

## Migrant Workers, Legal Tactics, and Fragile Family Formation in Hong Kong

NICOLE CONSTABLE \*

Constable, N., 2013. Migrant Workers, Legal Tactics, and Fragile Family Formation in Hong Kong. *Oñati Socio-Legal Series* [online], 3 (6), 1004-1022. Available from: <http://ssrn.com/abstract=2356926>



### Abstract

Immigration and labor laws and policies, including employment contracts for temporary workers, are largely intended to protect the rights and privileges of citizens and to limit those of migrant workers. In Hong Kong, “foreign domestic helpers” are prohibited from bringing family members with them and despite legal maternity protections they face many deterrents to being or becoming pregnant. Yet some migrant women nonetheless become mothers in Hong Kong, and learn from friends, partners, nongovernmental organizations and human rights lawyers, to utilize laws and policies – such as the UN Convention Against Torture, labor law and family law – as tactics to establish and maintain a “family” of sorts in the region, at least temporarily. This essay presents ethnographic examples of the tactical use of law by migrant mothers in their efforts to remain in Hong Kong with their children, despite hegemonic pressures against doing so).

### Key words

Migrant workers; UN Conventions Against Torture; right of abode; gender and citizenship

### Resumen

Las leyes y políticas laborales y de inmigración, incluyendo los contratos de trabajo de los trabajadores temporales, están destinadas principalmente a proteger los derechos y privilegios de los ciudadanos y limitar los de los trabajadores emigrantes. En Hong Kong, “las trabajadoras domésticas extranjeras” tienen prohibido traer miembros de la familia con ellos, y a pesar de las protecciones legales de maternidad se enfrentan a muchos impedimentos si están o se quedan

---

Article resulting from the paper presented at the workshop “Law in the everyday lives of transnational families” held in the International Institute for the Sociology of Law, Oñati, Spain, 14-15 June 2012, and coordinated by Betty de Hart (Radboud University Nijmegen) and Wibo van Rossum (Utrecht University). My thanks to Betty de Hart, Wibo van Rossum, and the workshop participants. This paper and the wider project has benefited from more individuals and organizations than I can list here, but I must acknowledge the staff and clients at PathFinders, the Mission for Migrant Workers, and Christian Action. Peter Barnes, Irene Domingo, Jennifer Lee-Shoy, Jan Yumul, and many others in Hong Kong generously shared legal expertise, experiences, and insights. The many migrant mothers and children at the heart of this project must remain anonymous, but have my everlasting gratitude.

\* Professor of Anthropology in the Dietrich School of Arts and Sciences at the University of Pittsburgh. Anthropology Department, 3302 W. W. Posvar Hall, University of Pittsburgh, Pittsburgh, PA 15260, USA. [ncgrad@pitt.edu](mailto:ncgrad@pitt.edu)



embarazadas. Sin embargo, algunas mujeres emigrantes se convierten en madres en Hong Kong, y aprenden de los amigos, socios, organizaciones no gubernamentales y abogados de derechos humanos a utilizar las leyes y políticas - como la Convención de la ONU contra la Tortura, el derecho laboral y el derecho de familia - como tácticas para establecer y mantener una "familia" tipo en la región, al menos temporalmente. Este ensayo presenta ejemplos etnográficos de la utilización táctica de la ley por las madres emigrantes en sus esfuerzos por permanecer en Hong Kong con sus hijos, a pesar de las presiones hegemónicas que no lo permiten.

**Palabras clave**

Trabajadores emigrantes; Convenciones de la ONU contra la Tortura; derecho de residencia; género y ciudadanía

**Table of contents**

1. Introduction: law and migrant mothers .....	1007
2. FDHs in Hong Kong .....	1009
3. Pregnancy and motherhood.....	1011
4. Putri: married to a local resident.....	1013
5. Rose and Barney: single mother and child .....	1014
6. Ratna: domestic worker and child .....	1015
7. The Domingo family – fighting for right of abode .....	1017
8. Conclusion: the right to remain in Hong Kong .....	1018
Bibliography .....	1020

## 1. Introduction: law and migrant mothers

In *Whigs and Hunters*, Marxist historian E.P. Thompson examined the relationship between law and class power in 18<sup>th</sup> century England and famously concluded, to his own surprise, that law does not simply equal class power, but that the relationship is “a complex and contradictory one” (1975, p. 264). Laws “mediate the existent class relations to the advantage of the rulers” (p. 264) but “at the same time they may curb that power and check its intrusions” (p. 265). Unless the law is seen as just, it loses its power to mask and legitimize class hegemony, and it cannot seem just “without upholding its own logic and criteria of equity; indeed, on occasion, by actually *being* just” (p. 263). Despite the legitimizing role of law in class relations, it can “inhibit power and afford some protection to the powerless” (Thompson 1975, p. 266).

Within the contemporary Asian context of transnational migrant labor and local citizenship, a parallel but wider argument can be made which goes beyond class interests: labor and migration laws in receiving countries may serve primarily to legitimize and protect the hegemonic interests of privileged local citizens, but at the same time, and in order to maintain their legitimacy, laws can – and *must* on occasion – also offer some protection to those at the lower end of the hierarchy, including temporary migrant workers. In Hong Kong and many other locations, “foreign domestic helpers” (FDHs)<sup>1</sup> are denied the rights of “citizenship” in the broader sense of political privileges and cultural belonging (Rosaldo 1994). In some ways they are “outside” of the law, relegated to a “zone of exclusion” (Agamben 1998, Ong 2009). However, in a more practical sense, as I will show, they are also very much *within the law* as they learn about and learn to *use* various local and international laws in their struggles to assert the right to form transnational families. They utilize labor, family, and human rights laws as “tactics” which, as described by de Certeau, are “an art of the weak” (1984, p. 37). Law, is “fragmented and fraught with contradictions and logical flaws” (van Walsum 2009, p. 245) and can thus be utilized by migrant women to “increase their agency in realizing ....their identity as mature adults: that of parents responsible for the welfare and future of their children” (p. 246).

Influenced by a wider literature that connects gender, sexuality, and migration to the complexities and contradictions of laws and policies (Bhabha 2009, de Hart 2009, Luibheid 2004, Suzuki 2010, Raissiguier 2010), I consider how migrants with precarious residence status navigate the often contradictory realms of law at their disposal as workers, family members, aliens and potential claimants of state protection. Local laws and policies pertaining specifically to domestic workers, as described below, often constrain domestic workers’ rights and opportunities while benefiting their employers. But at the same time, laws and policies – when put into practice and effectively implemented – can offer protections and opportunities. Laws offer tactics for migrant women to remain in Hong Kong with a legal status other than “FDH” or “illegal” or “undocumented” overstayer. On the one hand laws and policies such as the Immigration Ordinance (CAP 115) and the Standard Employment Contract *constrain* FDHs, creating severe restrictions and limitations to their rights and citizenship – especially their ability to seek new employment and, central to this essay, to form families in the “host” region. On the other hand, and simultaneously, other laws and policies such as the Parent and Child Ordinance (CAP 429), the Employment Ordinance (CAP 57), and UN conventions on refugees and against torture can offer opportunities for former or current FDHs to form families and remain there at least temporarily.

This essay is part of a larger project based on over twelve months of ethnographic research conducted between 2010 and 2012 in Hong Kong on policies, practices

---

<sup>1</sup> The government uses “foreign domestic helper” or “FDH”. Normally, in keeping domestic worker activists who consider “helper” demeaning, I use “foreign domestic worker.” Here I use “FDH” to highlight and emphasize the narrow dimensions of the government construct.

and everyday experiences of migrant mothers and their Hong Kong-born babies. The Indonesian and Filipino mothers I knew all entered Hong Kong as domestic workers. I met many through a nongovernmental (NGO) charity organization called PathFinders that aimed to assist pregnant migrant women and migrant mothers and their children to find a path to return home, and through several other NGOs, grass roots activist organizations, contacts, and friends. I met over 100 migrant mothers and their children, and over 25 current or former male partners of such women. I conducted around 65 formal interviews and had endless conversations with mothers as I accompanied them and their children to government and NGO offices; visited their homes; attended birthday parties and baptisms; accompanied them to court, the birth registry, welfare offices, hospitals and clinics. I interviewed dozens of NGO staff, service providers, social workers, lawyers and activists; and visited several mothers and children who had returned to Central and East Java.

Mothers' situations are highly varied and cannot be easily summarized. On one end of the spectrum are those considered most fortunate: former FDHs who are married to local residents, who normally hold dependent status, and whose children have permanent residency (known in Hong Kong as "right of abode" or ROA).<sup>2</sup> On the opposite end of the spectrum are those whose situation is most precarious, who appear to be outside of the law: former FDHs who have overstayed their visas and who if caught would officially be considered "undocumented" or "illegal" overstayers (De Genova 2002).

In between these two extremes are several other categories, including those who still work as FDHs and who can be sub-divided further into the majority who have taken their babies home to be cared for by a relative and then return to work in Hong Kong, and a very small number who resume work but who – against many odds – manage to keep the child in Hong Kong, often with the help of the employer. Others, a large number of the women I knew whose contracts were terminated (either by their own or their employers' initiative), filed torture or asylum claims through the Hong Kong government or the United Nations High Commission on Refugees. They did so not because they expected to win such claims, since no domestic workers have ever done so, but because filing a claim allows them to remain in Hong Kong while the case is processed (Constable forthcoming). As such, the immigration department provides them with "recognizance papers" (popularly known as "immigration papers" or "recognition papers") permitting them to stay in Hong Kong while their claim is pending, but not allowing them to work.

Here I focus on these "middle categories." Not the women and children whose legal rights are clear because they are unambiguously married to local residents or citizens, and not the overstayers who are "outlaws" or "undocumented," but those who are in between – either working legally or on temporary visas or recognizance papers – neither "citizens" nor so-called "undocumented" or "illegal" migrants. It is important to note, however, that women can and often do move between one category and another.

Below, I first describe the context within which migrant women work in the self-proclaimed "Asian World City" of Hong Kong where they are expected to leave their families behind and make their Hong Kong employer's family their first priority. Next, I discuss the circumstances of migrant motherhood in which a small number of current or former FDHs manage to give birth in Hong Kong. This is followed by examples of migrant mothers and their encounters with Hong Kong's legal system in order to assert their own or their child's legal right to stay. As these examples illustrate, current and former FDHs, despite the various forms of opposition to their doing so, get pregnant, give birth and become mothers in Hong Kong. They avail

---

<sup>2</sup> After having legal dependent status for seven years, they qualify to apply for permanent residency (ROA).

themselves of legal tactics and inconsistencies in an effort to keep what we might call a transnational family – in its smallest and most abbreviated form of one or two parents and a child – together.

## 2. FDHs in Hong Kong

As of early 2012 there were over 300,000 documented foreign domestic workers in Hong Kong, on renewable two-year FDH visas, working for one employer and one household. Approximately half of all such workers come from Indonesia, slightly less than half from the Philippines, and smaller numbers from Thailand, Sri Lanka, Nepal, India and elsewhere. Most are women and most come to Hong Kong in their twenties and thirties, from a variety of familial and marital situations. Some are married, some are divorced or separated, and roughly half are single. The strain of geographic separation can result in marital conflicts and infidelity. In Indonesia and the Philippines, given economic difficulties, unemployment and underemployment, most migrant workers go to work abroad in Hong Kong, Taiwan, Singapore, Malaysia, and regions of the Middle East intending to send remittances home to help support family members. The exorbitant and often unlawful fees charged by recruiters and money lenders often lead to mounting debts, and workers are known to put up with abusive employers so as to not forfeit their anticipated income and their ability to pay back debts and make remittances (Ong 2009, Mission 2012, Constable 2007).

Hundreds of thousands of Hong Kong households depend on fulltime, live in foreign domestic workers to provide child care, elderly care, clean, cook, and to do other household work that allows women employers to go out to work or to enjoy more leisure lives. Such workers are widely viewed as a necessity by their employers. Yet dependence does not translate into a commitment to equal rights, but rather, as Ong describes within the wider context of Asia, they are “an expendable and underpaid servant class” (2009, p. 158). Expressing appreciation of FDHs, Hong Kong political commentator Alex Lo (2012) wrote:

The maids, as a group, have over many decades contributed far more to the well-being and prosperity of Hong Kong than any other group of expats. We have all benefited, especially local women. How many female executives - or ordinary women workers - would have been confined to the home if domestic help had not been available? Those women have been liberated from domesticity and can now build meaningful - even powerful - careers on par with men, largely thanks to the maids' sacrifices.

A more common view, voiced by the employer's association, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and many others is that “helpers” are welcomed to Hong Kong only when they “know their place,” which is to provide labor to locals and then to return to their country of origin. Unlike most other foreigners who come to work in Hong Kong, foreign domestic workers are required to leave their families behind. They are required to leave Hong Kong at regular intervals, a policy that has recently been more strictly enforced, presumably to guarantee they cannot accrue the seven years required for permanent residency.

Hong Kong's Immigration Ordinance expressly excludes FDHs from acquiring residency, but in 2011 lawyers for Evangeline Vallejos – a case discussed later in this article – argued in High Court that the Immigration Ordinance prohibition violated Hong Kong's Basic Law. Under the Basic Law, non-Chinese people who have been “ordinarily resident” in Hong Kong for a continuous period of seven years are entitled to apply for right of abode. Members of the pro-Beijing DAB party and a new group that was formed online and called itself “Caring Hong Kong Power” took part in angry protests outside of the High Court. One protestor's sign read “We Pay You for Your Work, No Need to Give You Right of Abode.” Protestors hurled insults at presumed domestic workers in Central District on Sundays. When Justice Lam

announced his ruling in favor of Vallejos in the first instance, the Hong Kong Government immediately appealed then won their appeal in March 2012. In the judgment in favor of the government, Justice Cheung wrote:

Regardless of her own subjective intention or purposes, a foreign domestic helper's stay in Hong Kong is for a very special, limited purpose from society's point of view – to meet society's acute demand for domestic helpers which cannot be satisfactorily met by the local labour market. Hence, their stays in Hong Kong are highly regulated *so as to ensure that they are here to fulfil the special, limited purpose for which they have been allowed to come here in the first place, and no more.... From society's perspective, their stays here are all directed toward one objective and purpose* – the purpose for which they have been allowed to come to Hong Kong in the first place (Cheung 2012, p. 50; emphasis added).

This statement clearly expresses the primary, and some would say exclusive, government-regulated role of FDHs to provide the “good life” for their employers. The assumption is that bringing their children or other family members would interfere with their “special and limited” role.<sup>3</sup>

Although domestic workers are critical to the prosperity and well-being of their employers, research widely shows that they are exploited and maltreated and their feminized labor is undervalued in many parts of the world (Varia 2011). In Hong Kong, despite their employment contracts, certain labor protections, and an energetic activist community, FDHs face abuses fueled by race, class, gender, and occupation (Constable 2007). They are treated differently from “skilled” and privileged expatriate workers who constitute a different class and are often distinguished by race. The contractual minimum allowable wage for FDHs is below the hourly local minimum wage.<sup>4</sup> Unlike other workers (including local domestic workers), FDHs are required to “live in” with their employers, reinforcing the extent to which the employer's household is the focus of the FDH's time and energy, at least six days a week, often with extremely long and unregulated work hours. Regulations such as living in, not being permitted to bring family members to Hong Kong, the two-year limit on their visas, the requirement that they must leave Hong Kong within two weeks of the termination of their contracts (with a few exceptions), and their exclusion from the ability to apply for permanent residence after seven years all illustrate the role of law and policy in defining the FDHs' special “outsider” status. These exclusions offer protection of local resources for local citizens, since domestic workers do not qualify for educational, welfare, housing, retirement or most other government subsidized benefits.<sup>5</sup>

Advocates for domestic workers who argue they should be paid the same minimum wage as locals and be permitted to bring family members with them, face a common neoliberal laissez faire capitalist response: “if they don't like the conditions, they don't have to come.” “No one forces them to come; it is their choice.” Such views are widespread among local Chinese and expatriates. Advocates for foreign domestic workers are hard pressed to convince others that the two-tiered system of citizen/resident versus temporary migrant, with different rights and privileges is wrong, unjust and exploitative.

---

<sup>3</sup> By “good life” I draw from Agamben's distinction (1998), building on Aristotle, between *zoe* (bare existence) and *bios* (formal life). A contemporary state-maintained distinction, between non-citizen women household workers and citizens whose good life depends on the exclusion of others, persists.

<sup>4</sup> As of August 2012, the hourly minimum wage of HK\$28 (US\$3.60), means that someone who works six days a week, 10 hours a day, would earn around US\$900 a month, roughly double the FDH wage at the time. Work hours are not specified in the FDH contract, but many report working over 60 hours a week. FDHs should receive room and board plus pay. A critical problem is that many FDHs face illegal fees charged by employment agencies that deduct five to seven months' wages for each contract.

<sup>5</sup> Unlike domestic workers, more privileged immigrants are not viewed as taking resources away from locals but as valuable contributors to society.

### 3. Pregnancy and motherhood

Hong Kong is widely considered by FDHs and employers as the best place in Asia for migrant workers. Hong Kong compares favorably with Singapore, where domestic workers have no Standard Employment Contract, are never allowed to live there as spouses of local residents, are required to undergo pregnancy tests every six months and are forced to leave if they are found to be pregnant. In contrast to Singapore, Hong Kong also has history of energetic domestic worker activism and advocacy.<sup>6</sup> Moreover, FDHs in Hong Kong are legally covered by the Maternity Provision of Hong Kong's Employment Ordinance. However, many employers and workers seem unaware of this fact, and FDHs who exert their reproductive rights by simply being or becoming pregnant are often considered disobedient, disloyal, promiscuous, and a serious problem for their employers.<sup>7</sup> They are deterred and discouraged from getting pregnant or having children in Hong Kong and the consequences of doing so are often grave. Most Indonesian domestic workers are subjected to a pregnancy test before departure from Indonesia or upon arrival in Hong Kong, and employment agencies and employers aim to steer clear of employing pregnant workers.

Some women report having been required by employers or employment agency staff to sign agreements promising not to get pregnant or guaranteeing that they are not already. Others have been accompanied by the employer to the family planning clinic to get contraceptive shots before they return home on holiday. One domestic worker, who knew she was pregnant, submitted a friend's urine because she feared immediate dismissal – and further indebtedness – should her pregnancy be discovered right away. If a domestic worker becomes pregnant, employers are widely known to terminate her contract or to require her to terminate her own contract, often in collaboration with the employment agency. Some employers concoct reasons for termination including "dishonesty." Although it is against Hong Kong labor law to discriminate based on pregnancy, it is common knowledge and widely understood that most employers do not want to hire or keep pregnant domestic workers. As one employer explained, "she is here to take care of my family, not the other way around." Although it is illegal to terminate a worker once she presents official certification of pregnancy, it is not uncommon for pregnant FDHs to be fired, judging from the many cases I encountered and those reported by various service organizations. While maternity protection exists in theory, the law is not widely known, practiced, or implemented.

In the course of my research I met women who were required to terminate their own contracts because of pregnancy and others who, unfamiliar with their rights, and feeling terribly guilty for the problems they caused their employer, thought they had no choice but to resign. One worker was told by her employer that maternity benefits only apply to Hong Kong married women, not to FDHs. Yet other workers are required or urged to undergo abortions and others choose to do so, legally or not, with or without their employer's knowledge. Some women I met, who did not realize that presenting the employer with a doctor's certification of pregnancy is intended to protect them from termination, delayed notifying their employers and were terminated. Employers who can claim they did not know about the pregnancy cannot be charged with discriminating on that basis and can construe other reasons for the termination, even if the pregnancy is obvious.

It is difficult to say how many current or former foreign domestic workers become mothers in Hong Kong. The Hong Kong government was unable to provide the

---

<sup>6</sup> Advocates and grass roots activists have fought against the erosion of domestic worker rights and pay. They successfully opposed rescinding maternity benefits and the withdrawal of the "levy" imposed on employers. They have been unsuccessful at revoking the highly problematic "two week rule."

<sup>7</sup> I have been told many times (by workers and employers) about the inconvenience pregnant FDHs cause for employers. The same can be said of pregnant women in many occupations: generally there are ways to minimize the "inconvenience" without denying women their reproductive rights.

number of registered births of mothers based on nationality or occupation. However, conversations with NGOs suggest the number of children born to FDHs who are working or whose contracts have been terminated are likely to be in the thousands and the number of children born of former domestic workers who are officially married to Hong Kong residents is likely to be significantly higher.<sup>8</sup> Women who are married back home and discover they are pregnant upon arrival in Hong Kong or who get pregnant during a visit home to a spouse, may be more likely to return home to give birth. But women who get pregnant in Hong Kong, especially if the man is not her husband and is unknown to her family back home, are more likely to terminate the pregnancy or to give birth and try to remain in Hong Kong as long as possible.

One issue that colors local attitudes towards domestic workers having babies in Hong Kong is the common view that it is the exclusive right and privilege of Hong Kong citizens to reproduce and form families (Marshall 1998).<sup>9</sup> Hong Kong, Singapore, Japan, Korea and other wealthy areas of Asia have low fertility rates and anticipate future labor shortages (Watson 2010, Bowring 2011, Ngo 2012). Yet the “shortage” of locals’ babies does not result in welcoming babies born of outsiders or non-citizens; instead they are widely viewed as a threat to local identity and to locals’ material wellbeing. The most vehement popular expression comes in the opposition to mainland Chinese mothers giving birth in Hong Kong, even those married to local Hong Kong men (Ornellas 2012).

In 2011-12 the “crisis” over Mainland women giving birth in Hong Kong, which resulted in critical shortage of hospital beds and of maternity care for Hong Kong citizens, reached a peak.<sup>10</sup> Aside from the popular hostility and widespread protests, the Hong Kong government actively sought legal and other ways to exclude mainland mothers from giving birth in the city.

Whereas the babies of Chinese mainland mothers born in Hong Kong obtain right of abode by virtue of birth and Chinese parentage, the babies of foreign domestic workers have no such right unless the other parent is a legal resident. Ironically, FDHs who are employed – i.e., those whose employment contracts have not been terminated when they give birth, and who are able to take advantage of their maternity benefits – receive prenatal care and are permitted to give birth in Hong Kong public hospitals at the highly subsidized local rate (less than US\$50 for a normal vaginal birth and two nights in the hospital). For those whose contracts have been terminated, legally or not, the process of giving birth in Hong Kong is riskier and more complicated.

The following examples focus on mothers who have attempted to utilize the legal system to try to remain in Hong Kong with their children. These cases are not common; the vast majority of FDHs simply capitulate to the implicit agreement to not have children in Hong Kong and to the policies and ubiquitous practices that deter them from doing so. Most go home to give birth, knowing it will put at least a temporary stop to their earning ability, or they choose to terminate their

<sup>8</sup> According to the Immigration Department, there were approximately 1,850 marriages of Filipino women and 980 of Indonesian women registered between 2007 and 2011. In 2007 the numbers were 180 and 70 and by 2010 they rose to 460 and 270 (S. Lai, personal communication, 12 March 2012). Although I would speculate that most are former FDWs, this is not certain.

<sup>9</sup> I use the term “Hong Kong citizens” loosely to refer to those with Hong Kong permanent residence. As a Special Administrative Region (SAR) of the People’s Republic of China, Hong Kong is not a nation-state, but permanent residency, known as “right of abode”(ROA), defines Hong Kong citizenship in a broad sense.

<sup>10</sup> “Locus World” a song that equates Mainlanders with locusts who reproduce and devour Hong Kong’s resources, went viral online in 2012 [http://www.youtube.com/watch?v=ueNr7mfFZu8&feature=player\\_embedded](http://www.youtube.com/watch?v=ueNr7mfFZu8&feature=player_embedded); <http://www.chinasmack.com/2012/stories/hong-kongers-sing-locust-world-harassing-mainland-tourists.html> (Accessed 3 April 2012). Anxiety about Mainlanders has deep historical roots and is exacerbated by the presence of wealthy Mainland tourists on whom Hong Kong’s economy increasingly depends.

pregnancies and to keep working and sending remittances home. A tiny minority gives up their children for adoption in Hong Kong and return to work. Those who give birth in Hong Kong and try to remain there with the child do so against the odds. They stretch and challenge the limits of their legal and social exclusion. As migrant workers they are set apart from society and denied citizenship rights, but the legal system can offer possibilities to stay.

As background to the following examples, one should keep in mind that there are many reasons why mothers prefer to remain in Hong Kong. Hong Kong is widely understood and experienced as a desirable location. It is not only considered wealthy, modern, cosmopolitan, clean, and beautiful, but it is also a place where women escape the dishonor and discrimination of being "single mothers" and their children escape the shame of being "out of wedlock" and sometimes "bi-racial" back home. "Single motherhood" when one returns to Indonesia or the Philippines without a husband (whether or not they were married in a religious or civil ceremony in Hong Kong), especially when paired with poverty, often places women and their children in a socially stigmatized situation. It is much harder "back home" than in Hong Kong to support oneself and child, find a job, earn money, enroll children in school or secure their health and education.

#### **4. Putri: married to a local resident**

I first met Putri through her friend who came from the same region of Central Java. She was depressed and panicked, fearful that she would lose her right to remain in Hong Kong because the local Cantonese man whom she had married several years earlier, had secured a divorce without her knowledge. He would no longer sponsor her dependent visa, nor did he want anything to do with their child. Putri was at the time a year short of the seven years of residency as a dependent that would entitle her to apply for permanent residency.

Around thirty when I met her, Putri originally came to work in Hong Kong a decade earlier. She met Lo, her future husband, who was divorced and worked in maintenance and security. She gave up her work and domestic worker visa. They were legally married, and Lo sponsored her visa as his dependent. After five years together, during which time they had become increasingly distant, Putri informed him she was pregnant. Shortly after, he moved out and went to live with another Indonesian woman. Nonetheless, he signed the required form for Putri to renew her dependent visa that year, but pressured her to have an abortion. He did not want more children; he already had them with his Chinese ex-wife. Putri nonetheless decided to have the baby.

By virtue of her marriage certificate, her Hong Kong identity card, and the fact that she had kept Lo's Hong Kong SAR passport when he moved out, Putri was able to register the child's birth on her own and to obtain a birth certificate listing both parents' names. Because of Lo's residency, the birth certificate indicates that the child's "right of residency" in Hong Kong is established. After notifying Lo of the baby's birth, Putri tried to contact him again to sign for her visa renewal. He reluctantly agreed to meet but refused to sign the form and presented her instead with a finalized divorce decree.

At that point Putri's visa was about to expire so she approached an NGO for help. Shortly after, I accompanied her and her child to meet the lawyer who was working (pro bono at first until legal aid was approved) on her case. The fact that the divorce had been processed without Putri's knowledge was of less concern to the lawyer than Lo's denial of knowledge of the child's existence. He had possibly perjured himself. Whereas divorce is fairly easy to obtain in Hong Kong, especially for couples who have lived apart for a year or more, it nonetheless requires at least an effort to contact the spouse and, most important, the petitioner must establish arrangements for the support of his or her children, which Lo had not done. Without contact information, the petitioner is permitted to post notice and obtain a divorce

without directly communicating with the spouse. Lo may have claimed not to know Putri's whereabouts and was thus permitted to post the notice in local newspapers. Putri in turn would not have seen or read English or Chinese newspapers.

At first, Putri's main problem was that since she was divorced and no longer her husband's "dependent" she had no legal right to remain in Hong Kong. Although she had explained the circumstances to the immigration department and had applied for a renewal over a month before her visa expired, several months passed with no reply and she grew increasingly worried. Shortly after her visit to the lawyer, and the posting of his letter to Immigration reiterating the situation and requesting a response, Putri was granted the one year visa renewal, after which time she could apply for permanent residency.

In Putri's case, the immigration department, with its very high degree of discretion in granting or denying visas, was willing to allow the mother (and custodial parent) of a permanent resident (or "citizen") child who had been married to a Hong Kong resident for almost six years, to remain in Hong Kong without pressure to return home with her child. According to her lawyer, this is not a "given." Filipino former domestic worker, Maura Juliet Raquiza, whose status was also converted to dependent when she married a local Chinese resident but was divorced ten months short of seven years, was denied residency (Julve 2007, HCAL20/2006). The factor determining the different outcomes may be that Raquiza had no children with recognized right of abode. Comilang, another Filipino former-domestic worker who was for a time married to a resident, and whose child was granted permanent residency, was only given a temporary visitor's visa and lost her legal challenge to convert it to a more regular status, despite her child's ROA (Moy 2012, HCAL28/2011). As scholars of citizenship have noted, although the reverse is often likely, "a citizen child cannot generally use the fact of citizenship to block the removal of parents facing deportation" (Bhabha 2009, p. 194). In Hong Kong, many mothers face repeated pressure to leave Hong Kong with their resident children. The following case illustrates that whether the non-resident parent of a child with a Hong Kong resident parent is permitted to remain in Hong Kong, and under what circumstances, remains in question.

##### **5. Rose and Barney: single mother and child**

Rose is an attractive Indonesian woman who ran away from home to work as a maid in Singapore in her mid-teens, then went to work in Hong Kong as an FDH. After her final contract ended she was unable to find a new employer within the stipulated two week period, so she opted to overstay her visa rather than return home and pay more agency fees in the hopes of processing another FDH contract.<sup>11</sup> During that time she met Gerry, a North American and a Hong Kong resident, whom she met in the Wanchai bar district. They went out for a brief time and she became pregnant. When she told Gerry he gave her money for an abortion. Given that she had overstayed her visa (unbeknownst to Gerry) and that she might be reported to Immigration if she registered at the family planning office, she opted for an illegal abortion instead.

The abortion was unsuccessful and she reasoned that "the baby must really love me" and the pregnancy "was meant to be." Since she had no other children and was already almost thirty, she decided to keep the baby. When Gerry learned she was still pregnant he refused to see her. She then filed an asylum claim with the government under the Convention Against Torture, on the recommendation of some friends. She understood this might allow her to stay in Hong Kong for several years while her claim was being processed and, more importantly, would give her access to prenatal and maternity care in a public hospital (Constable

---

<sup>11</sup> The "two week rule" part of the New Conditions of Stay for FDHs has been severely criticized by local and international activists as a factor that contributes to the vulnerability and abuse of workers but the Hong Kong government has shown no sign of budging on it (Constable 2007, p. 145-148).

forthcoming).<sup>12</sup> As a torture claimant she also received “in kind” support from International Social Services (ISS), in the form of rent paid directly to her landlord for a small room in a boarding house shared with a roommate (another torture claimant) and later her baby as well, and food supplies every 10 days. She still needed to buy diapers and medicine and tried to remit money to her parents. Although torture claimants are prohibited from working, Rose nonetheless (like most claimants) needed to work.

After Barney was born, an NGO introduced Rose to a lawyer who encouraged her to apply for legal aid, which was granted. The lawyer then helped her pursue a paternity claim against Barney’s father. Rose provided the lawyer with information about Gerry, where he lived, his occupation, and other evidence of their intimate relationship. Gerry was served with a legal notice and given the opportunity to prove by way of DNA testing that he was not Barney’s father. Alleged fathers are free to refuse DNA testing, but the judge can then “draw inferences” from the refusal (Parent and Child Ordinance, CAP 429). As social workers and lawyers explained, it is up to the man to prove that he is *not* the father. Refusing the DNA test can be interpreted by the judge as evidence against him.

Rose hoped that when Gerry’s paternity is established, not only would Barney be entitled to Hong Kong residency, but that she too, by virtue of being his custodial parent (and assuming Gerry was unwilling to raise him), would have a greater claim to remain in Hong Kong. Like others, she was repeatedly told by immigration officials, hospital staff, social workers and others, to “take responsibility” and take her child to Indonesia “where he belongs.” Several women described how nurses and hospital and government social workers criticized or shamed them if they sought to remain in Hong Kong, even more so if they expressed interest giving the child for adoption in Hong Kong. More assertive than many, and highly averse to returning home as a single mother (“I would rather they kill me here” she told her immigration officer), Rose ignored repeated pressure to leave and remained committed to utilizing any means possible to stay put.

By Spring 2013, Barney’s paternity was legally established and Rose could begin the process to legally pursue Gerry for child maintenance. Even if he were financially unable to support a child, Barney’s permanent residence qualifies him for government welfare assistance which provides for basic survival. To Rose that is infinitely preferable to returning to village life, the boredom she fled, and the shame she would bring to her family, and the stigma, criticism and gossip from neighbors in Indonesia.

As NGO staff noted, the immigration department wants mothers like Rose to willingly leave Hong Kong with their babies, and some do. But it is difficult to deport former domestic workers who have overstayed if they are the sole caregiver of a permanent resident child (even after their torture claims are rejected). Hong Kong government policies, an NGO staff member said, appear to prohibit them from purchasing an air ticket to send a Hong Kong resident child out of the region. If the mother is necessary for the child to claim his residency rights and she can assert her desire not to leave, it appears that she cannot be forced to go. NGOs knew of no cases where a mother had been forced to leave, with or without her Hong Kong resident child, without her consent.

## **6. Ratna: domestic worker and child**

The first time I met her at the office of an NGO, I thought Ratna worked there. She spoke near fluent Cantonese, dressed professionally, and could have passed as an

---

<sup>12</sup> Like many of her friends, Rose came to understand that her concerns about returning home do not fit the legal UN convention definition of “torture,” but the Hong Kong government is nonetheless obligated to review such claims, a process that was still in 2011 taking several years for women with children, although considerably less time for new applicants.

office worker. I soon learned that she was Indonesian, worked as a domestic worker, and was struggling to keep her baby, Amal, in Hong Kong.

In her late twenties, Ratna had worked in Hong Kong for several years when she met a Sri Lankan asylum seeker who became her boyfriend. While she was working and living with her employer, they spent her day off each week together and eventually married in a Muslim nikah ceremony at a Mosque with his and her parents' approvals from afar. She became pregnant, and upon presenting her employer with her official certification of pregnancy, she was promptly terminated. Aware of her rights, Ratna filed a case of illegal termination with the Labour Tribunal. The attempt at conciliation failed and the case proceeded to the tribunal, where her employers lost and were required to give her back pay and maternity benefits. In the meantime, while her case was dragging on, Ratna's two week stay expired and she was required to repeatedly extend her visa as a "visitor" in order to pursue her case through the many months it took for it to reach its conclusion.

Because Ratna had registered her pregnancy with the hospital before her FDH visa expired, the hospital assumed she was still employed and her delivery and medical care was provided at subsidized local hospital rates.<sup>13</sup> During her pregnancy, an NGO helped her locate a new employer who was willing to offer her flexibility in relation to keeping her baby in Hong Kong. Shortly after Amal was born, Ratna's new contract and new FDH visa began, but Amal was only granted a visitor's visa for two weeks. Each time Amal's visa was about to expire, Ratna had to take time off work and beg Immigration for more time. Each time she was told "this is the last renewal" and that Amal must leave Hong Kong.

Over the first nine months of his life, Amal was granted dozens of extensions for anywhere from 3 to 14 days, depending on the immigration clerk's whims. The renewals were time-consuming (taking half a day or more) and expensive (costing over US\$30 in fees and transportation costs). During that time she missed work and her employer became impatient. Eventually an NGO staff member accompanied her to the Immigration Tower in Wanchai to make a case to extend Amal's visa to the duration of her own visa – something that would normally have happened automatically had she been on a FDH visa (not a visitor visa) when he was born. With the support of a lawyer, introduced by the NGO, Ratna provided immigration with evidence that she had won her case in the Labour Tribunal and that she had not been wrongfully terminated. Were it not for the wrongful termination Amal would most likely have been granted permission to stay matching Ratna's FDH visa. After nine months and over twenty renewals, Ratna was running out of money and her employer was running out of patience. Her lawyer sent a letter to Immigration asking for a "yes or no" answer. Finally, Amal was granted a 160-day visitor extension and Ratna's lawyer urged her to make other plans since further renewals would likely result – at best – in further visitor's visas which would never qualify Amal for residency.

Ratna had told me of her ambitions for Amal's education and future career in Hong Kong. She tried to keep him with her and her Sri Lankan husband through a legal channel. She opposed quitting her job and filing a torture claim (like Rose), because it "has no future." She aimed to continue to work legally and stay in Hong Kong "as a family" as long as they could. The alternative was to take Amal to Indonesia. Given her husband's asylum claim in progress, and his ability to work there (illegally), he initially had no desire to go to Indonesia or to return to Sri Lanka. When I spoke to Ratna months later, her Hong Kong dream had faded and they were making plans to go together to Indonesia.

---

<sup>13</sup> By 2012, with the growing hostility towards outsiders taking up space in maternity wards, hospitals began requiring "proof" of current employment. Previously an FDH Hong Kong identity card sufficed.

## 7. The Domingo family – fighting for right of abode

In 2011 and 2012 Irene and Daniel Domingo made headlines in Hong Kong because they were two of the plaintiffs, among the five Filipino FDHs (including Evangeline Banao Vallejos), who went to court to claim their right to apply for right of abode. The case of the Domingo family, which I read about in newspapers, observed in court, and learned more about through hours of interview and conversation with Irene Domingo, is important and unique.

Irene came to Hong Kong from Ilocos Sur, Philippines, in 1982, and Daniel arrived from there in 1985. They met in 1986 at a Filipino club on their day off. Later, they were engaged and returned briefly to the Philippines to marry in 1988, then returned to Hong Kong, working for different employers and meeting on their weekly day off. When Irene's employer left the then-colony for good the following year, Daniel's employer signed her contract, so in 1989 they began to live and work together in the same home. Irene worked for that employer for 16 years and Daniel for 22. Their son Dariel was born in 1992 and their daughter Darlene in 1995. They lived in Irene and Daniel's employer's large home. In 2003, when Dariel was 11, the age at which most Hong Kong children get their first Hong Kong identity card, Daniel applied for the children's residency, but the application was rejected. In 2004 Dickson was born, and Irene returned to the Philippines with him to renew her visa. While she was there her employment contract renewal with her employer of 16 years was denied. She returned to Hong Kong on a tourist visa, leaving Dickson with her mother. Irene was eventually allowed to process a visa in Hong Kong to work as an FDH with a new employer, on the opposite side of the city from her husband and two older children. Meanwhile Daniel had reapplied for Dariel and Darlene's residency, which was granted, making headlines in 2006 as the first children of FDHs to be granted right of abode in post-colonial (post 1997) Hong Kong. When Irene's new employers read the headlines and learned of her family in Hong Kong, they promptly terminated her contract. That began an especially difficult time for Irene, separated from her youngest child, not permitted to reside with her husband and two older children, and with her visa status in question.

Following their children's success, Irene and Daniel also applied for residency unsuccessfully. Shortly after, with legal help, they were granted "unconditional stay" for seven years, beginning in 2007. With the granting of their unconditional stay, Daniel and Irene were no longer required to work as FDHs or to remain with one employer. They visited the Philippines and brought Dickson, who was also granted residency, back to Hong Kong.

As one of three cases heard in court in 2011, the Domingo's lawyers argued that it was unconstitutional to deny them the right to apply for permanent residency. The Domingos' lawyers argued that the Immigration Ordinance, which excluded foreign domestic workers, went against Hong Kong's Basic Law. The government's lawyers, on the other hand, argued that FDHs cannot be "ordinarily resident" in Hong Kong, a stipulated requirement for residency.

Irene and Daniel Domingo's hearing followed that of Evangeline Banao Vallejos. In the Vallejos case, barrister Gladys Li argued that the Immigration Ordinance's exclusion of FDHs was unconstitutional as it went against Hong Kong Basic Law. Justice Lam agreed and found that Ms. Vallejos had the right to apply for right of abode. He ruled that the decision to deny her application on the basis that an FDH could not be "ordinarily resident" was wrong. Given the decision in the Vallejos case, the main question in the case of the Domingos was whether they had been "ordinarily resident" for seven years and whether by accepting "unconditional stay" they had given up their right to apply for permanent residency until after that period had expired. The ruling in Daniel's case was that he could submit an application, but in Irene's case, given her brief absence from Hong Kong and the change in her visa status before unconditional stay was granted in 2007, the judge ruled otherwise.

Following initial victories for domestic workers in 2011, the government immediately filed an appeal and refused meanwhile to process any FDH's ROA applications. In March 2012 Vallejos' and Daniel Domingos' cases were overturned. Since the ruling in her case, Irene Domingo opted not to pursue it further, since she can apply for ROA based on her seven years of unconditional stay in 2014. On March 25, 2013 the Court of Final Appeal upheld the Government's position regarding Vallejos and Daniel Domingo, excluding FDHs from applying for right of abode.

What is especially striking about the Domingo family, is how the children of two FDHs, who were born and raised in Hong Kong, attended Chinese language schools, and who knew Hong Kong as their only home, were granted permanent residence (along with over a dozen or more other children of Filipino domestic workers, mainly couples, that followed shortly after), but that in such cases, FDH parents, as in the general pattern discussed by Bhabha (2009) are denied residency. Daniel and Irene Domingo were awarded unconditional stay (a status that I am told is no longer awarded in this way) presumably to appease them and to deter them from pursuing claims for ROA. Those familiar with the case have commented that in retrospect the immigration department is unlikely to think it was a good decision. No similar unconditional stays for domestic workers are known to have been granted since.

The two older Domingo children are fairly unique. They had a long uninterrupted stay in Hong Kong, which was facilitated by having two parents who worked there legally and had an unusually supportive employer who sponsored them and allowed them to live together in his home. For Ratna and Amal, it is not as easy. Ratna's marriage was a religious ceremony and is not legally recognized, and her asylum seeker husband has no right to remain in Hong Kong. Even if he were granted refugee status, which is unlikely, Hong Kong does not provide refugee resettlement. Ratna and her employer breached the live-in requirement of the FDH contract. Ratna spends most of her salary on babysitters and visa renewal. Without her husband's ISS support and illegal earnings, they could not make ends meet. Ratna and Amal are at the mercy of the Director of Immigration, who at any time could deny Amal's visa renewal or refuse Ratna's FDH contract renewal.

## **8. Conclusion: the right to remain in Hong Kong**

As the above examples show, "FDHs" are never *only* that. As Swiss writer Max Frisch is quoted as saying on the topic of guest workers in Germany after WWII, "we asked for workers, and we got people." Despite intentions of the Hong Kong labor and immigration department policies to narrowly define FDHs exclusively as a particular type of worker, they nonetheless inhabit other roles, identities, and subjectivities including human being, woman or man, migrant, sometimes mother, and so on, all of which entail particular rights in relation to both local and international law. Laws relating to human rights, worker's rights, migration, and families may thus apply and be utilized by them. It is important to see, as we do when we examine the social workings of the law in everyday lives, how law both reveals and helps to define social identities beyond FDH, and how certain laws designed to protect the interests of local citizens may also be utilized as tactics by outsider non-citizens to assert their rights and express resistance and agency. As Thompson (1975) saw it, for laws to be effective in protecting elite class advantages, they must maintain some adherence to the abstract principles of the rule of law and must seem to be, and occasionally actually be, just.

Blogs, editorials, and everyday conversations in Hong Kong in 2011 and 2012 claimed that the Hong Kong government (like any government) has the right to exclude FDHs, and anyone else, from becoming permanent residents and sharing the rights of local citizens. FDHs are said to know that when they come to work there. Many locals believe the role of government is to protect limited resources

(housing, welfare, medical care, etc.) from outsiders who, given the opportunity, would flock to the city and devour scarce local resources. Yet the law, as seen in Judge Lam's ruling in favor of the right of FDHs' to apply for right of abode (before it was overturned on appeal), can be based on different principles than political and popular opinion.

We have seen that FDHs – as workers – are subject to certain rules and regulations that do not apply to locals and other types of more privileged immigrants. According to Hong Kong's Immigration Ordinance they are "outsiders" in terms of citizenship and belonging, and as the government lawyer argued in the ROA hearings, they are "exceptions" to the rule, comparable to "prisoners and refugees." The FDH employment contract excludes them from many of the everyday rights of local citizens and workers: They are excluded from the minimum hourly wage, becoming permanent residents, the right to form a family or to choose where to live. For FDHs, the employer's home is a place where they are required by law to reside as a condition of stay. But, although laws often serve as a tool of the state – protecting its citizens from the threat of outsiders, controlling the flow of temporary migrants and denying them the right to remain there permanently with their families, thus protecting local and class interests – such laws, policies, and practices are not always consistent. Within the transnational context of Hong Kong, as FDHs, migrant women sometimes utilize labor laws and appeal to the Labour Tribunal for their claims against wrongful termination and their maternity rights. Migrant mothers also utilize laws asserting their own and their children's human and familial rights, thus escaping or expanding the narrow construct of FDH.

Women learn from friends, sympathetic government officials, migrant NGOs or legal volunteers about legal options that may allow them to avoid "overstaying" or becoming so-called "illegal migrants," and to avoid deportation after their domestic worker visas have expired. They learn of such tactics with interest, and often with a sense of surprise that the law might work in their favor. As the examples of Rose, Ratna, Putri and the Domingos show, when they are aware of them (and they often are not), migrants utilize a variety of legal means to assert their rights and those of their children so as to facilitate their claim to remain or at least to extend their time in Hong Kong. To them it is often a pleasant surprise to learn that law can serve the interests of migrant mothers. In the cases described above, they do not do so as FDH activists or out of a sense of righteousness, but out of a desperate commitment to their own future *with* their child, a sense that the option of "returning home" has been shattered by their experience in Hong Kong. Given the child, it no longer seems possible or desirable to return "home." That home is one in which single mothers and their children will likely be shunned and looked down on.

As scholars of U.S. immigration have argued, family is a "key locus of state power and domination over immigrants" and government policies serve to "block or limit the formation" of *certain types* of immigrant families based on race, class, gender and sexuality (Luibheid 2004, p. 229; Pessar 1999). The power of the state in determining who has the right to form a family and what family means, is illustrated in many other contexts as well. In the Netherlands legal judgments are said to "display little or no awareness of the lived realities of the women" or of the meaning of family in the different cultural contexts of immigrant's lives (van Walsum 2009, p. 233; see also Raissiguier 2010). In Hong Kong, state power is expressed in the prohibition against FDHs bringing family members with them, even in the rare cases when their employers might allow it. Migrant workers in Hong Kong, as in many other locations, often face familial prohibitions that other more elite and privileged classes of immigrants do not. In Hong Kong, much as in Singapore, foreign domestic workers are subject to "an exclusionary notion of reproductive futurity" that does not apply to "skilled workers" or those considered "foreign talent" (Oswin 2012, p. 1625; 2010). Foreign domestic workers'

reproductive labor (in the broadest sense) is directed exclusively towards the interests of the household within which they work and reside. Their sexuality is subject to surveillance and control. They are prohibited or severely discouraged from getting pregnant, giving birth, or keeping a child in Hong Kong. Moreover, children born of foreign domestic workers unlike those born in Hong Kong of Mainland Chinese mothers are not entitled to right of abode. These prohibitions are linked to the ill-defined notion that for non-Chinese to claim permanent residence they must be "ordinarily resident" in Hong Kong. A key element of ordinary residence is to live with and support a family there.

Some women manage to carve out unusual routes to motherhood in Hong Kong despite the odds. Former domestic workers married to local permanent residents are among the most privileged of outsiders; after seven years of marriage they qualify to apply for permanent residence. Putri's son became a permanent resident by virtue of his father. In the case of divorce before seven years has elapsed, however, residency is not guaranteed or expected. Putri was very fortunate. Others, such as the Domingos, who were legally married and both working as FDHs, with the support of a sympathetic employer and a good lawyer, and with the approval of their families in the Philippines, were able to establish residency for their children and will likely – in what may turn out to be a chain of exceptions that may not apply to other FDHs – obtain permanent residency themselves. It is probably no coincidence that these "success stories" involve legally and officially married couples, in one case a Hong Kong local husband/father, and in the other a Filipino couple. For many others – single mothers or those with non-resident "other" men and religious (not legally recognized) marriages who cannot claim the "heteronormative privilege" of marriage like Rose and Ratna – the situation is far more tenuous. Ratna has little prospect of remaining in Hong Kong with her child and Rose, at best, will be permitted to remain (but not work) until her child reaches adulthood.<sup>14</sup>

As E.P. Thompson wrote, "we reach then, not a simple conclusion" about the relationship between law and class power (1975, p. 264) and, I would add in this case, the rights of local citizens and transnational migrants. Law often supports class dominance and privileged local citizens, but it can also provide some protection to others. We have seen how a few current and former FDH mothers learn to use various laws to challenge their position as excluded outsiders, usually not by design but out of necessity and sometimes desperation. Such options are often only temporary and in most cases serve merely to postpone the inevitable return home or to shift migrant women into other legally precarious positions, rather than to establish the permanent residency they desire for themselves and their children. But a rare few are able to remain in Hong Kong with their children longer, and occasionally permanently, as a result of their expanding legal consciousness and the effective use of legal tactics.

## Bibliography

- Agamben, G., 1998. *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen. Stanford University Press.
- Arendt, H., 1958. *The Human Condition*. University of Chicago Press.
- Bhabha, J., 2009. The 'Mere Fortuity of Birth'? Children, Mothers, Borders, and the Meaning of Citizenship. In: S. Behabib and J. Resnik, eds. *Migrations and Mobilities*. New York University Press, 187-227.

<sup>14</sup> Rose expects Barney will sponsor her as his dependent when he reaches 17, but it is highly unlikely because of the financial resources required to do so.

- Bowring, P., 2011. Asia's Baby Shortage. *Asia Sentinel* [online], 20 September. Available from: <http://www.asiasentinel.com/society/asias-baby-shortage/> [Accessed 20 February 2012].
- Cheung, CJHC., 2012. CACV 204/2011 In the High Court of the Hong Kong Special Administrative Region Court of Appeal, Civil Appeal No. 204 of 2011 (on appeal from HCAL 124/2010) Between Vallejos Evangeline Banao also known as Vallejos Evangeline B and Commissioner of Registration. 28 March 2012. Available from: <http://legalref.judiciary.gov.hk/lrs/common/ju/judgment.jsp> [Accessed 29 March 2012].
- Constable, N., 2007. *Maid to Order in Hong Kong: Stories of Migrant Workers*. Ithaca, New York: Cornell University Press.
- Constable, N., forthcoming. Temporary Shelter in the Shadows: Migrant Mothers and Torture Claims in Hong Kong. In: P. Mahdavi and S. Friedman, eds. *In the Shadow of the State: Intimate Labor Migrations across Asia* (working title), In preparation.
- De Certeau, M., 1984. *The Practice of Everyday Life*. Trans. Stephen F. Rendall. Berkeley: University of California Press.
- De Genova, N., 2002. Migrant "Illegality" and Deportability in Everyday Life. *Annual Review of Anthropology*, 31, 419-447.
- De Hart, B. 2009. Love thy Neighbour. Family Reunification and the Rights of Insiders. *European Journal of Migration and Law*, 11 (3), 235-252.
- Employment Ordinance. CAP 57 [online]. Available from: <http://www.legislation.gov.hk/eng/home.htm> [Accessed 5 October 2012].
- HCAL20/2006. Maura Juliet A. Raquiza v. The Department of Immigration 2006-July-11 [online]. Available from: [http://legalref.judiciary.gov.hk/lrs/common/search/search\\_result\\_detail\\_frame.jsp?DIS=53222&OS=%2B&TP=JU](http://legalref.judiciary.gov.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=53222&OS=%2B&TP=JU) [Accessed 5 October 2012].
- HCAL28/2011. Comilang Milagros Tecson and others v. Commissioner of Registration and others, 2012-June-15 [online]. Available from: [http://legalref.judiciary.gov.hk/lrs/common/search/search\\_result\\_detail\\_frame.jsp?DIS=82223&OS=%2B&TP=JU](http://legalref.judiciary.gov.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=82223&OS=%2B&TP=JU) [Accessed 5 October 2012].
- Immigration Ordinance. CAP 115 [online]. Available from: <http://www.legislation.gov.hk/eng/home.htm> [Accessed 5 October 2012].
- Julve, S. D., 2007. Domestic helpers not entitled to right of abode, says CA. *The Sun* [online], mid-August. Available from: <http://www.sunweb.com.hk/Story.asp?hdnStoryCode=4957&> [Accessed 10 April 2012].
- Lo, A., 2012. An Injustice to our Most Oppressed Expats. *South China Morning Post* [online], 30 March. Available from: <http://www.scmp.com/article/997009/injustice-our-most-oppressed-expats> [Accessed 30 March 2012].
- Luibheid, E., 2004. Heteronormativity and Immigration Scholarship: A Call for Change. *GLQ*, 10 (2), 227-35.
- Marshall, T. H., 1998. Citizenship and Social Class. In: G. Shafir ed. *The Citizenship Debates: A Reader*. Minneapolis: University of Minnesota Press, 93-112.
- Mission for Migrant Workers, 2012. Mission for Migrant Workers Data and Statistics 2011. FMW Ltd, St. Johns's Cathedral, 4-8 Garden Road. Central, HK.
- Moy, P., 2012. Filipino Mother Challenges Refusal to Extend her Stay. *South China Morning Post* [online], 9 May. Available from:

- <http://www.scmp.com/article/1000484/filipino-mother-challenges-refusal-extend-her-stay> [Accessed 28 August 2012].
- Ngo, J., 2012. HK's One Child Problem. *South China Morning Post* [online], 10 April. Available from: <http://www.scmp.com/article/997843/hks-one-child-problem> [Accessed 15 July 2012]
- Ong, A., 2009. A Bio-Cartography: Maids, Neo-Slavery, and NGOs. In: S. Behabib and J. Resnik, eds. *Migrations and Mobilities*. New York University Press, 157-184.
- Ornellas, M., 2012. Hong Kong-Mainland China Couples' Struggles for Reproductive Rights: Initial Findings and Implications. Paper Presented at Chinese University of Hong Kong Friday Seminar Series. 20 January.
- Oswin, N., 2012. The Queer Time of Creative Urbanism: Family, Futurity and Global City Singapore. *Environment and Planning*, 44 (7), 1624-1640.
- Oswin, N., 2010. The Modern Model Family at Home in Singapore: A Queer Geography. *Transactions of the Institute of British Geographers*, 35, 256-268.
- Parent and Child Ordinance. CAP 429 [online]. Available from: <http://www.legislation.gov.hk/eng/home.htm> [Accessed 5 October 2012].
- Pessar, P., 1999. Engendering Migration studies: The Case of New Immigrants in the United States. *American Behavioral Scientist*, 42 (4), 577-600.
- Raissiguier, C. 2010. *Reinventing the Republic. Gender, Migration and Citizenship in France*. Stanford University Press.
- Rosaldo, R., 1994. Cultural Citizenship and Educational Democracy. *Cultural Anthropology*, 9 (3), 402-411.
- Suzuki, N., 2010. Outlawed Children: Japanese Filipino Children, Legal Defiance, and Ambivalent Citizenships. *Pacific Affairs*, 83 (1), 31-50.
- Thompson, E.P. 1975. *Whigs and Hunters: The Origin of the Black Act*. New York: Penguin Books.
- Van Walsum, S. K. 2009. Transnational Mothering, National Immigration Policy, and European Law: The Experience of the Netherlands. In: S. Behabib and J. Resnik, eds. *Migrations and Mobilities*. New York University Press, 228-51.
- Varia, N. 2011. "Sweeping Changes?" A Review of Recent Reforms on Protections for Migrant Domestic Workers in Asia and the Middle East. *Canadian Journal of Women and the Law*, 23 (1), 266-287.
- Watson, R.S., 2010. The Anatomy of Fertility Decline: Unmarried, No Children in Hong Kong. *Harvard China Review*, 6 (1), 31-43.