Graduate Program In International Affairs (GPIA)

INDONESIAN MIGRANT DOMESTIC WORKERS

A Case Study on Human Rights, Gender and Migration

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I. INTRODUCTION

A growing phenomenon in international migration is the employment of women workers abroad. Women comprise half of the estimated 200 million migrants worldwide, and this number has significantly increased over the last three decades.¹ In Indonesia, almost 80 percent of all Indonesian migrant workers are women and 88 percent of these women work in the informal sector.² One of the important causes for the feminization of labor migration is the demand for domestic workers in the developed world from labor sending countries such as Indonesia. New career opportunities for women in affluent countries means the need for someone else to take care of household and childcare duties, which falls to the role of foreign domestic workers. The women who are recruited as domestic workers come from areas in Indonesia where poverty, high unemployment and lack of educational opportunities are most acute. Domestic work in middle to upper income households is traditionally a principal form of work for poor women to earn some form of remuneration.

The export of labor in Indonesia has become part of the country's development plan in addressing poverty. In 2007, recorded remittances sent by Indonesian migrant workers were up to U.S\$ 5 billion.³ Despite this large contribution, Indonesian domestic workers' rights are neglected both in their home country and abroad. Reports have surfaced that domestic workers are routinely underpaid, overworked, confined to the workplace, and subject to verbal, physical, and sexual abuse. In theory, human rights are supposed to be universal and applicable to all regardless of race and citizenship. However, political and economic interests, rooted in the legal and social structures of countries, have led to the rights violations, discrimination and exploitation of migrant domestic workers. The following case study represents a factual narrative of the situation of Indonesian domestic workers who migrated to two different countries (Malaysia and the United States) in very different ways. The case in Malaysia involves a domestic worker who was recruited from Indonesia through a formal process. This case took four years to resolve in the Malaysian court and is an example where duty bearers have failed to respect, protect and fulfill rights. The case in the U.S. involves domestic workers who were trafficked as forced labor. This case represents a successful account where claim holders were able to hold duty bearers accountable.

II. BACKGROUND AND CURRENT SITUATION IN INDONESIA

2.1 Country Profile

Indonesia is the world's largest archipelagic state with more than 17,000 islands, and the world's fourth most populous nation with an estimated population of around 234 million people.⁴ Sixty percent of the country's population lives on the main island of Java. The country is strategically located along major sea lanes from the Indian Ocean to the Pacific Ocean (See *Appendix A*). As a result of the country's geography and colonial history, there are a variety of ethnic groups, with the major ones being Javanese (40.6%), Sundanese (15%), Madurese (3.3%), and others (Melanesian in West Papua and eastern islands, Chinese, Indians and Arabs).⁵ The government officially recognizes six religions, namely Islam, Protestantism, Catholicism, Hinduism, Buddhism and Confucianism. The majority of Indonesians are Muslims

¹ Human Rights Watch, "Domestic Workers Abused Worldwide: Report Spotlights Violence and Slavelike Conditions in 12 Countries." (Jakarta, July 27, 2006).

²Raúl Hernández-Coss et al, *The Malaysia-Indonesia Remittance Corridor: Making Formal Transfers the Best Option for Women and Undocumented Migrants*, World Bank Working Paper No.149. (World Bank: Washington DC, 2008), p. xiii

³ International Migrant Alliance (IMA), "Family and Society of the Migrant Workers: The preliminary study of the family of migrant workers in Indonesia." (Hong Kong, June 15, 2008). From 2005 to 2006, the Indonesian central bank (Bank Indonesia-BI) recorded that remittances range from U.S. \$5.3 to \$5.6 billion if both formal and informal remittances were computed.

⁴ Central Intelligence Agency (CIA), *World Factbook*, 2007.

⁵ Ibid (Based on 2000 census).

(86.1%), making Indonesia the most populous Muslim-majority country.⁶ However, Indonesia is a secular state that is not governed by Islamic law (*Sharia*) as there is no reference made to Islam in the Indonesian Constitution of 1945.

Indonesia has a long history of Dutch colonial rule that lasted for more than three centuries. In 1945, at the height of World War II, Indonesian nationalists declared independence. The country was officially recognized as a sovereign state in 1949. After two successive authoritarian regimes (President Sukarno and Suharto), Indonesian political system underwent major reforms in 1998 following the Asian financial crisis. The country is currently recognized as a democracy with a presidential system that has multiparty parliamentary characteristics. The current president is Susilo Bambang Yudhoyono who was elected in 2004 through the country's first direct presidential election. The highest representative body at the national level is the People's Consultative Assembly (*Majelis Perwakilan Rakyat*- MPR), which comprises of two houses: the People's Representative Council (*Dewan Perwakilan Rakyat*- DPR) and the Regional Representatives Council (*Dewan Perwakilan Daerah*- DPD).

2.2 An Overview of the Poverty Situation

The poverty situation in Indonesia is usually assessed from pre-financial crisis and post-financial crisis. In reviewing Indonesia's economic trajectory before the Asian financial crisis, most observers start from the year 1966 when Suharto first came into power to the year 1997 when his regime fell apart. Suharto, who was called the Father of Development (*Bapak Pembangunan*) ruled the country with impunity on the assumption that the masses will tolerate his authoritarian rule as long as there was rapid economic development. With the help of foreign-educated technocrats known as the Berkeley Group, the New Order regime designed and implemented a series of five-year plans that emphasized development of agriculture-related and other industry.⁷ The growth of the economy was marked by two major factors: first, the country was opened to large infusions of foreign aid and investment, and second, the economy was helped substantially by oil revenues after the quadrupling of prices during the 1973 global 'oil shock'. By the 1970s and early 1980s, oil and gas accounted for 82% of all exports, and 73% of government revenue.⁸

Indonesia experienced the most pro-poor growth episode in its economic history from the late 1970s to the mid-1990s. In most areas of the archipelago, standards of nutrition and public health improved substantially, and education and family planning became successful, high-priority programs nationwide. Starting from the late 1970s, Indonesia enjoyed average annual growth in excess of 7%, and the annual per capita income rose from \$70 in 1965 to \$1,142 in 1996.⁹ Absolute poverty, defined as per capita income (in purchasing power parity, PPP, terms) of \$1 a day, dropped from 60% of the total population in 1970 to 15% in 1990.¹⁰ The survival of the New Order regime for over 30 years can be attributed to these figures and attested to the regime's ability to provide the economic inputs that made Indonesia one of the 'emerging tigers.'

The Asian financial crisis of 1997 caused a recession in Indonesia's economy and the country regressed to low-income status. The Indonesian economy suffered by far the largest fall in output and other macroeconomic indicators. Part of the underlying reason of why Indonesia was hit harder than any other country was the political weaknesses inherent in the Indonesian system. The pervasive politicization of financial activity and the corruption within Indonesia made many businessmen lose confidence in the economy and they decided to quickly pull out

⁶ Ibid (Based on 2000 census).

⁷ Damien Kingsbury, *The Politics of Indonesia* (Oxford: Oxford University Press, 1998), p. 78.

⁸ Andrew MacIntyre (ed), *Business and Government in Industrialising Asia*. (Allen & Unwin: St. Leonards, 1994), p. 250.

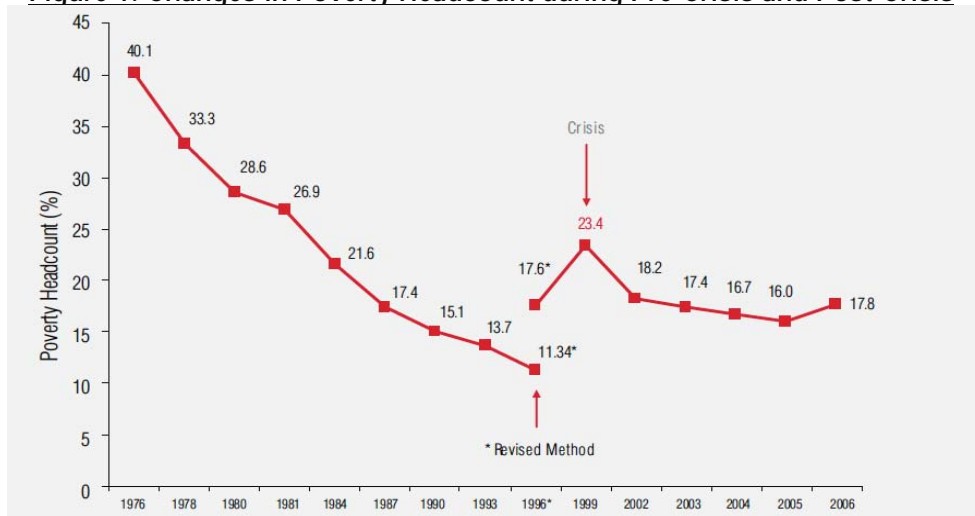
⁹ Adam Schwarz, *A Nation in Waiting: Indonesia in the 1990s* (Boulder: Westview Press, 1994), p. 135.

¹⁰ See World Bank. *Indonesia: Sustaining Development*. (Washington: World Bank, 1994).

of the Indonesian market. Apart from this, by late 1998, Indonesia faced a growing number of overwhelming problems: external debt burden—private banks and business owed roughly U.S. \$73 billion to foreign creditors and the government another \$66 billion, and increasing unemployment -an estimated 9 million persons were unemployed in April 1998 and that number was expected to reach 13 million by the year's end.¹¹

Poverty increased dramatically during the financial crisis, which threatened to overhaul the pro-poor growth achievements of previous years. In 1996, poverty levels were 11.34%, and during the crisis the levels went up to 23.4% in 1999 (see Figure 1).¹² This means that approximately 36 million additional people were placed into absolute poverty because of the crisis. To make matters worse, the country's exchange rate substantially depreciated from Rp.10,000/U.S\$4 in 1996 to Rp. 9,000-9,300/U.S\$1 in 2004. This means that, relative to the dollar, the rupiah lost 75 percent of its value. The high inflation, higher prices in basic commodities, and the loss of jobs caused a clear deterioration in the welfare of the Indonesian people.

Figure 1: Changes in Poverty Headcount during Pre-Crisis and Post-Crisis



Source: *Making the New Indonesia Work for the Poor*, World Bank, 2006

Since the financial crisis, Indonesia has made progress in reducing the poverty rate to pre-crisis levels. In 2005, the level of absolute poverty of people living below \$1 a day was 7.4%, which is much lower than other East Asian regions.¹³ However, 16.7% of Indonesia's population lives below the national poverty line of U.S \$1.55, and the number of Indonesians subsisting on less than \$2 a day is almost 50% (See Figure 2).¹⁴ Indonesia is considered a middle-income country, but the national poverty rate makes it similar to other low-income countries in the region. According to the World Bank, close to 42 percent of all Indonesians lives between the U.S\$1 and U.S\$2 a day poverty line, which means that a large number of people who are considered 'non-poor' are still susceptible to poverty (See Figure 2).

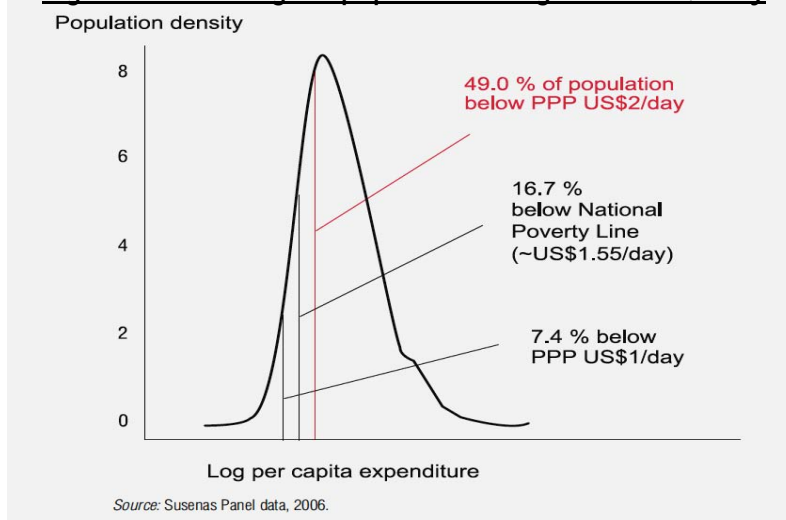
¹¹ Thomas R. Leinbach, "Indonesian development in crisis." Online. *Expanded ASAP*. Available at <http://web5.infotrac.galegroup.com>

¹² World Bank, *Making the New Indonesia work for the Poor*, (Jakarta: World Bank, 2006), p. ix.

¹³ World Bank, *Making Services Work for the Poor in Indonesia*, (Jakarta: World Bank, 2006).

¹⁴ World Bank, Data and Statistics on Indonesia, <http://www.worldbank.or.id/>

Figure 2: Percentage of population living below U.S\$2/day



Source: SUSENAS (*Survei Sosial Ekonomi Nasional or National Socio-Economic Survey*), 2006

The true extent of poverty in Indonesia is more evident in terms of lack of access to basic services and resources (human development indicators and outcomes) rather than income poverty (See *Appendix B*). Poverty in Indonesia responds strongly to shocks (natural or manmade disasters) as data shows that people tend to fall in and out of poverty relatively quickly. For instance, the increase in rice prices in 2005 to 2006 caused the poverty rate to go up from 16% in 2004 to 17.8% in 2006, which made almost 5 million people to become ‘poor’ (See Figure 1). Although Indonesia has made improvements in some human development outcomes, such as adult literacy rate (90.4%) and equal access to males and females in primary schooling, Indonesia lags behind other countries in the region in malnutrition levels, maternal health and access to safe drinking water and sanitation. The multi-dimensional features of poverty in Indonesia are reflected in Indonesia’s mixed progress in achieving the MDGs (see *Appendix C*).

Poverty in Indonesia is also expressed in the form of regional disparities between rural and urban areas. According to the World Bank, rural households account for about 57% of the poor, and there is a lack of access to basic infrastructures and services, such as public health clinics and improved water source (see Box 1).¹⁵ The eastern parts of Indonesia (West Papua, Nusa Tenggara and Maluku) and other remote areas have far higher incidences of poverty than the major islands. However, the number of poor people is mostly concentrated in Java and Bali, which is home to 57

Box 1 PROFILE OF THE POOR
<i>Of every 100 poor Indonesians:</i>
69 live in rural areas
52 do not have access to safe drinking water
73 do not have access to decent sanitation
55 have less than primary education
50 live in villages without secondary high school
49 live in villages without access to telephone
Of those below five years of age, 28 are malnourished and 27 were delivered by an unskilled midwife
Source: SUSENAS, 2004, in <i>Making the New Indonesia work for the poor</i> , World Bank, 2006

¹⁵ World Bank, *Making the New Indonesia work for the Poor*, (Jakarta: World Bank, 2006), p. xii.

percent of Indonesia’s total poor (see Appendix D).¹⁶

Long term poverty alleviation has become a focus of the Indonesian government starting from 2000 when Indonesia signed the Declaration of Millennium Development Goals (MDGs). In 2003, the government prepared an Interim Poverty Reduction Strategy Paper (I-PRSP), which integrated the following framework: (1) opportunity creation, (2) empowerment, (3) capacity building, and (4) social protection of the poor.¹⁷ Since Indonesia is a large decentralized country, the national government’s approach to planning the PRS is to make reforms at the local level. The government is orientating responsibilities for pro-poor programs to the local level, with the main objectives being to provide basic needs, such as: (1) food, (2) education and health services, (3) job opportunities, (4) agricultural infrastructure assistances, and (5) business credit for the poor.

2.3 An Overview of the Human Rights Situation

Indonesia’s human rights situation has been questionable over the years, especially during the dictatorship era. Suharto’s regime was responsible for numerous human rights violations that range from the censorship of the media and free speech, rigged elections, military impunity and the ‘disappearances’ of political opponents and activists. Post-authoritarian Indonesia has experienced some improvements in terms of civil and political rights. From the period of 2000 to 2004, Freedom House consistently rated Indonesia as 3 for political rights and 4 for civil liberties, which is considered “Partially Free.” The Freedom House report from 2005 to 2008 labels Indonesia as “Free” because political rights went down to 2 and civil liberties became 3 (See Table 1). The 2005 report states that Indonesia received an upward trend arrow from partially free to free as a result of “peaceful and mostly free elections for newly empowered regional leaders, an orderly transition to a newly elected president that further consolidated the political process, and the emergence of a peace settlement between the government and the Free Aceh movement.”¹⁸ Indonesia has signed a number of international conventions, among others the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social, and Cultural Rights (ICESCR) in 2006 (See Appendix E for a list of other international treaties and standards that have been signed by Indonesia).

Table 1: Timeline of Freedom House Ratings for Indonesia

Year	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Political rights Score	7	7	6	4	3	3	3	3	3	2	2	2	2
Civil Liberties Score	5	5	4	4	4	4	4	4	4	3	3	3	3
Status	Not Free	Not Free	Partially Free	Partially Free	Partially Free	Partially Free	Partially Free	Partially Free	Partially Free	Free	Free	Free	Free

Source: Freedom House, www.freedomhouse.org

Despite being rated as “Free” by Freedom House, Indonesia continues to have serious human rights problems. In its 2007 World report, Human Rights Watch emphasized several areas of concern, which include past human rights violations that have not been addressed, the increasing infringements on freedom of expression and religious freedom, and the threats

¹⁶ Ibid.

¹⁷ Committee for Poverty Alleviation, *Interim Poverty Reduction Strategy Paper* (Jakarta: Republic of Indonesia, March 2003)

¹⁸ Arch Puddington. “Freedom in the World 2006: Middle East Progress amid Global Gains.” (Freedom House: December 2005) p. 7.

against human rights defenders.¹⁹ Amnesty International, in its 2008 report on Indonesia focused on the impunity of rights violators in the regions of Aceh and West Papua, and the widespread use of torture, excessive force, and arbitrary killings by authorities.²⁰ In addition, the U.S. State Department released a country report in 2007 on human rights practices in Indonesia, which states that the following violations occurred during the year 2006: “unlawful killings by security force personnel, terrorists, vigilante groups, and mobs; torture; harsh prison conditions; arbitrary detentions; a corrupt judicial system; warrantless searches; infringements on free speech; restrictions on peaceful assembly; interference with freedom of religion by private parties, sometimes with complicity of local officials; inter-communal religious violence; violence and sexual abuse against women and children; trafficking in persons; failure to enforce labor standards and violations of worker rights, including forced child labor.”²¹

2.4 The Status of Women’s Rights

The revised 1945 Constitution in Indonesia recognizes that both men and women have the same rights, obligations and opportunities.²² However, there are still disparities in society and the legal system that discriminate against women. Since Indonesia is a government system of regional autonomy, some local regulations are not in accordance with the Constitution on guaranteeing women’s rights. In 2006, the national commission on women’s rights identified 25 policies produced by 16 local governments which constitute discrimination against women.²³ These policies are often related to Islamic law (*Sharia*). Although Indonesia is not an Islamic state, local laws in regions of predominantly Muslim population, such as Aceh, tend to follow strict Islamic regulations in terms of marriage laws and appropriate conduct between men and women.

The movement to improve the status of women in Indonesia has consisted of increasing opportunities to basic education, addressing violence against women and increasing the representation of women in parliament. Ten years ago women had significantly lower rates of literacy and not as many opportunities for basic education. Indonesia has slightly closed the gap in the levels of literacy between men and women; especially among the youth. In 1990, 86% of men and 72% of women were literate. The literacy rate in 2005 was 94% for men and 86% for women, while among the youth (ages 15 to 25) are 99% male and 98% female.²⁴ In the MDGs, Indonesia has made considerable improvement in eliminating gender disparity in primary and secondary education (see *Appendix F*).

A National Commission on Violence Against Women (*Komnas Perempuan*), was established in 1998 as a national mechanism for the protection and promotion of women’s human rights. As stated in the Presidential Decree, the establishment of this Commission is based on the Constitution and two international conventions which have been ratified by Indonesia, namely the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In April 2008, the Indonesian government endorsed a law which tried to increase women’s representation in parliament by placing a quota. This new law states that all political

¹⁹ Human Rights Watch, “Essential Background: Overview of Human Rights Issues in Indonesia”, Human Rights Watch World Report, 2007.

²⁰ Amnesty International, “Indonesia” in *Amnesty International Report 2008-The State of the World’s Human Rights*. Available at: <http://thereport.amnesty.org/eng/Regions/Asia-Pacific/Indonesia>

²¹ Bureau of Democracy, Human Rights, and Labor. “Indonesia-Country Reports on Human Rights Practices-2006. (U.S. Department of State, March 2, 2007).

²² Article 27 of the 1945 Constitution assures equal rights for all citizens, male as well as female.

²³ The National Commission on Violence Against Women, “Crucial issues related to the implementation of the CEDAW convention in Indonesia.” (Jakarta, 19 July 2007).

²⁴ UNESCO, Institute for Statistics.

parties should include a minimum of 30% of women among their candidates for members of parliament. However, it does not include sanctions if political parties do not meet the quota. Currently, there is low representation of women in the government. Between 1992 and 1997, women held 12% of seats in the National Parliament, and in 2004 this number went down even more as only 9% (44 out of 500) of women hold seats.²⁵

The status of women in Indonesia is still lower than men despite the movement for a more gender equal society. Indonesia's performance on gender inequality lags behind neighboring countries. In 2005, Indonesia's GDI (Gender Development Index) performance ranks 93 out of 144 countries. Although some women have a high degree of economic and social freedom and occupy important positions, this status varies greatly between socio-economic strata. In general, middle to upper class urban women have a greater freedom in accessing rights and other opportunities, such as working outside the home. Most women in the lower end of the socio-economic scale do not have this advantage. Poor women face human rights violations ranging from inability to obtain higher education, domestic violence (11% of the 15% of reported domestic violence occur to rural women) and civic violence in regions of conflict, and they disproportionately suffer from poor health, inadequate nutrition, and high maternal mortality rate, which is 420 per 100,000 live births (see *Appendix G*). The statistics on women also vary by regions as certain regions like West Papua and Maluku experience lower levels of economic development due to poor access to social services.

2.5 The Status of Women's Employment

Law Number 21/1999 states that national policies should forbid and eliminate discrimination (including by gender) in the workplace. However, the unequal treatment of women is a continued practice in the workforce. Labor regulations place provisions that limit women's rights and place the assumption that women's employment should not conflict with their role in the home and family welfare. For instance, the Ministry of Manpower and Transmigration placed an ordinance that women are prohibited from working at night unless they are able to obtain a license to do so. In obtaining this license, single women require the permission of their family and if a woman is married, she requires her husband's permission. Despite laws that provide women with a 3 months maternity leave, the National Commission on women's rights have reported that pregnant women are often dismissed or replaced while on leave. Some companies require women to sign statements that they do not intend to become pregnant.²⁶ In addition, the Manpower Act does not have provisions to protect women from sexual harassment in the work place.

Disparity between men and women in the work force is evident based on the data gathered by the World Bank. Unemployment rates for women are approximately 50 percent higher than those for men. According to World Bank statistics, only 41% of women versus 73% of men are either working or looking for work.²⁷ Within the formal sector where wages are higher, women are underrepresented; whereas women are over-represented in the informal low-paid jobs like domestic work (see Figure 3). There are approximately 2.6 million domestic workers in Indonesia, and the majority of them are women and girls, ranging from 14 to 40 years old. However, some of them can be as young as 12.²⁸ The majority of domestic workers (approximately 90%) in Indonesia are not recruited through a formal process. Thus, domestic work is considered as part of the informal sector. Since the Indonesian law defines men as the head of households, men receive employment benefits for family members (health insurance,

²⁵ National Development Planning Agency (BAPPENAS), "Indonesia: Progress Report on the Millennium Development Goals" 2004.

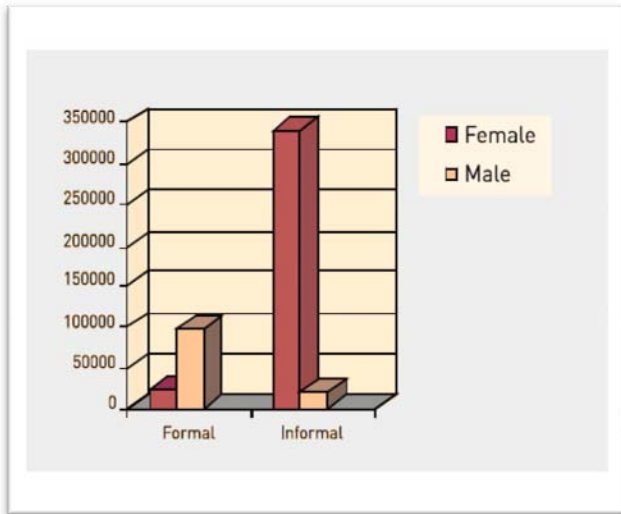
²⁶ The National Commission on Violence Against Women (Jakarta, 19 July 2007).

²⁷ Chitrawati Buchori and Lisa Cameron, "Gender Equality and Development in Indonesia" (World Bank, 2005)

²⁸ Amnesty International, *Indonesia: Exploitation and abuse: the plight of women domestic workers*, 2007.

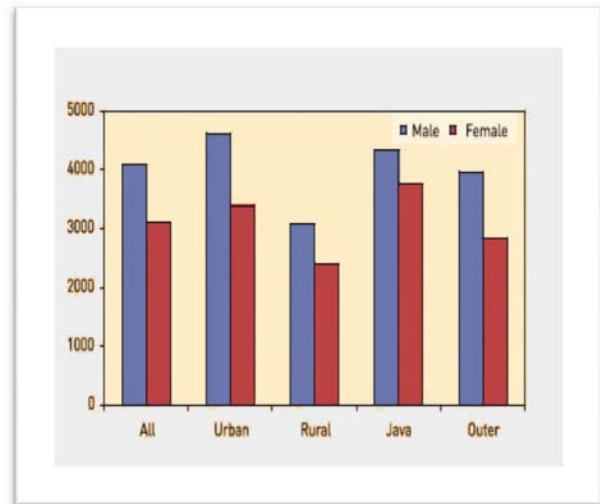
funding of education, etc.) when working in the formal sector. On the other hand, women do not have these benefits when working in the informal sector. Even when women work in the formal labor market, there are still disparities because women tend to have lower wages— on average, women earn 76% of the earnings of men even though they have the same education and experience as men. The gender wage gap is even wider in the outer islands of Indonesia and in urban areas than in rural (see Figure 4).

Figure 3: Number of Women in Formal versus Informal Jobs



Source: World Bank, 2002

Figure 4: Average Hourly Wages by Gender, (Rp)



Source: SUSENAS, 2002

2.6 Migration Trends

Indonesian workers have been migrating abroad for jobs since the 1970s. Starting in the 1980s, there was a steady flow of female migrant workers or *tenaga kerja wanita* (TKW) because of the government’s development plan that promoted labor export. A drastic increase in migration trend occurred during the Asian financial crisis (1997-1998) because a large number of women who worked in low-skilled wage employment, such as the textile and electronic industry, were laid off. Women were regarded as secondary income earners, so they were more likely to have their employment terminated before that of men. The total number of international labor migrants deployed from Indonesia increased from 120,896 in the period 1995-1996 to 235,275 in 1997-1998.²⁹ International migration was a means of coping with the crisis since women found that working abroad as domestic workers and in the agricultural and industrial industry paid higher wages than doing similar jobs in their home country. The vast majority of the female migrant workers are employed in jobs characterized as the 3Ds: dirty, difficult, and dangerous. In 2007, the World Bank data show that 88 percent of Indonesian female migrant workers work in the domestic sector.³⁰

The majority of female migrant workers come from rural areas in Indonesia that have high incidences of poverty and low attainments in development indicators. The World Bank recorded that the majority are from selected regions, such as East and West Nusa Tenggara,

²⁹ G. Hugo. "Establishing the information needs of Indonesian international labour migrants: background and methodology." Paper presented at Workshop Indonesia. PPT-LIPI in collaboration with ILO. (Jakarta, May 20-23, 2000).

³⁰ Raúl Hernández-Coss et al, *The Malaysia-Indonesia Remittance Corridor. Making Formal Transfers the Best Option for Women and Undocumented Migrants*, World Bank Working Paper No.149. (World Bank: Washington DC, 2008), p. xiii

South Sulawesi, Lampung, and different parts of Java.³¹ Most of the female migrant workers have low education level, generally only up to primary school, and they come from villages where there is a lack of employment opportunities. The official records state that the ages of the workers are between 18-40 years. However, they can also be girls as young as 14 who travel with falsified passports and other identity documents. The primary reasons, including the push and pull factors, for seeking work abroad as domestic workers can range from:³²

- Job opportunities overseas are more lucrative (higher wages)
- Financial necessities and desire to support their family
- Escaping rural poverty and the Asian financial crisis
- Working as domestic workers requires few skills and provides free room and board, enabling them to save more money.
- Influenced by family members or friends who have worked or are working abroad.
- Motivated by success stories of other female migrant workers
- Recruited by agents or middlemen (*Calo*) who convince them to migrate
- To gain skills and other qualifications to make them better candidates for other jobs
- Increasing social mobility and women's decision-making power within the family.

The migration destinations of female workers have been changing over the years. In the 1970s, major destination countries were in the Middle East, particularly Saudi Arabia. Around the 1990s, there was a shift towards finding employment closer to home. This regional migration in Southeast Asia and Asia Pacific was characterized by the opening of job opportunities by the government in the host countries. As China, Singapore, Malaysia, Hong Kong, etc. became recognized as newly industrialized countries with fast growing economies, there were fewer nationals who wanted to take the low-paying, labor-intensive jobs, so they had to outsource from less wealthy neighboring countries. In addition, there was a high demand for domestic workers because the expansion of the middle class meant that women wanted to have careers outside the home, which required a domestic worker to help manage the house and children

Currently, the prime destination countries for female migrant workers are: Saudi Arabia, Malaysia, Kuwait, Singapore, Hong Kong, and Taiwan (see Figure 5). Saudi Arabia is the highest recipient of Indonesian domestic workers. Although most domestic workers migrate through formal and documented channels, there is a reported increase of undocumented workers, especially in Malaysia due to the two countries geographical proximity, which makes it easier for middlemen to smuggle workers via ferry.³³ According to the World Bank, "best estimates place 1.2 million undocumented workers in Malaysia, of which 60 percent are Indonesian."³⁴ Additionally, reports have surfaced that domestic workers are trafficked for the purpose of forced labor or debt bondage to Western countries like the U.S., Europe, etc.³⁵

³¹ Female Migrant Workers Research Team, "Fact Sheet: Migration, Remittance and Female Migrant Workers" (World Bank, January 2006).

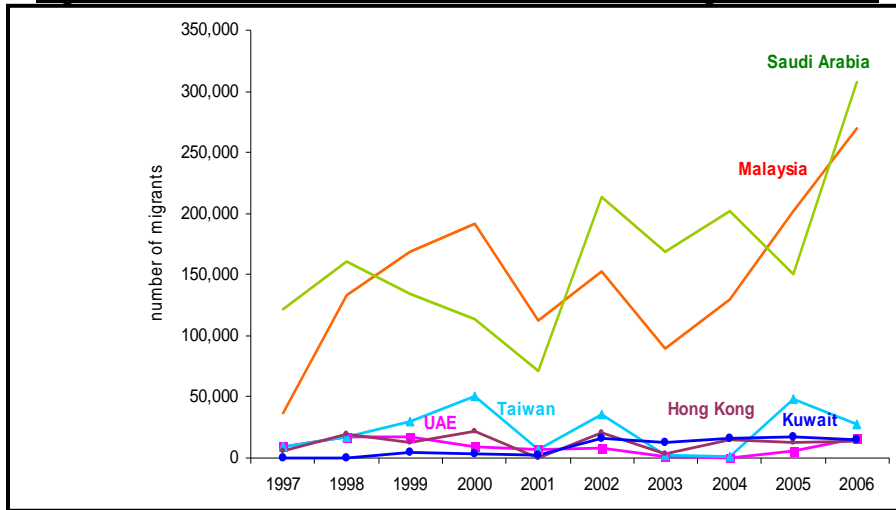
³² Human Rights Watch, *Help Wanted: Abuses against Female Migrant Domestic Workers in Indonesia and Malaysia*. July 2004 Vol. 16, No. 9 (B), p.13-14.

³³ Raúl Hernández-Coss et al. (World Bank, 2008), p. 21.

³⁴ Ibid, and UC Davis, 2007.

³⁵ United States Department of State, *Trafficking in Persons Report 2008 - Indonesia*, 4 June 2008. Online. UNHCR Refworld, available at: <http://www.unhcr.org/refworld/docid/484f9a1d48.html>.

Figure 5: Main Destinations for Indonesian Female Migrant Workers



Source: World Bank, 2008

2.7. Process, Wage and Remittance

Migration Process

Female migrant workers who desire to pursue domestic work abroad face high costs due to the bureaucratic structure of the official migration process (see Appendix H). This lengthy and expensive process with many requirements has led to more female workers choosing to be recruited through illegal channels as undocumented workers in the host country.

The legal process for Indonesian migrant domestic workers generally goes as follows³⁶:

1. Female workers are recruited by a local agent or middlemen (*calo*) in their village. These local agents work on commission, and may extract a fee from the prospective worker.
2. Female workers are then sent to labor recruiter's office. These labor agencies control almost all parts of the migration process from recruitment, training, transportation, and placement of domestic workers. There is also almost no oversight and inadequate regulation from the Indonesian government and the host government in this process, so the agencies can freely set the conditions of employment.
3. Female workers have to pay placement fees, which include health exams, passport, visa, training, etc, which can either be deducted from their initial salary or paid up front, depending on the country of destination (See Appendix I). Although, placement fees are officially determined by the Department of Manpower and Transmigration, reported data from different organizations state that the cost is much higher.³⁷ In order to pay for these fees upfront, women borrow from family, friends, money-lenders, and labor agents.
4. While female workers are waiting for their papers to be processed by the host country, they can be kept in transit or training centers for several months.
5. Once a female worker has been selected for employment, she is placed on a short-term contract of two years. Depending on the host country, some workers can extend their contract.

³⁶ Human Rights Watch, *Help Wanted* (2004).

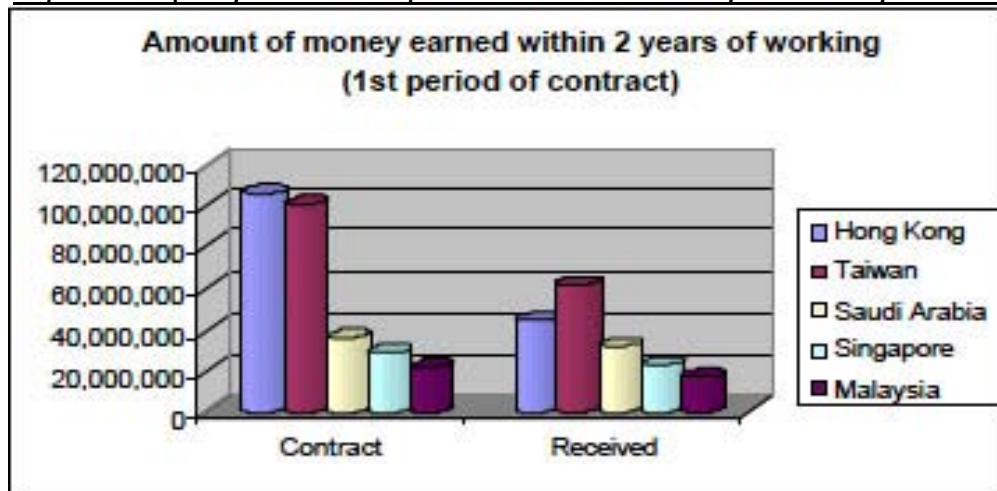
³⁷ *Ibid.*

6. When they arrive in the host country, a labor agency in that destination will take over the process of placing the domestic workers with the employers, and monitoring the treatment of the workers.

Wage

Each host country has different wage standards. Hong Kong has a minimum wage regulation for domestic workers, which is at least US\$258 a month (2007 estimates) and they are entitled to one day off a week. In the Middle East, in particular Saudi Arabia, the new minimum monthly wage is 800 real (US\$214), which is an increase from 600 real.³⁸ In some countries like Malaysia there is no minimum wage. Indonesian domestic workers are paid the lowest out of other nationalities in Malaysia, which is only US\$140-175 a month (2007 estimates) and there are no regulations about hours of work or a day off.³⁹ In general, the highest wage for Indonesians is in Hong Kong and Taiwan and the lowest is in Malaysia. In reality, however, the wages that are actually received are lower. Some of the reasons for this can be that employers tend to pay less than the stipulated amount in the contract or employers hold worker's salary until the end of the standard two-year contract, and because the labor agency takes various deductions for placement fees (See Figure 6).

Figure 6: Disparity between wage on contract and actually received by workers



Source: World Bank Fact Sheet, 2006

Remittance

Indonesia is primarily a remittance-recipient country. The recorded remittance received by Indonesia has been steadily increasing over the years. When all in-flow from formal and informal channels are recorded, the IMF Balance of Payments shows that U.S. \$5.3 billion was received by Indonesia in 2005.⁴⁰ When compared to other foreign exchange earners, the value of remittances is quite important at the national level because it comprises 1.5% of GDP, making it the second largest contribution after oil and gas (See Appendix J).⁴¹ In comparison to other labor sending countries, such as the Philippines (\$13.6 billion), Indonesia's remittance is quite low (see Table 2 below). The reasons for this range from:

- a) Inadequate data due to the discrepancy between remittances recorded through formal channels and those calculated from migrants stock. Migrants use a wide

³⁸ Ridwan Max Sijabat, "RI migrant workers in Mideast get minimum wage increased" *The Jakarta Post* (October 20, 2007).

³⁹ Raúl Hernández-Coss et al. (World Bank, 2008), p. 24.

⁴⁰ Ibid, p. 11.

⁴¹ Ibid, p.12.

variety of money-transfer channels, both formal (banks, post office, etc.) and informal (friends, relatives, etc.). There are an increasing number of Indonesian migrant workers using informal channels, which makes it difficult to measure the exact flow of remittances.

- b) The Malaysian-Indonesian migration exchange contains the second largest flows of undocumented workers--after the one between United States and Mexico--and represents the largest remittance inflow for Indonesia. Since undocumented workers use mostly informal channels to remit money, it is hard to find concrete data to calculate the amount of money sent by them.
- c) Migrant workers, particularly female domestic workers, receive meager wages because of working in the informal sector. Only an estimated 45% of wages earned are sent back as remittances. The high cost of placement fees which leave domestic workers in debt makes it difficult for them to save and remit money in large amounts.
- d) In some cases, domestic workers are returning home without being paid even though they have worked for months. Most reported cases state that they were not paid because they were either undocumented workers or their contract was terminated early due to employer's abuses.

Table 2: Workers' Remittances and Compensation of Employees, Received

Country	US\$ Billion				
	2001	2002	2003	2004	2005
Indonesia	1.4	1.2	1.5	1.9	1.9 (5.3*)
Thailand	1.3	1.4	1.6	1.6	1.1
Philippines	6.1	9.7	10.2	11.5	13.6
China	8.4	13.0	17.8	19.0	22.5

**Worker's remittances and compensation received figures in this table are based on bank and other money transfer operators reporting. In 2005 a new method of estimating remittances was launched, revised figure is given in italics.*

Source: World Development Indicators (World Bank, 2006).

Analysis across countries worldwide shows that a 10% increase in per capita remittances can lead to a 3.5% decline in poverty rate.⁴² However, qualitative data suggest that in the case of Indonesia, remittances do not show the expected results in poverty alleviation because the principal use of remittances is to pay off debts or to meet daily living expenses. Remittances are rarely used by migrant workers to access better education, health services or invest in a business enterprise so that remittances can have a sustainable result on household welfare. Remittances are also seldom placed in savings and can be depleted within months for living necessities, which makes it harder for remittances to have a lasting impact on poverty reduction. Families of migrants become highly dependent on remittances, and in order to support them, migrant domestic workers have to continuously work abroad in unsatisfactory working conditions. Remittances can play a significant role in local context, especially since remittance inflows in certain provinces in Indonesia are greater than total local income. For instance, it is estimated that migrants remitted over US\$90 million to East Java specifically, accounting for nearly 62 percent of total incoming remittance inflows to the country (see Appendix J).⁴³ However, insufficient investments of remittances in the local economy and community hinder the long term alleviation of poverty in rural areas.

⁴² Richard H. Adams, Jr. and John Page, "Do international migration and remittances reduce poverty in developing countries? (Washington, DC: World Bank, 2005).

⁴³ Raúl Hernández-Coss et al. (World Bank, 2008), p. 13.

III. THE CASES: INDONESIA DOMESTIC WORKERS ABROAD

3.1: Case 1: Malaysia

Background Information

Malaysia is the second largest destination country for Indonesian domestic workers after Saudi Arabia. Malaysia relies upon migrant workers to fulfill labor intensive jobs that could not be met by the national work force. Indonesians comprise the largest group of migrant workers (83 percent) in Malaysia.⁴⁴ Indonesian domestic workers, however, are the most underpaid and make only 25 cents an hour.⁴⁵ An Indonesian domestic worker can earn as low as U.S.\$92 a month in Malaysia, which is half the amount a Filipina domestic worker earns (U.S.\$200/month).⁴⁶ Similar to other countries, foreign maids have very few rights in Malaysia because they are excluded from most standard labor protections laws that cover other workers. Indonesian domestic workers frequently face the most abuse in comparison to other nationalities in Malaysia because the recruitment process is unregulated by the Indonesian government and there are an increasing number of undocumented Indonesian workers without valid work permits or visas.

Undocumented Indonesian workers in Malaysia make up the second largest informal migration flow in the world after undocumented Mexicans entering the U.S.⁴⁷ The Malaysian migration law states that it is a criminal offense for migrant workers to be present without a work permit or visa, and the government has taken increasingly punitive measures, including caning, imprisonment and deportation, to deter and penalize such workers. Over the years, the Indonesian and Malaysian governments have signed bilateral agreements (Memorandum of Understanding-MoU) concerning Indonesian domestic workers. However, civil society groups claim that the MoU still does not contain provisions for just and favorable conditions of work. The reported cases of abuse towards Indonesian maids in Malaysia have ranged from physical to sexual harassment and even death (see *Appendix K*). Some abused maids have become so desperate that they commit suicide. From 2004 to 2007, Tenaganita, a leading migrant's rights organization in Malaysia, rescued 148 abused Indonesian maids with the help of the Malaysian police after the organization received over 200 calls through its Domestic Workers Action Line, and it has recorded 1,050 violations of human rights, such as non-payment of wages and sexual and physical abuse. On average, each domestic worker suffered 6-7 rights violations.⁴⁸ The frequency and scale of abuse in Malaysia shows that this is an endemic human rights problem.

Case Profile

Name of Rights Holder: Nirmala Bonat (Indonesian domestic worker)

Name of Rights Offender: Yim Pek Ha (employer's wife)

Place of Incident: Kuala Lumpur, Malaysia

Period of Incident: For eight months until May 2004

Date case was resolved in court: November 28, 2008

⁴⁴ Data from the government of Malaysia, in Komnas Perempuan and Solidaritas Perempuan/CARAM Indonesia, *Indonesian Migrant Domestic Workers*, p. 13.

⁴⁵ Justin Huggler, "Plight of the maid: report lifts lid on global suffering." *The Independent* (July 28, 2006).

⁴⁶ Human Rights Watch, *Help Wanted: Abuses against Female Migrant Domestic Workers in Indonesia and Malaysia*. Vol. 16, No 9 (July 2004).

⁴⁷ Raúl Hernández-Coss et al. (World Bank, 2008)

⁴⁸ Sally Cameron, *Trafficking and Related Labour Exploitation in the ASEAN Region*, International Council on Social Welfare (ICSW) Briefing Paper, November 2007, p. 82.

Case Details

In May 2004 the case of Nirmala Bonat, who was a 19 year-old Indonesian domestic worker in Malaysia at the time, caused widespread outrage as photographs of extensive burns on her face, back, legs and breasts were shown in a local newspaper (See *Appendix L*).⁴⁹ Nirmala worked as a domestic worker for a wealthy couple, Hii Ik Ting and Yim Pek Ha, in Villa Putera, which is a high-end condominium in the capital city, Kuala Lumpur. The housewife, Yim Pek Ha, repeatedly abused Nirmala with a hot iron, pouring hot water on her, and beating her with other objects. Nirmala claims that the abuse started when she accidentally broke a mug. Nirmala told reporters that "She [the employer's wife] then threw boiling water on me" and "One day she got upset while I was ironing. She said the clothes had not been properly ironed and slapped me. She took the iron out of my hand and pressed it against my breasts."⁵⁰ Nirmala endured constant physical abuse for eight months before she was able to escape from her employer when a security guard found her crying and severely bruised in the hallway. The guard contacted the police, who brought Nirmala to the hospital so that she can be treated for second- and third-degree burns. According to newspaper reports, the injuries were so egregious that her nipples had detached from her skin.⁵¹

Nirmala was not only physically abused. She was also denied her salary (the employers said that she will be paid after the standard two year contract ended), prevented from corresponding with her family in Indonesia, and confined to the apartment. She worked over 18 hours a day, 7 days a week with no day off, slept on a kitchen floor, and was only allowed to leave the apartment to throw out the garbage. In addition, her employers restricted her freedom of movement by withholding her passport. Nirmala said she did not run away from her employers because she did not know where to go to for help, had no money and was afraid.⁵²

Nirmala is originally from Kupang, the capital of West Timor (also called *Nusa Tenggara Timur* -NTT), which is one of Indonesia's poorest and most remote provinces. The UNDP states that although Indonesia is on track to achieve the majority of the MDG targets by 2015, there are regions like West Timor that are falling behind.⁵³ In 2008, the poverty rate in West Timor is 25.6%, which is much higher than the national poverty rate of 15.4%.⁵⁴ Coming from a province with low education levels and poor access to services, Nirmala is barely literate and she does not have many job opportunities besides engaging in farming like others in her village. Nirmala's migration process to Malaysia started when a recruiter named Henry came to her village to offer the women there a chance to work abroad.⁵⁵ She was tempted by the offer, especially when she heard that she could earn up to U.S. \$100 a month: "I saw my friends coming back to the village from Malaysia and they brought lots of money with them. I wanted lots of money, so I had to come here."⁵⁶

Although Nirmala came to Malaysia through a formal labor agency, the agencies sometimes use illegal methods to send women abroad. After being recruited from her village, Nirmala was sent to a training center where the agency falsified her age, which was 17 at the time, to make her appear older and able to work abroad. The recruitment agencies also routinely give deficient or false information about the terms of employment, and do not allow the

⁴⁹ Jane Perlez, "Asian Maids Often Find Abuse, Not Riches, Abroad" *The New York Times*, (June 22, 2004).

⁵⁰ BBC, "Maid Abuse Case Shocks Malaysia," (May 20, 2004).

⁵¹ Maid Aware, "Burnt For Breaking A Mug. Stop The Abuse! Prevent Another Case Like Maid Nirmala Bonat." Available at: http://www.maidaware.com/Abuse_04Maid-Nirmala.html

⁵² M. Magewari, "Judge Stops defence's move." *The Star Online*, July 27, 2007.

⁵³ UNDP, "Government Focuses on Provinces Lagging in Poverty Reduction." UNDP Indonesia website. 2008.

⁵⁴ Ibid.

⁵⁵ Jane Perlez, (June 22, 2004).

⁵⁶ Transcript from documentary "Malaysia-Maid in Malaysia." Reporter: Helen Vatsikopoulos from *Foreign Correspondent*. Broadcast: August 29, 2006.

workers to keep a copy of their contract. In a way, the agencies open the door for employer's abuse by misinforming the migrant workers.

Nirmala's case exposed the harsh realities of women migration. Instead of being an isolated case, she was one of many similar stories experienced by foreign maids abroad. Nirmala's case received great attention from both the Indonesian and Malaysian politicians. The Indonesian embassy offered shelter for Nirmala and provided her with defense lawyers. The Indonesian president, Susilo Bambang Yudhoyono, came to talk to Nirmala while on a state visit to Malaysia, and he asked the Malaysian court to expedite her case. The Malaysian Prime Minister, Abdullah Badawi, publicly expressed his outrage at the situation: "It is painful for Malaysians to see another human being tortured like this," and the Malaysian Deputy Internal Security Minister, Noh Omar, said, "We apologize and wish to extend our sympathies to her and family, who had placed high hopes on her earning an income, but she was abused instead."⁵⁷ Following this incident, the two countries announced that they would negotiate a new MoU on Indonesian domestic workers in Malaysia.

Despite the promises made by senior Malaysian politicians that the case will be quickly resolved, it took almost four years of long process and continuous battle in court before Nirmala's employer was found guilty. Nirmala's employer, specifically Yim Pek Ha (the housewife) who caused the physical injury, was arrested under charges of four counts of voluntarily causing grievous hurt to Ms. Nirmala Bonat, with harmful objects. Her husband, Hii Ik Ting, was not charged because he claims that he was rarely at home and did not commit any of the physical abuses. After the arrest, her employer obtained bail and filed a complaint against Nirmala stating that the wounds on her body were self-inflicted; she suffered from a mental disorder, and accused her of stealing large sums of money.⁵⁸ It is common in Malaysia for employers to lay counter charges against foreign maids in order for the maids to be deported or jailed. In November 2008, Yim Pek Ha was sentenced to 18 years in jail, and was found guilty on three charges. She was acquitted of the fourth charge of breaking Nirmala's nose with a metal mug. The Sessions Court Judge Akhtar Tahir ruled the guilty motion because Yim Pek Ha's testimony revealed that she did not have any remorse for her actions, and the judge described Yim's behavior as "sadistic", especially since it was repeated infliction of injuries on Nirmala.⁵⁹

Nirmala's case was able to be resolved in the court because it garnered a lot of public interest from different sides. However, other issues not related to the physical abuse, such as unpaid wages or compensation and decent conditions of work (long hours, health issues), were not addressed in the court. There are in fact very few Indonesian domestic workers in Malaysia who can successfully file a complaint against their employers for abuse. The Malaysian government makes it especially difficult for domestic workers to prosecute offenders. For instance, the workers must apply for a "special pass" that cost U.S. \$26.31 per month to stay in the country while the cases are processed because if they leave their employers, then they lose their legal status, which is a criminal offense under Malaysian immigration laws.⁶⁰ On this special pass, they are prohibited from seeking other types of employment. If the domestic workers want to change employers, they have to go back to Indonesia first and go through the placement process again, which means more fees. Rather than going through a lengthy indefinite court process and unable to earn income, many choose to drop the charges and return to Indonesia.

⁵⁷ Maid Aware, Available at: http://www.maidaware.com/Abuse_04Maid-Nirmala.html.

⁵⁸ M. Mageswari, "Nirmala Bonat may have personality disorder, says expert" *The Star Online*, (April 16, 2008).

⁵⁹ The New Straits Times, "Nirmala Bonat case: Judge describes Yim's behaviour as sadistic" (November 28, 2008), and Sushma Veera, "Nirmala Bonat case: Housewife convicted, gets 18 years" in NST online, (November 28, 2008).

⁶⁰ Human Rights Watch, *Help Wanted*, (July 2004).

3.2: Case 2: The United States

Background Information

The U.S. has been a main destination country for both formal and informal migration. Although the U.S. has labor laws that protect migrant workers despite their status when entering the country, domestic workers are still susceptible to abuses because of several reasons:⁶¹

- Live-in domestic workers are not covered by federal laws governing overtime pay, workplace health and safety, the right to organize, and sexual harassment.
- The National Labor Relations Act specifically omits domestic workers from the right to organize unions and bargain collectively.
- The Fair Labor Standards Act extended minimum wage and overtime rights to domestic workers in 1974, but it excludes "casual babysitters" and "companions" to the elderly. The Act also says that live-in domestic workers do not qualify for overtime pay.
- Domestic workers are also explicitly excluded from protection under the Occupational Health and Safety Act, which enforces safe working conditions.
- Civil rights laws, which bar workplace discrimination based on "race, color, religion, sex, or national origin," only apply to employers with fifteen or more workers, shutting out most household staffs.

Domestic workers in the U.S. are often women, minorities, and immigrants. In a recent survey of more than 500 domestic workers, "ninety-nine percent (99%) of those surveyed were foreign-born, and seventy-six percent (76%) were non-U.S. citizens. Ninety-three percent (93%) were female. Only one percent (1%) self-identified as non-Hispanic white."⁶² Their weak status under the law coupled with the "closed door" nature of domestic work, which makes it difficult for authorities to monitor their treatment, create an environment that opens the door for the abuse and exploitation of domestic workers in the U.S.

Case Profile

Name of Rights Holders: Samirah and Nona Enung (Indonesian domestic workers)

Name of Rights Offenders: Mahender Sabhnani and Varsha Sabhnani (employers)

Place of Incident: Long Island, New York

Period of Incident: From 2002 to 2007

Date case was resolved in court: December 17, 2007

Case Details

In 2007, the modern-day slavery case of two Indonesian domestic workers, Samirah and Nona Enung in Long Island uncovered an abusive work environment that was unheard of in the U.S. (see *Appendix M*). Samirah, 51 years old, and Enung, 47 years old were recruited from Indonesia by Mahender and Varsha Sabhanani, who are wealthy perfume manufacturers with relatives and business dealings in Indonesia. Both domestic workers had negotiated wages of \$200 to \$150 a month before coming to the U.S. By the time they arrived in the U.S. in 2002 with legal B-1 (visitor for business) visas, the Sabhnanis confiscated their passports and told them to never leave the premises, except to throw out the trash. Prosecutors stated that the

⁶¹ Information from "Domestic Workers' Rights in the United States" A report prepared for the U.N. Human Rights Committee In response to the Second and Third Periodic Report of the United States. Available at:

http://www.globalrights.org/site/DocServer/Domestic_Workers_report- FINAL.pdf?docID=5503.

⁶² Ibid, p.3.

women received meager to no payment during those five years. Court papers state that only Samirah's daughter was reported to receive a payment of \$100 a month from the Sabhnanis.⁶³

For years both domestic workers were kept as slaves and faced numerous forms of abuses, including torture. The main perpetrator, Mrs. Sabhnani, has been accused of beating the Indonesian workers with a broomstick and umbrella, cutting one of the ears of the maids with a knife, burning them with scalding water, making them walk up and down the stairs for as much as 150 times in a row, and as a form of punishment, they were made to eat "25 extremely hot chili peppers."⁶⁴ The women were sometimes forced to torture each other in front of the Sabhnanis. All of the torture and punishment occurred because the maids did not complete the house chores properly. The two Indonesian women were forced to work 21 hours a day, seven days a week, slept on a floor, and were confined to the mansion at all times. Prosecutors have also reported that when visitors came to the house, the women were told to hide in a small closet.⁶⁵ The women had to steal food because they were severely underfed. The abuse was finally notified to the authorities after Samirah ran away and was found wandering into a Dunkin Donuts, dressed in tattered clothes and asking for food while pointing to her stomach. The agents from the Federal Long Island Regional Human Trafficking Task Force intervened in the case by interviewing both women. Both women claimed that they were afraid to escape because they were told that their temporary visas had long expired, and if they tried to leave they would be arrested by authorities.⁶⁶ The two women only know a few of words in English and found it difficult to tell anyone about their situation.

The employers have been charged on a 12-count federal indictment, which included conspiracy, peonage, involuntary servitude, and violations of immigration law, with a maximum penalty of up to 40 years in prison.⁶⁷ Although Mrs. Sabhnani committed most of the physical abuse, the husband was also charged for conspiracy because he allowed the torture to go on and he has benefited from the "free labor" provided by the two women. During the trial, the defense attorneys made claims that the two women are liars and made up the story in order to find jobs elsewhere. The attorneys also argued that the maids practiced witchcraft and caused injuries to each other as part of an Indonesian ritual.⁶⁸ In December 2007, the Sabhnanis were found guilty under the 2000 federal Trafficking Victims Protection Act (TVPA), that is best known for its focus on sex trafficking. Since the definition of trafficking in the UN Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children, encompass "the recruitment, transportation, transfer, harboring, or receipt of persons, by means of the threat or use of force or other forms of coercion," and this includes exploitation in the form of forced labor or services similar to slavery, U.S. federal and state task forces have applied it to this case.⁶⁹ The two Indonesian women have been given shelter at Catholic charities, and they have been granted a special "T visa" under the TVPA. The T visa allows victims of sex and labor trafficking to remain temporarily in the U.S. in order to assist with the investigation or prosecution. Previously, trafficking victims were usually deported as "illegal" aliens. Under the TVPA, trafficking victims also become eligible to receive federally and state-funded services, including cash assistance, housing, food stamps, health care, and educational and job services.⁷⁰

⁶³ CBS News, "N.Y. Slavery Case Nears Conclusion." (December 11, 2007).

⁶⁴ Robert E. Kessler, "Long Island Housekeepers held as slaves, tortured" *Newsday* (May 15, 2007).

⁶⁵ *Ibid.*

⁶⁶ Paul Vitello, "From Stand in Long Island Slavery Case, a Snapshot of a Hidden U.S. Problem" *The New York Times* (December 3, 2007).

⁶⁷ CBS News, "N.Y. Slavery Case Nears Conclusion." (December 11, 2007).

⁶⁸ *International Herald Tribune*, "Long Island millionaires guilty in 'modern-day slavery' case" (December 18, 2007).

⁶⁹ UN Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children, Article 3

⁷⁰ Polaris Project, "Trafficking Victims' Protection Act (TVPA) – Fact Sheet". Available at: www.polarisproject.org/images/docs/newest%20tvpact%20fact%20sheet%20july%202008.pdf

IV. KEY POINTS

Both cases highlight the following categories of human rights violations (see *Appendix N*):⁷¹

- Discrimination based on gender and national origin
- Forced labor, slavery and servitude
- Torture and cruel degrading treatment (physical violence)
- No equal protection under the law
- Denial of international standards of decent conditions of work (long hours, no minimum wage, no rest or holidays, etc.)
- Restriction of movement (passport held and unable to leave the country)
- Exploitation of children or child labor (children under 18 are recruited as domestic workers)
- Denial of a standard of living adequate for the health and wellbeing of a person (no medical attention in cases of injury, no adequate food)

⁷¹ See Appendix N for a list of international legal norms and standards that can be applied to these cases.

APPENDICES 1: THE CASE STUDY

APPENDIX A: Political Map of Indonesia



FACTS

- *Full name: Republic of Indonesia*
- *Population: 234.693, 997 million (2007)*
- *Capital: Jakarta*
- *Area: 1.9 million sq km (742,308 sq miles)*
- *Major languages: Indonesian, 300 regional languages*
- *Major religion: Islam*
- *Life expectancy: 69 years (men), 73 years (women) (UN)*
- *Monetary unit: 1 rupiah (Rp)*
- *Main exports: Oil and gas, plywood, textiles, rubber, palm oil*
- *GNI per capita: US \$1,650 (World Bank, 2007)*

APPENDIX B: Human Development Report and selected indicators for Indonesia

INDONESIA- HDI RANK 107

INDICATOR	VALUE	INDICATOR	VALUE	INDICATOR	VALUE
01. Human development index		0.4 Demographic trends		09. Gender-related development index	
Human development index value, 2005	0.728	Population, total (millions), 1975	135.4	Gender-related development index (GDI) rank, 2005	93
Life expectancy at birth, annual estimates (years), 2005	69.7	Population, total (millions), 2005	226.1	Gender-related development index (GDI) value, 2005	0.721
Adult literacy rate (% aged 15 and older), 1995-2005	90.4	Population, total (millions), 2015	251.6	Life expectancy at birth, female (years), 2005	71.6
Combined gross enrolment ratio for primary, secondary and tertiary education (%), 2005	68.2	Population, annual growth rate (%), 1975-2005	1.7	Life expectancy at birth, male (years), 2005	67.8
GDP per capita (PPP US\$), 2005	3,843	Population, annual growth rate (%), 2005-15	1.1	Adult literacy rate, female (% aged 15 and older), 2005	86.8
Life expectancy index	0.745	Population, urban (% of total population), 1975	19.3	Adult literacy rate, male (% aged 15 and older), 2005	94
Education index	0.83	Population, urban (% of total population), 2005	48.1	Combined gross enrolment ratio for primary, secondary and tertiary education, female (%), 2005	67
GDP index	0.609	Population, urban (% of total population), 2015	58.5	Combined gross enrolment ratio for primary, secondary and tertiary education, male (%), 2005	70
GDP per capita (PPP US\$) rank minus HDI rank	6	Population under age 15 (% of total population), 2005	28.4	Estimated earned income, female (PPP US\$), 2005	2,410
1a. Basic indicators for other UN member states		Population under age 15 (% of total population), 2015	24.9	Estimated earned income, male (PPP US\$), 2005	5,280
Life expectancy at birth, annual estimates (years), 2000-05	69.7	Population aged 65 and older (% of total population), 2005	5.5	HDI rank minus GDI rank, 2005	1
Adult literacy rate (% aged 15 and older), 1995-2005	90.4	Population aged 65 and older (% of total population), 2015	6.6	10. Gender empowerment measure	
Combined gross enrolment ratio for primary, secondary and tertiary education (%), 2005	68.2	Fertility rate, total (births per woman), 1970-75	5.3	Gender empowerment measure (GEM) rank	..
GDP per capita (PPP US\$), 2005	3,843	Fertility rate, total (births per woman), 2000-05	2.4	Gender empowerment measure (GEM) value	..
Population, total (thousands), 2004	226,063	05. Inequality in income or expenditure		Seats in parliament (% held by women)	11.3
Fertility rate, total (births per woman), 2000-05	2.4	Survey Year	2002	Legislators, senior officials and managers (% female), 1999-2005	..
Under-five mortality rate (per 1,000 live births), 2005	36	Share of income or consumption, poorest 10% (%)	3.6	Professional and technical workers (% female), 1994-2005	..
Net primary enrolment rate (%), 2004	96	Share of income or consumption, poorest 20% (%)	8.4	Ratio of estimated female to male earned income	0.46
HIV prevalence (% aged 15-49), 2005	0.1 [0.1-0.2]	Share of income or consumption, richest 20% (%)	43.3	11. Gender inequality in education	
Population undernourished (% of total population), 2002/04	6	Share of income or consumption, richest 10% (%)	28.5	Adult literacy rate, female (% aged 15 and older), 2005	86.8
Population using an improved water source (%), 2004	77	Inequality measures, ratio of richest 10% to poorest 10%	7.8	Adult literacy rate (ratio of female rate to male rate), 2005	0.92
02. Human development index trends		Inequality measures, ratio of richest 20% to poorest 20%	5.2	Youth literacy rate, female (% aged 15-24), 2005	98.5
Human development index (trends), 1975	0.471	Gini index	34.3	Youth literacy rate (ratio of female rate to male rate), 2005	1
Human development index (trends), 1980	0.533	06. Survival: progress and setbacks		Net primary enrolment rate, female (%), 2005	94
Human development index (trends), 1985	0.585	Life expectancy at birth, quinquennial estimates (years), 1970-75	49.2	Net primary enrolment rate (ratio of female rate to male rate), 2005	0.96
Human development index (trends), 1990	0.626	Life expectancy at birth, quinquennial estimates (years), 2000-05	68.6	Gross primary enrolment ratio, female (%), 2005	115
Human development index (trends), 1995	0.67	Life expectancy at birth, 1970	104	Gross primary enrolment ratio (ratio of female ratio to male ratio)	0.96
Human development index (trends), 2000	0.692	Infant mortality rate (per 1,000 live births), 2005	28	Gross secondary enrolment ratio, female (%), 2005	63
Human development index (trends), 2005	0.728	Under-five mortality rate (per 1,000 live births), 1970	172	Gross secondary enrolment ratio (ratio of female ratio to male ratio), 2005	0.99
03. Human and income poverty: developing countries		Under-five mortality rate (per 1,000 live births), 2005	36	Gross tertiary enrolment ratio, female (%), 2005	15
Human poverty index (HPI-1) rank	47	Probability at birth of surviving to age 65, female (% of cohort), 2000-05	75.8	Gross tertiary enrolment ratio (ratio of female ratio to male ratio), 2005	0.79
Human Poverty Index (HPI-1) value (%)	18.2	Probability at birth of surviving to age 65, male (% of cohort), 2000-05	68.1	12. Gender inequality in economic activity	
Probability at birth of not surviving to age 40 (% of cohort), 2000-05	8.7	Maternal mortality ratio, reported (per 100,000 live births), 1990-2004	310	Economic activity rate, female (% aged 15 and older), 2005	51
Adult illiteracy rate (% aged 15 and older), 1995-2005	9.6	Maternal mortality ratio, adjusted (per 100,000 live births), 2000	420	Economic activity index (1990=100), female (aged 15 and older), 2005	101
Population not using an improved water source (%), 2004	23	07. Literacy and enrolment		Economic activity rate (female rate as % of male rate, aged 15 and older), 2005	60
Children underweight for age (% under age 5), 1996-2005	28	Adult literacy rate (% aged 15 and older), 1985-1995	81.5	Employment in agriculture, female (% of total female employment), 1995-2005	45
Population living below \$1 a day (%), 1990-2005	7.5	Adult literacy rate (% aged 15 and older), 1995-2005	90.4	Employment in agriculture, male (% of total male employment), 1995-2004	43
Population living below \$2 a day (%), 1990-2005	52.4	Youth literacy rate (% aged 15-24), 1985-1995	96.2	Employment in industry, female (% of total female employment), 1995-2003	15
Population living below the national poverty line (%), 1990-2004	27.1	Youth literacy rate (% aged 15-24), 1995-2005	98.7	Employment in industry, male (% of total male employment), 1995-2003	20
HPI-1 rank minus income poverty rank	10	Net primary enrolment rate (%), 1991	97	Employment in services, female (% of total female employment), 1995-2003	40
		Net primary enrolment rate (%), 2005	96	Employment in services, male (% of total male employment), 1995-2003	37
		Net secondary enrolment rate (%), 1991	39	Contributing family workers, women (% of total), 1995-2005	..
		Net secondary enrolment rate (%), 2005	58	Contributing family workers, men (% of total), 1995-2004	..
		Children reaching grade 5 (% of grade 1 students), 1991	84	13. Women's political participation	
		Children reaching grade 5 (% of grade 1 students), 2004	89	Year women received right to vote	1945, 2003
		Tertiary students in science, engineering, manufacturing and construction (% of tertiary students), 1999-2005	..	Year women received right to stand for election	1945
		08. Unemployment and informal sector work in non-OECD countries		Year first woman elected (E) or appointed (A) to parliament	1950 A
		Unemployed people (thousands), 1996-2005	10,854	Women in government at ministerial level (as % of total), 2005	10.8
		Unemployment rate Total (% of labour force), 1996-2005	9.1	Seats in lower house or single house (% held by women), 1990	12.4
		Unemployment rate (female rate as % of male rate), 1996-2005	155	Seats in lower house or single house (% held by women), 2007	11.3
		Employment, total (thousands), 1996-2005	94,948	Seats in upper house or senate (% held by women), 2007	N/A
		Employment in agriculture (% of total employment), 1996-2005	44		
		Employment in industry (% of total employment), 1996-2005	18		
		Employment in services (% of total employment), 1996-2005	38		
		Survey year, 1990-2004	1998		
		Employment in non-agricultural informal sector, both sexes (% of non-agricultural employment), 1990-2004	78		
		Employment in non-agricultural informal sector, female (% of non-agricultural employment), 1990-2004	77		
		Employment in non-agricultural informal sector, male (% of non-agricultural employment), 1990-2004	78		









APPENDIX C: Indonesia MDGs Progress by Goals

Goal 1: Eradicating Extreme Poverty and Hunger






Target 1: Halve, between 1990-2015, the proportion whose income is less than \$1 per day							
No	Indicator	1990	2007	Target	Note	Status	
1	Poverty (US\$ 1per day)	20,6%	7.5%	10.0%	Standard too low	achieved	⊙
1a	Poverty (National)	15.1%	16.6%	7.5%	High but declining	Need to work hard	↓
Target 2: Halve, between 1990-2015, the proportion who suffer from hunger							
No	Indicator	1990	2007	Target	Note	Status	
2	Poor Nutrition	6.3%	8.8%	3.3%	Slowly increasing	Need to work hard	↓

Progress by Goal

Current status in accordance with national Government reporting:

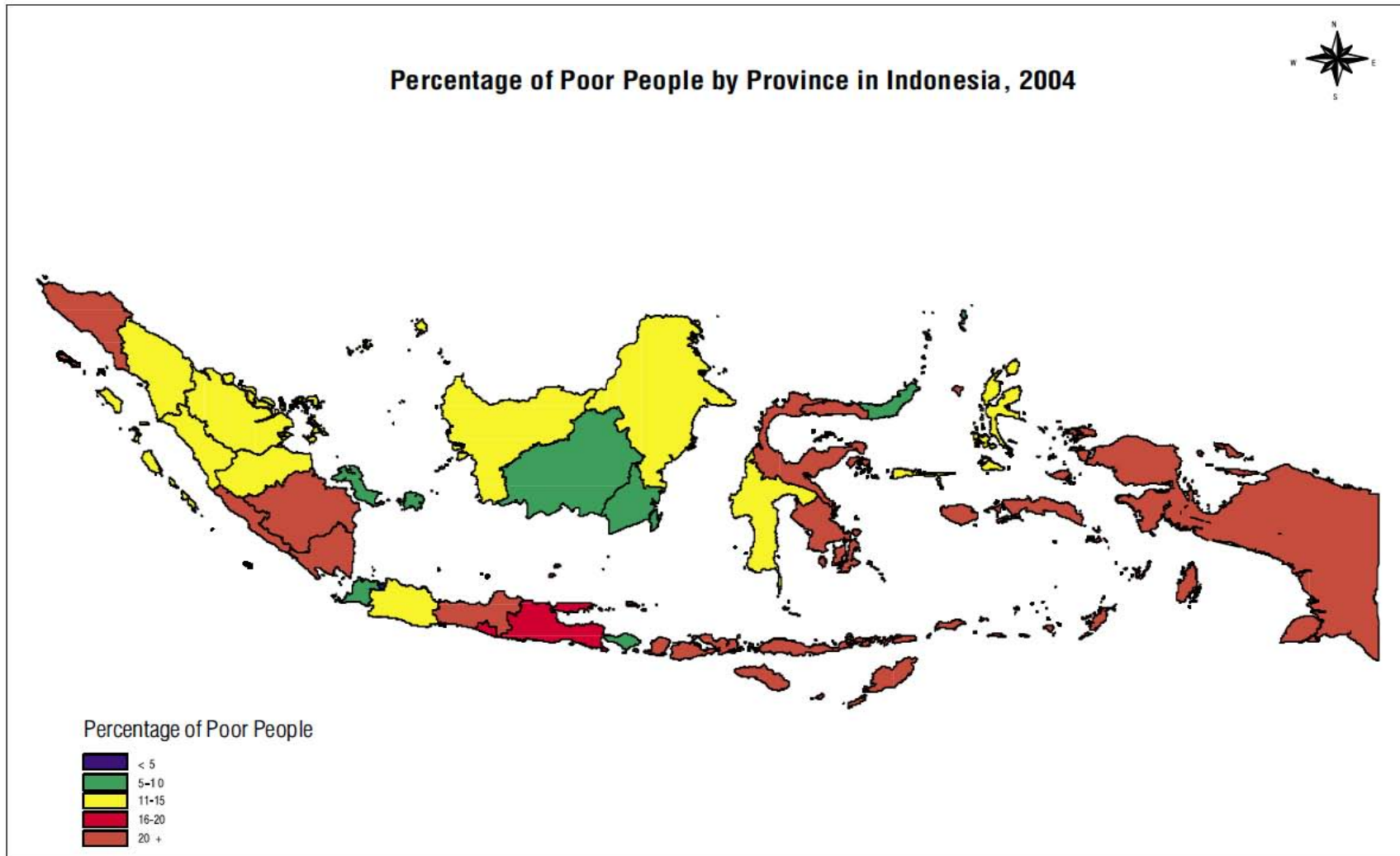
⊙		Eradicate extreme poverty and hunger
⊙		Achieve universal primary education
⊙		Promote gender equality and empower women
⊙		Reduce child mortality
⊙		Improve maternal health
⊙		Combat HIV/AIDS, malaria and other diseases
⊙		Ensure environmental sustainability
⊙		Develop a global partnership for development

ICON LEGEND

-  Achieved
-  Very likely to be achieved, on track
-  Possible to achieve if some changes are made
-  Off track
-  Insufficient information

Source: MDG Monitor Website

APPENDIX D: Poverty Incidences Based on Different Regions



APPENDIX E: International Treaties and Standards Signed/Ratified by Indonesia

Status of Major International Human Rights Instruments	Year of ratification/signature
International convention on the Prevention and Punishment of the Crime of Genocide, 1948	N/A
International Convention on the Elimination of All Forms of Racial Discrimination, 1965	1999
International Covenant on Civil and Political Rights, 1966	2006
International Covenant on Economic, Social and Cultural Rights, 1966	2006
International Convention on the Elimination of All Forms of Discrimination Against Women, 1979	1984
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	1998
Convention on the Rights of the Child, 1989	1990
Status of Fundamental Labor Rights Conventions	Year of ratification/signature
Freedom of association and collective bargaining - Convention 87	1998
Freedom of association and collective bargaining - Convention 98	1957
Elimination of forced and compulsory labor - Convention 29	1950
Elimination of forced and compulsory labor - Convention 105	1999
Elimination of discrimination in respect of employment and occupation- Convention 100	1958
Elimination of discrimination in respect of employment and occupation- Convention 111	1999
Abolition of child labor - Convention 138	1999
Abolition of child labor - Convention 182	2000

APPENDIX F: MDG Progress of Gender Equity in Indonesia

Goal 3: Promoting Gender Equality and Empowering Women

Target 4: Eliminate gender disparity in primary and secondary education preferably by 2005 and in all level of education no later than 2015							
No	Indicator	1990	2007	Target	Note	Status	
4a	Ratio of girl enrolled in Basic Education	100.6%	100%	100%	Much improvement	achieved	○
4b	Ratio of girl enrolled in Secondary Education	101.3%	99.4%	100%	Much improvement	as targeted	↑
4c	Ratio of girl enrolled in Tertiary Education	98.0%	100%	100%	Much improvement	achieved	○
4d	Ratio of girl enrolled in Higher Education	85.1%	102.5%	100%	Much improvement	achieved	○
4e	Ratio of Illiteracy Women aged 15-24	97.9%	99.9%	100%	Much improvement	as targeted	↑
4f	Contribution of women in wage occupation	29.2%	33.0%	50%	Relatively Stagnant	Need to work hard	↓

Source: MDG Monitor Website

APPENDIX G: Statistics on Women in Indonesia


WOMEN	DATA
Life expectancy: females as a % of males, 2006	106
Adult literacy rate: females as a % of males, 2000-2006*	93
Enrolment and attendance ratios: females as a % of males, net primary school 2000-2006*, enrolled	97
Enrolment and attendance ratios: females as a % of males, net primary school 2000-2006*, attending	101
Enrolment and attendance ratios: females as a % of males, net secondary school 2000-2006*, enrolled	98
Enrolment and attendance ratios: females as a % of males, net secondary school 2000-2006*, attending	104
Contraceptive prevalence (%), 2000-2006*	57
Antenatal care coverage (%), 2000-2006*	92
Skilled attendant at delivery (%), 2000-2006*	72
Institutional deliveries (%), 2000-2006*	40
Maternal mortality ratio†, 2000-2006*, reported	310
Maternal mortality ratio†, 2005, adjusted	420
Maternal mortality ratio†, 2005, Lifetime risk of maternal death. 1 in:	97

Source: UNICEF, *At a glance: Indonesia statistics*

APPENDIX H: Example of Migration Costs for an Indonesian Worker in Malaysia

Migration Costs			
Annual Cost of Migrating and Remitting Funds for an Indonesian worker in Malaysia			
	construction	plantation	domestic work
average monthly salary ^a	170	80	157.5
average salary for a year	2040	960	1890
average amount remitted in one year ^b	918	432	850.5
average migration cost ^c	-475	-363	-343
yearly remittance cost (to send from Malaysia) ^d	-7	-7	-7
yearly remittance cost (to receive in Indonesia)	-20	-20	-20
total cost	-502	-390	-370

a. Average salary for a year was found by taking the average monthly salary in US dollars (provided by the Malaysian Ministry of Home Affairs) and multiplying by 12
 b. Average amount remitted is based on Bank Indonesia estimate that a TKI remits approximately 45% of his or her salary
 c. Average migration cost and yearly remittance costs (in US dollars) are based upon World Bank primary interviews with TKI and RSPs
 d. Salary yearly remittance cost is based upon the assumption that workers remit twice a year through bank channels

18 

Source: East Asia Social Development Unit and Financial Market Integrity Unit (FPDFI), World Bank, 2008

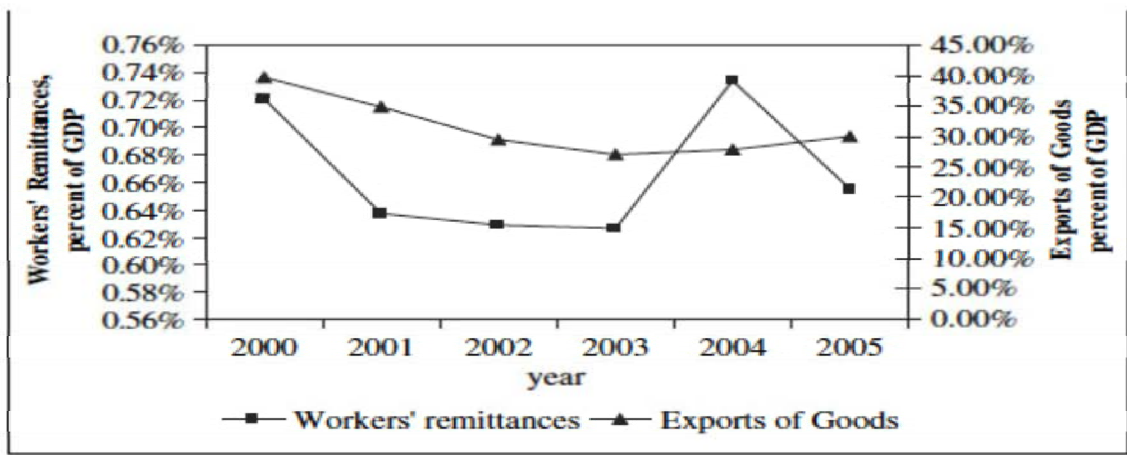
APPENDIX I: Placement Fees for Indonesian Migrant Workers based on Countries

Country of Destination	Placement fee (Depnakertrans)	Fee paid by female migrant workers	Method of payment
Hong Kong	Rp 18,000,000	Rp 21,000,000	81% deducted from monthly wages during 7 months
Taiwan	Rp 24,000,000	Rp 36,000,000	67% deducted from monthly wages during 14 months.
Saudi Arabia and other Middle Eastern countries	Rp 500,000	Rp 600,000-Rp 3,500,000	Cash. In cases where they borrow money from sponsor or local money-lenders, payment may be 3 times higher than the loan.
Malaysia	Rp 500,000	Rp 800,000	100% deducted from the monthly wages for 1 month

Exchange Rate 2006: U.S. \$1= Rp. 9,159.3, Source: World Bank Fact Sheet, 2006.

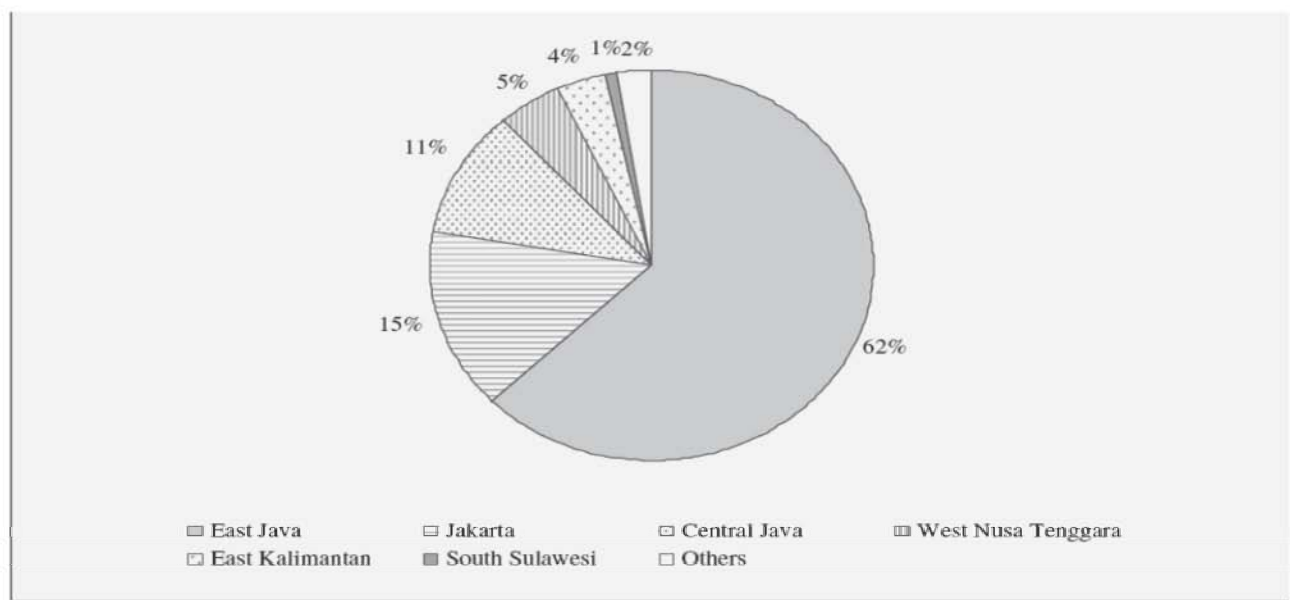
APPENDIX J: Remittance Trends⁷²

Indonesia: Exports of Goods and Inflows of Workers' Remittances as a Percentage of GDP (2000–2005)



Source: Bank Indonesia. Worker's remittances and compensation received figures in this graph are based on bank and other money transfer operator reporting. In 2005, a new method of estimating remittances was launched; the number presented here is the non-revised figure and thus more consistent with the figures from the previous years.

Total Remittances Inflows to Indonesia by Region, January–April 2007



Source: Badan Pelayanan Penempatan Tenaga Kerja Indonesia (Institution Service for Indonesian Migrant Workers in District Area).

⁷² All sources in this appendix are from World Bank Working Paper No 149, 2008.

APPENDIX K: Other Cases of Abuse towards Indonesian Domestic Workers in Malaysia

Information taken from *The New Straits Times* (Malaysian Newspaper)⁷³

- **Nov 20, 2008:** The Court of Appeal enhanced the sentence of a chicken rice seller for raping his 19-year Indonesian maid. Seow Eng Aik's actions were described as sadistic by Court of Appeal Judge Datuk Suriyadi Halim Omar who sentenced him to 16 years' jail and six strokes for each of the two counts of rape. On the third count, Seow was sentenced to another 16 years' jail and six strokes of the rotan, to run consecutively with the other two sentences.

- **Sept 26, 2008:** A 42-year-old unemployed man was charged at the Petaling Jaya magistrate's court with murdering his wife and maid. Phoy Yew Yong was alleged to have murdered Ang Sook Foon, 38, and Indonesian Siti Fatonah, 28, at No 52, Jalan Wawasan 3/8, Taman Wawasan, Pusat Bandar Puchong at 7am on Sept 12.

- **Sept 19, 2007:** Information technology department manager Mat Sidi Samad claimed trial at the Kuala Lumpur Sessions Court to three counts of raping his 34-year-old maid at his house. He was accused of committing the offence during his ex-wife's pregnancy at their home in Cheras.

- **Aug 30, 2007:** A housewife was charged at the Petaling Jaya magistrate's court with the murder of her maid while her husband was accused of trying to cover up the act. Cheng Pei Ee, 29, is alleged to have murdered her Indonesian maid, Kunasir, 24, at her house in Taman Puchong Perdana, Puchong on Aug 14. Her husband, Goo Eng Keng, 34, a contractor, was charged with the disposal of evidence or giving false information to protect his wife.

⁷³ Available at: <http://www.asiaone.com/News/AsiaOne%2BNews/Crime/Story/A1Story20081128-104070.html>

APPENDIX L: The Case in Malaysia-Nirmala Bonat



Passport photo before Nirmala left to Malaysia

Bruises and scars left from the physical abuse. These pictures caused international outrage when it was placed in the front page of Malaysian Newspapers

Nirmala is now advocating for the rights of domestic workers

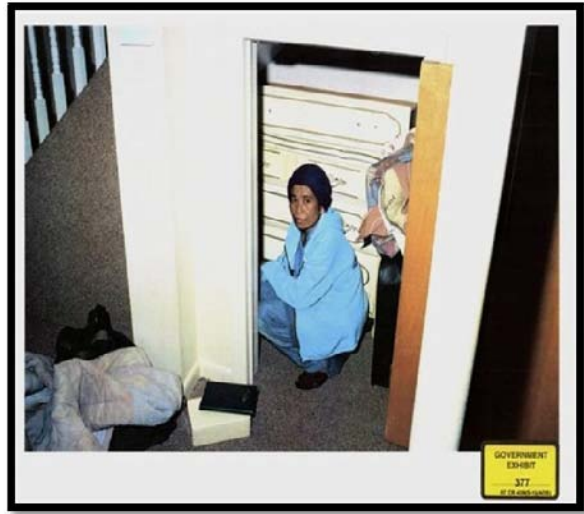


The employer charged with the abuse: Yim Pek Ha and her husband Hii Ik Ting

Source of pictures: *The Star* Online. www.thestar.com

The following is a link that compiles sources on Nirmala Bonat's case. There are 130 online articles on this issue:
http://www.zoominfo.com/people/Bonat_Nirmala_516774959.aspx

APPENDIX M: The Case in the U.S.- Samirah and Nona Enung



Enung, who was made to sleep on the floor and hide in a closet



**Mahender and Varsha Sabhnani
The employers**



**The injured domestic
worker Samirah**

Source of pictures: *The New York Times*

APPENDIX N: International Legal Norms and Standards for the Cases

Universal Declaration of Human Rights (UDHR)

- Article 2: Non-discrimination
- Article 4: No one shall be held in slavery or servitude
- Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Article 7: All are equal before the law and are entitled without any distinction to equal protection of the law.
- Article 13: The right to freedom of movement
- Article 23: The right to work and just and favorable conditions of work.
- Article 24: The right to rest and leisure
- Article 25: A standard of living adequate for the health and well-being of a person

International Covenant on Civil and Political Rights (ICCPR)

- Article 8: No one shall be held in slavery or servitude

International Covenant on Economic, Social and Cultural Rights (ICESCR)

- Article 7: The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work. See (a), (b), (c), (d).

Convention on the Rights of the Child

- Article 32: The right of the child to be protected from economic exploitation, and the state obligation to provide minimum age requirements and appropriate conditions of work.

Convention on the elimination of all forms of discrimination against women

- Article 11: Elaborates on the rights of women in the field of employment.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

- Article 7: Non-discrimination with respect to rights
- Article 8: Freedom of movement for migrants and their family members
- Article 10: No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Article 11: No migrant worker should be held in slavery or servitude or perform forced or compulsory labor.
- Article 14: No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, correspondence or other communications.
- Article 18: Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals.
- Article 21: It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents.
- Article 24: Every migrant worker and every member of his or her family shall have the right to recognition everywhere as a person before the law.
- Articles 25, 27, 28: Principle of equality of treatment in respect of: remuneration and other conditions of work and terms of employment; social security; and right to receive urgent medical care.

Specific ILO conventions

- Migration for Employment Convention (Revised) (No. 97)
- ILO Forced Labour Convention (No. 29) and Recommendation (No. 35)
- Equal Remuneration Convention (No.100) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value
- ILO Employment Policy (No. 122)
- ILO Occupational Safety and Health (No. 155) and Recommendation (No. 164)
- ILO Employment Service Convention (No.88)
- Workers Housing Recommendation (No.115)
- ILO Forty-Hour Week Convention 1935 (No. 47)
- ILO Minimum Age Convention (No. 138) and Recommendation (No. 146).
- ILO Worst Forms of Child Labour Convention (No. 182)
- ILO Convention on discrimination in respect of employment and occupation (No. 111)
- ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No. 143)
- ILO Declaration on Fundamental Principles and Rights at Work

Protocols

- The Protocol against the Smuggling of Migrants by Land, Sea, and Air
- The Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children
- Protocol amending the Slavery Convention (1953)
- Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956)

Commission on Human Rights Resolution

- Violence against women migrant workers: The UN Special Rapporteur on violence against women has stated that in certain circumstances, violence against women by private actors, including gender-based violence that is perpetrated against women and girls in the domestic sphere, should be considered a form of torture if it is severe and if the state fails to take appropriate steps to prevent and punish it.

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UNDP- Indonesia: www.undp.or.id/

UNICEF: www.unicef.org

UNIFEM: <http://www.unifem.org/>

UN Office of the High Commissioner for Human Rights-OHCHR: www.ohchr.org

World Bank, Data and Statistics on Indonesia: <http://www.worldbank.or.id/>