

Maid to last? Foreign domestic workers' access to weekly days off

A research report by TWC2 research volunteers

Executive Summary

The mandatory day-off research project began in September 2017. Team members spoke to 26 migrant domestic workers in 7 focus groups in order to better understand how domestic workers approach the issue of securing regular days off.

We argue that the current day off policy is not effective in ensuring domestic workers' access to rest.

Our paper identifies three major issues with the current day off policy, which are as follows. First, days off are tradeable for compensation in lieu. The policy, therefore, does not actually guarantee domestic workers the non-negotiable right to a regular day off. Second, the current balance of power between employers and workers makes it extremely difficult for domestic workers to make their preferences known. Third, the policy leaves domestic workers who care for family members who are elderly or who have special needs especially vulnerable.

We have four major findings: there is a wait penalty of around 4.5 years before domestic workers gain two days off per month; newly arrived workers and workers from Myanmar are disproportionately affected by the policy of trading in days off for additional salary; power differentials make negotiations difficult; and caring for the elderly is particularly strenuous for domestic workers. On the other hand, we also discovered how domestic workers use various strategies in order to increase their own ability to bargain for rest days.

Based on these findings, we argue that days off should be made mandatory for domestic workers. Keeping in mind the change that this would entail especially for families who have acute care needs, we suggest an incremental approach, where the short-term goal is to make two rest days per month be non-negotiable and mandatory. In the meantime, we urge the government and other partners to put in place accessible and reliable structures of respite care. All caregivers need a break for their own well-being, and we should respect, value, and support the rights of those who care for those most vulnerable among us. As such, this study suggests a mandatory two days off policy as a solution to the

problems with the current day off policy in the hope that this will lead the way to eventually legislating mandatory weekly rest days for domestic workers in Singapore.

Section 1: Introduction

On foreign domestic workers' days off:

We really have to ask ourselves what is the right thing to do ... we should not cease to ask ourselves about the kind of society we want to build, about the kind of society we want to live in. How would we ourselves want to be treated as employees, as workers? We should strive to embody and uphold the right values to our children.

- Minister for Manpower Tan Chuan-Jin (Singapore Parliamentary Debates, 5 Mar 2012)

In Singapore, the ubiquity of foreign domestic workers (FDWs) is as remarkable as it is routine. In a population of 5.6 million, 246,800 FDWs hailing from neighbouring countries such as the Philippines, Indonesia, Myanmar, India, Sri Lanka, and Cambodia cook, clean and caretake, assuming the burden of domestic labour for Singaporean households (MOM, 2018). In contrast to the more comprehensive Employment Act, which legislates labourers' rights to key entitlements such as working hours and access to leave, FDWs are governed by the Employment of Foreign Manpower Act (EFMA) and the regulations issued under it. The latter offers a separate set of welfare provisions and entitlements that are limited when compared to the Employment Act. These differential provisions have been predicated on MOM's reluctance to recognise domestic work as a "full" profession, as evidenced in the repeated emphasis placed on "the unique nature of domestic work" in Singapore's Parliamentary Reports (Singapore Parliamentary Debates, 2008). Consequently, domestic work is seen as secondary to waged work performed in the public sphere, even though it also requires considerable time, effort, and skill, and is critical to the smooth functioning of society.

As mentioned above, the corollary of this divergence in legislation between FDWs and the vast majority of Singapore labour is that FDW entitlements are relatively diminished. This is particularly evident in terms of workers' rights to a weekly day off, which was not previously established under the EFMA. While the EFMA called on employers to ensure that FDWs received "adequate rest", the definition of "adequate rest" was left unclear. The watershed moment for domestic workers' access to rest days arrived in 2012, when MOM incorporated into the EFMA regulations that FDWs would be entitled to a weekly rest day. Critically, a provision was inserted into the regulations stipulating that FDWs could be compensated for working in lieu of the rest day with a pre-agreed number of days off (compensation is calculated by dividing an FDWs' salary by 26). Compensation for working on a rest day is to be calculated by dividing the total salary of a domestic worker earned in a month by 26. While the legislation of a weekly day off marks a tremendous step forward for FDW rights, this has been diluted by the opt-out clause.

The EFMA provisions pertaining to FDWs ostensibly exist to regulate their employment and to protect them, which they do in broad terms. However, they implicitly call for the actual working conditions to be determined by private negotiation between the FDW and the employer. This is troubling in that

the relationship between the FDW and the employer is an asymmetric one, given that the FDW's "temporary migrant status [is] tied to the employment relationship itself" (UNIFEM Singapore, HOME and TWC2, 2011). Consequently, the provision of an opt-out clause continues to leave FDWs, particularly newly-arrived ones, vulnerable to receiving inadequate rest and poor leave arrangements – the very issues that the 2013 legislation sought to address (Koh et al., 2017a).

Section 2: The ineffectiveness of the current day off policy

This study has identified three main issues with the current day off policy:

1. Tradeable days off

The day off policy, as it currently stands, does not actually guarantee FDWs a weekly day off — a domestic worker may be asked to work on her rest day in exchange for compensation. The Singapore state frames this as a win-win agreement: it "provides flexibility [as] FDWs can choose compensation in lieu of a day off, and employers can negotiate specific conditions for rest days" (Coalition Report of National NGOs, 2017). However, under this policy, a domestic worker could hypothetically work for the duration of their Work Permit without receiving a day off.

Research shows that a significant portion of FDWs are not receiving a rest day: following a 2015 survey, when 191 FDWs were asked about the number of off days they receive per month, 41% answered that they did not in fact receive a weekly rest day (TWC2, 2015). Moreover, according to HOME's survey of 670 FDWs, only half of those interviewed had a weekly day off and a notable 40% of the FDWs surveyed reported less than one rest day per week in a month (HOME, 2015). In both cases, it should be noted, researchers experienced difficulty in contacting workers who had no days off and in securing interviews with them, so their calculations of the proportion of FDWs who do not have days off must be considered to be underestimates.

The rest day campaign that led to the 2012 policy indicates that rest days are widely accepted as being necessary for FDWs — not only do they prevent mental burnout and opportunities to seek help for grievances but they provide a chance for FDWs to build social connections, spend time away from their place of work, and pursue their own hobbies and interests. Despite this, the loophole in the current day off policy blocks access to rest days for a substantial portion of FDWs.

2. Bargaining power

In Singapore, there is an imbalance of power between a domestic worker and her employer, where employers, with assistance from employment agents, often negotiate work contracts from a position of strength. This means that the possibility that employers might pressure workers to give up their rest days is always present (Human Rights Watch, 2012).

The provisions of a Work Permit (effectively, the visa under which an FDW works) undermine a domestic worker's bargaining power. Contracts with an employer are two years long and renewable; they allow employers to repatriate FDWs at will. Should an employer decide to cancel a Work Permit,

a domestic worker will be sent home. If an FDW decides to seek out better working conditions elsewhere, it is not easy for her to find new employment as the EFMA provides that FDWs can only transfer to a new employer with written approval from their current employer. If they are unable to do this, or their employer refuses the transfer, the FDW must return to their home country within two weeks of the Work Permit being cancelled. This means facing the expensive cycle of agency fees once more should they wish to return to Singapore to work. In this case, “the obstacles faced by FDWs attempting to change employers act as an incentive for workers to endure ill treatment by their employer” (Poh, 2016). An FDW’s stay in Singapore is so closely tied to her employer’s decisions that it undermines any leverage she may hold to broker better living and working conditions for herself.

While contracts are ordinarily signed at the beginning of employment in Singapore, they often supersede former agreements signed in home countries that may have guaranteed set working hours and rest days. When negotiating the terms of a contract, new FDWs are likely to accede to the requests of their employers rather than asserting their own wants and needs. There is rarely any negotiation with an agent or an employer at this stage and they often sign a contract that may contain exploitative terms as it is presented as the only option (HOME, 2017). Newly arrived FDWs may have difficulties speaking English compared to those who have been working in Singapore for several years, which can add to the pressure of signing a contract in a foreign language despite not understanding its terms. These women are likely to agree to trade away rest days at the prospect of returning to home with no money to show for having taken a job abroad in the first place, in addition to the heavy debt owed to their recruitment agency (Koh et al., 2017b).

It stands to reason then, that the more experience an FDW gains in Singapore, the better she can negotiate her working conditions with an employer. This corresponds with the fact that the number of days off an FDW receives rises concomitantly to the number of years an FDW spends working in Singapore; indeed, those in their first two years of work report an average of one day off per month whereas those working for longer than seven years receive three or more days off per month (TWC2 2015). While it means that conditions do get better for many domestic workers over time, it also means that newcomers to Singapore are disproportionately vulnerable to an imbalance in bargaining power.

3. Caregiver burnout

Many FDWs will spend their contracts working for an employer who hires them directly for the objective of performing care work. Singapore has a rapidly ageing population; by 2030, almost a million people will be above the age of 60 and nearly one in three people will need some form of eldercare service (Straits Times, 2016). Consequently, FDWs have been attracted to Singapore as an answer to this ‘care crunch’. Hiring an FDW is a popular option for those seeking care for children and the elderly. Many families believe the best care is delivered within the household rather than through external care services and see hiring domestic workers as the more cost-effective option (Teo and Piper, 2009). Levy concessions¹ for families with school-going children, family members with

¹ See the Foreign Maid Levy, FDW Levy Concession for Persons with Disabilities and Foreign Domestic Worker Grant. (MOM website)

disabilities and elderly persons within the household signal the state's support for facilitating FDWs as care providers in the home.

Despite these policies that incentivise engaging FDWs in care work, little attention is paid to the adverse effect of being available to provide care twenty-four hours, seven days a week on domestic workers. In these circumstances, days off are necessary to prevent care worker burnout (Wee et al., 2017). Many FDWs are not well-equipped to provide such intensive care and, when required, delivering care work on a round-the-clock basis can become a barrier to receiving a rest day (TWC2, 2013). In a research paper, Wong (2010) found that the most common forms of work-related stressors included being overworked and denied rest days, the latter of which was experienced by 70.7% of the respondents in the study. With the number of elderly people rising in Singapore, likely meaning an increased need for FDWs to act as care workers, "there is a need for policies (e.g. access to rest days) to support their health and quality of life and facilitate their access to coping resources" (Anjara et al., 2017). Even though employers may need extra help with their care loads, it is unreasonable to expect vulnerable migrant workers to forego most — or all — of their rest days in these situations.

Section 3: The suggested solution — A mandatory two days off policy

There is a need to rethink the current policy in a way that provides better protection to domestic workers. That is, as we suggest, to have two mandatory days off per month for FDWs — meaning two days off that must be given/taken. It should be emphasised that this proposal builds on the present policy to extend the availability of days off to domestic workers, and is in no way intended to detract from our advocacy of a weekly day off for all domestic workers.

Mandatory in this case means non-negotiable, non-tradeable days off where a domestic worker must be entitled to a rest day. A domestic worker commonly encounters situations where an employer will ask her to do tasks on a rest day such as washing a car before she leaves the home, or arriving back at a certain time to cook the family dinner. Domestic work is fluid in this way, and FDWs may wish to complete these tasks on a day off so as to give themselves a lighter workload when they return from their days off, for example. However, some employers may require a domestic worker to perform additional and unwanted work on her day off, hence constraining her time to rest. Another situation that may arise is that some employers may have an emergency on a rest day and may well ask their domestic workers for assistance. Therefore, the rest day should ideally not be interrupted by an employer requesting 'light work', installing a curfew on her free time, or requiring her to be 'on call' as she typically would be in a care situation. This is in line with the 2011 International Labour Organization (ILO) domestic workers convention standards that stipulate a weekly rest period of a minimum of 24 consecutive hours. The rest day should be incorporated into existing legislation to stipulate a maximum number of weekly work hours in order to prevent caregiver burnout (Wong,

2010).² The hope is that this policy would protect the most marginalised domestic workers who are in a weak bargaining position by providing them with a minimum standard of rights to fall back on. By having two mandatory days off per month, those working for employers with high care needs would be better protected through the elimination of the ability to trade away all days off.

The policy would also remove any legal uncertainty about an FDW's entitlement to days off. The nature of enforcing an off day is already very informal, and there is no clear way of enforcing a rest day beyond a reporting system. Given that many domestic workers fear reporting their employer, it is ultimately up to the employer and the domestic worker to enforce days off between themselves. Although legislating two days off does not directly deal with issues of enforcement, the current compensation clause is vague and allows employers to interpret that to their own meaning and make their own rules regarding rest days. If an FDW must receive two days off a month, then it is more difficult for employers to justify (even to themselves) denying these rest days, as this would be directly in breach of the law. A bi-weekly minimum policy would go beyond including terms in contracts — which in themselves can be costly and challenging to enforce — and provide a legal guarantee to vulnerable domestic workers (Poh, 2016). While enforcement will always be a tricky issue to navigate given the 'behind closed doors' setting of domestic work, there are interesting proposals to be considered, for example, home visits to ensure FDWs are not working on rest days. Until this occurs, there needs to be a stronger legal right for FDWs to access rest days, rather than this being subverted by the compensation-loophole.

The purpose of this paper is to plug the knowledge gap about the impact of care work on FDWs in Singapore and consequently explore how to manage an employer's care needs considering FDWs should have the essential right to access rest days regularly without negotiation. The two day off policy is proposed as a stepping stone to FDWs' being granted a mandatory rest day every week after a certain timeframe (i.e. five years). As such, our research questions are as follows:

- Do domestic workers want two non-negotiable and non-tradable days off a month?
- How can we help Singaporean families access 24/7 care while protecting domestic workers' right to rest days?

The next sections shall explore the potential answers to these questions.

Section 4: Methodology

We organised seven semi-structured focus groups to hear the experiences of 26 migrant domestic workers. Each domestic worker also completed a questionnaire. Between September and November 2017, 5 focus groups took place at a FDW organization offering educational programmes. The

² 'Existing legislation' refers to the Employment of Foreign Manpower Act (Chapter 91A), Fourth Schedule, Conditions & Regulatory Conditions of Work Permit Part 1 - Conditions to be complied with by Employer of Foreign Employee who is a Domestic Worker issued with a Work Permit. The current legislation does not stipulate a maximum amount of weekly working hours and only Article 10a) of the Act states that employers are obligated to ensure that domestic workers have adequate rest daily.

remaining two groups took place in the city centre near Lucky Plaza shopping complex. These locations were chosen for being the convenient and accessible option for participants, many of whom would spend their time there in the morning and meet with us in the afternoon. Each focus group took place on a Sunday, except one that took place on a Saturday. As such, our research was unable to engage any FDWs who do not have any rest days. Each domestic worker received and signed an informed consent form before agreeing to participate in the research.

Recruitment was done through a mix of snowball sampling and purposive sampling. Those whose primary work duties include providing care to elderly people or young children were identified and selected deliberately. Initial contacts were sourced from the aforementioned FDW organization and, subsequently, from a number of interviewees. The questionnaire was used to gather information such as individual work history and number of days off received per contract, while focus groups were used to explore experiences of providing care as well as issues with the current day off policy. Focus groups, each consisting of 3 to 6 participants, were usually facilitated in pairs with one person leading and another taking notes. Each focus group lasted around 45 minutes to 1 hour.

Our overall sample of 26 FDWs consisted of 14 women who have provided care for young children and 5 women who have provided care for elderly people, either in an existing or previous contract. The other FDWs took care of pets and performed general household duties such as cooking and cleaning. On average, FDWs interviewed (n=25) worked in Singapore 11 years and 5 months. There was a wide range for the number of years worked, with a stint of 6 months being the shortest and the longest being 22 years and 7 months. More than half of those interviewed (14) have worked in Singapore for 10 or more years. On average, the workers (n=22) worked through 3 different contracts in Singapore, including contracts lasting less than two years.

Previous TWC2 surveys on domestic workers' access to days off have taken the approach of widely distributed surveys. For instance, TWC2 found that out of 195 domestic workers who had signed their contract after January 1st, 2013 only 60 percent of them were compensated for missing a day off (TWC2, 2015). In a survey of 582, TWC2 and its partners found that FDWs work an average of 14 hours per day and that only 12 percent of FDWs have at least one day off in a normal week of the year (UNIFEM Singapore, HOME, TWC2, 2011). This study seeks to complement previous quantitative work by adopting an in-depth qualitative approach. The intimate conversations that took place in these focus groups allowed us to unravel the minute negotiation processes behind securing a day off and the emotional experiences of migrant women who work for employers with high care needs. It is important to understand the subjective personal experiences of migrant workers instead of assuming that wide-scale surveys are able to capture the full nuances of their experiences working here.

Section 5: Data Findings

As discussed in an earlier section, FDWs cannot negotiate off-days with their employers on equal terms because they have little bargaining power. In part, this is due to the lack of domestic worker organizations or unions which would enable FDWs to bargain for their rights collectively. For this reason, they are vulnerable to abusive employment practices and placed in a precarious position when they demand improvements to their working conditions (ILO, 2013). As such, our research highlights

the weaknesses of the current day off policy and demonstrates that it fails to protect domestic workers who provide care. The law implies that FDWs can access days off by negotiating with their agents and employers. Our research shows that this is not the case, based on the following main findings.

1. FDWs have to wait an average of four and a half years before having access to a regular off day. Days off are seen as a benefit rather than as a right.

Questionnaire responses reveal that 18 out of 26 FDWs have a written agreement with their employer stating the number of days off they are entitled to receive per month. Despite this, most respondents said that they trade their rest days for monetary compensation. Presumably, this means that FDWs are not taking all of the rest days stated in their contract and that the number of days off are subject to being changed at any time. This is explained by the qualification to the day off regulation stipulating that FDWs can be compensated with monetary compensation for working, in lieu of the rest day. Furthermore, half of the respondents receive less than a week’s notice from their employer for a request to work on their scheduled day off (n=21), while nine receive a one week’s notice or more. In lieu of an effective day off policy, rest days are inconsistently enforced and domestic workers are left to fend for themselves by employing various strategies to increase their bargaining power.

Participants demonstrated that they can increase their bargaining power through displaying assertive behaviour, gaining trust from one’s employer, having a good command of English language and through knowing one’s rights. In spite of these strategies, findings show there is, in practice, an average wait period of a four and a half years that FDWs endure before receiving at least two days off per month, as shown in Table 1. This indicates that FDWs in their first few years of employment are especially vulnerable to exploitative working conditions and a lack of rest days.

Table 1 shows that the average number of years FDWs wait before accessing two rest days off per month ranges from two to eight years. The average wait time is four and a half years. After this period, FDWs go on to receive either two rest days off per month or weekly rest days (four per month). In this report, we challenge this norm that FDWs should have to wait four and a half years to access sufficient rest from work.

Table 1: Length of time in which FDWs have less than two rest days per month.

Respondent	Years with < 2 rest days/month
2	2
7	3.5
8	7
9	7
10	8
11	2
12	3
13	7
14	5
16	6
17	2
19	4
21	2
22	2.5

2. Two groups of workers—newly-arrived workers and workers from Myanmar—are disproportionately affected in their wait period.

Based on our findings, newly arrived FDWs and workers from Myanmar are the most vulnerable groups. The vulnerability of FDWs in the beginning of their career in Singapore is a significant factor contributing to experience of a long wait period. Many participants revealed that they never enquired about days off at the start of their employment. In recounting her experience as a newly arrived worker, a participant explains, “No... I didn’t have any questions. Because of course if you’re really new, you’re just ‘aanga-anga³’ [ignorant] right?” In part, the subordination of newly arrived FDWs is due to a combination of their lack of awareness when it comes to their rights and what their contract entails. As exemplified by one participant, “Will rush to sign and without reading. No way will understand what is writing, just sign and suddenly realize what we sign.”

The second group is made up of women coming from Myanmar with limited knowledge of English. Literature states that Filipinos are likely to receive higher wages than other groups because they have a better knowledge of English (ILO, 2013). While discussing a participant about why some FDWs do not receive days off, she explained that women from Myanmar and Indonesia are more vulnerable to abuse, which is less likely for Filipino FDWs like her because “with us, it comes with a condition because they know the mindset of Filipino FDWs — we won’t agree and we will always make a way. The Indonesians and the ‘Mayas’ don’t know anything yet.” According to another participant, FDWs from Myanmar are hired to do the more difficult work of taking care of elderly people precisely due to the need for 24/7 labour. She explains that the lack of knowledge is what makes FDWs from Myanmar more exploitable. This is compounded by the weaker English language knowledge that non-Filipino FDWs are said to have, indicating that a stronger knowledge of English can contribute to leveraging one’s rights.

3. Power differentials inherent in the relationship between employer and worker make negotiations fraught and difficult. Urging FDWs to ‘speak up’ is not enough because employers have a great deal of power they can assert over FDWs’ day-to-day lives.

Based on our findings, it appears that the beginning of employment in Singapore for FDWs is generally marked by disempowerment and vulnerability to exploitation because of a power differential with their employers. This is exacerbated in the way that, during this period, FDWs commonly owe loans to agencies for recruitment fees. Restrictions such as a lack of rest days are often imposed during the loan repayment period, a practice often encouraged by employment agents. According to a TWC2 (2016) survey of 232 FDWs, it took an average five and a half months (approximately) of salary deductions to pay these fees. Half of those surveyed had no days off during those months of salary deductions. It is clear here how the probation period (period of loan repayment) and the period of

³ *Aanga-aga* is a Tagalog word which, when translated into English, means ignorant.

employment without rest days are related due to FDWs feeling compelled to work on rest days to gain compensation in order to pay off their loans.

The power dynamic between FDWs and employers is consequently characterized by an unequal relationship from the beginning of employment, with employers occupying a position of considerably more power. Our findings revealed five ways that this power differential manifests in the everyday experiences of domestic workers.

Firstly, employers have the power to deprive FDWs of a personal life outside of work, as a participant recounts, “Some are deprived of so many things, [including our] friends...” Secondly, employers restrict mobility on their rest day in the form of being required to perform light work before leaving and observe a set curfew for coming home at night. For instance, our findings revealed that only four workers report being permitted to return home at any time or have no imposed curfew (n=22), while the majority must be back at the house by 7PM (4), 8PM (5), and 10PM (5). It is worth noting that most (15) report that their employers expect them to leave the house only after performing some light chores (n=22). In our study, 6 FDWs reported doing light chores for up to an hour while eight reported doing chores for up to two hours. One participant reported doing chores for up to three hours. Thirdly, the power differential influences FDWs’ perception of their position in the employer-employee relationship (i.e. a helpless position). Feeling, as one participant puts it, at the “mercy of employer,” many don’t want to speak up about grievances out of fear of repercussions. This is because, as one respondent explains, “if speak up, this is your behaviour can send to agency.” Moreover, a participant expressed the feeling of being unable to speak up in front of her employer, by saying, “Don’t know why [I] can express on social media but can’t in front of [my] employer.” This results in toleration of unhappiness instead of asserting themselves, where workers wait to “[after] finish two years [and I’m still] not happy, [then I] can move on”. Describing themselves as “lucky” to have a good employer is another reflection of their self-perception, as another respondent recounts:

Since you are at the total mercy of the employer, the only way to have a good relationship is to happen to get a good employer, since there is no way you could influence the employer’s decisions [due to a lack of power].

Fourthly, the perception of self as helpless results in a fear of asserting themselves. This is exemplified by participants’ repetition of the word “courage”, referring to the necessity of courage to ask to see a doctor, to run away, and so on. Their fear to assert themselves in turn serves to further the aggravation of violation of their rights. One participant illustrates this by explaining,

If employer see you can be bullied, they will take advantage... She’s thinking if she can bully you. Only a bit of opportunity, if can see [then she] can bully [you].

The final factor contributing to their subordination is the reality that an FDW’s continued stay in Singapore is totally dependent on her continued employment. As such, employers have, as one participant puts it, the “power to negotiate using money and emotional blackmail”. The ability to “blackmail” FDWs raises important questions about policies regarding the power dynamic between employers and workers. For example, employers must agree to the transfer of an FDW to a new employer by signing a declaration form. As job mobility is an important tenet of any employee’s

negotiating power, withholding this signature can seriously damage the ability of an FDW to transfer employers if conditions are unfavourable.

4. The wait period of four and a half years comes to an end because the worker's bargaining power has the opportunity to increase over time.

Our research found that bargaining power increased over time in the case of the majority of the participants. Workers had the opportunity to increase their bargaining power through their own strategizing and efforts. This is a weak situation for FDWs, as an increase in bargaining power should not be dependent on their own efforts and other variables. This is exemplified by a respondent who endured no days off with her first employer for a year and a half, after which she leveraged on her work experience and demanded at least one day off with her next employer. Explaining her experience, she said:

After that [first employer], I change the employer, I asked to have the handphone and minimum I have one off day. If you don't have, I also don't want... If you don't get an off [day], they will pay you for it. And if she doesn't give it, you can complain. It's possible and that's why it depends on the person and the ones that don't have a choice won't say anything... Sometimes it's not their choice [to trade away their rest days] because sometimes the employers are abusive.

Here, the respondent demonstrates that she was able to secure days off through employing confident and assertive behaviour when negotiating her rest days with her employer. During a conversation about rest day curfews, she explained that her employer give her longer rest days compared to other FDWs because she is “palaban”⁴, or tough. Moreover, she actively asserts herself by deliberately giving her employer a rest day schedule ahead of time so that they will not be able to ask her to work. She says that it is because she has knowledge about her rights that she understands that the agreement with her employer serves as a strong basis for her weekly day off to be “fixed”. Her reflection that trading rest days for compensation is not always a choice for other FDWs shows that she recognizes that her experience is not universal, but rather strongly dependent on her own ability to leverage her work experience over time.

FDWs also sought to gain their employers' trust through providing additional services as well as joining educational programmes to demonstrate good behaviour. One participant illustrates this when she says,

[My employer is] too scared to give the maid off day, scared the maid doing bad things outside so I tell her oh you can send her to some courses so you know your maid is doing something that's good you know.

Another participant speaks of how she tutored the children she takes care of as a strategy to gain her employer's trust. She explained that this meant that the children would not need to go to tuition which

⁴ *Palaban* is a Tagalog word which, when translated into English, means tough.

would in turn help her employer save money. This participant reveals that it took her a full year to prove herself. She recounts,

I know how to talk to her and even though she look down on me, I show that I am good so I show to them that I am better than what she thinks of me... I prove it by teach[ing] the children so the neighbour also come to learn from me and the result is good, [their] PSLE is good right? So after that, they trust me. I need to prove it to them...

These findings imply a strong perception that a rest day is a privilege to be earned rather than an inherent right, which may be tackled by guaranteeing rest days in law, as opposed to relying on employers and workers to negotiate fair terms between themselves.

5. Caring for the elderly is especially strenuous for domestic workers. It is precisely these caregivers who require days off most.

When it comes to care work, our findings reveal that FDWs have a preference for taking care of children as opposed to taking care of elderly people as taking care of the latter is perceived to be more challenging. One participant explains refusing to care for an elderly person. She states, “It’s difficult to take care of an elderly person... You really can’t go out if you are taking care of an elderly person.” In the case of another participant, she came to work in Singapore for “household chores” and was surprised to find that she was expected to carry out challenging elderly caregiving duties. She further clarifies this point by explaining, “My passion is not to help take care of the elderly”. This demonstrates the need for the job scope of domestic workers to be clarified before the period of employment commences, something hard to do when many FDWs do not fully understand the contract they are asked to sign. Another participant articulates how she sometimes forgoes her rest days and sleep in order to see to the 24/7 care needs of the elderly woman she cares for. She explains how,

I don’t have time for myself, really. Every day, every Sunday, because at night time, my granny always imagining things, always wake me up. ‘Maricel⁵, Maricel, please, please, please, wake up. I saw something.’ 24 hours I cannot sleep, really. In toilet, I sleep. In toilet!

As such, a major barrier to respite is the nature of care work being 24/7, especially when it comes to taking care of the elderly. Our findings demonstrate that domestic workers have an awareness of the reasons why their employer is unable to give them their days off, especially in high-needs cases for which the employer may need to hire respite services or a second FDW (which would require additional spending) to do the care work while they take their day off. Our findings show that FDWs do empathize with their employers’ financial situation by saying, “... it’s easy for us to think two helpers but we need to understand our employer financially, yeah. It’s not cheap to take helpers you know (laughs).” This points to the need to understand the conditions of employers which can be done through examining Singapore’s social policies with regard to care. In particular, the fact that hiring an FDW is still the most economically feasible option for most Singaporean families. It is also much

⁵ Name changed to protect the participant’s identity.

cheaper and convenient for the State to continue with this system rather than improve the care infrastructure available in Singapore to better provide elderly care to all, regardless of means.

Section 6: Domestic workers support a mandatory, non-negotiable two-days off policy

According to our findings, 19 participants support the proposed policy while three do not (n=25). Another three said that they were “not sure”. The reasons for the uncertainty appear to be due to a misunderstanding of the policy, as one participant expressed being concerned that her agency would not allow it. Meanwhile, those against the proposed policy expressed a desire to make extra money from trading in their rest days. This presents policy implications given the financial incentive to trade away rest days - to eliminate these motivations (and thus achieve regular days off), higher wages and an enforceable minimum wage would need to be considered. On the other hand, support for the new policy emphasized the exhausting nature of taking care of elderly and children and the need for “relaxation,” and time to be “happy,” and “enjoy [their] domestic helper rights”. One participant went on to say that, “because FDW are human too, we need to destress ourselves from inside home.” Moreover, those in support of the new policy also expressed that they should be treated as human beings as well as real workers and that the policy would formalize the employment relationship which would help “to stop the exploitation, to stop the emotional BLACKMAIL.”

Current opportunities for employers with high care needs

We recommend that two rest days per month be made mandatory and non-negotiable to support domestic workers’ need for respite. As discussed previously, the current law implies that domestic workers can access days off by negotiating with their agents and employers. Our research shows that this is not the case, based on the following five main findings. Firstly, domestic workers have a wait period of four and half years before they have access to a regular off day, hence days off are seen as a benefit rather than as a right. Secondly, this study finds that workers who are new and from Myanmar—who are already most vulnerable—are disproportionately affected, because they already have the least bargaining power. Thirdly, power differentials inherent in the relationship between employer and worker make negotiations fraught and difficult. Urging domestic workers to ‘speak up’ is not enough, because employers have a great deal of power they can assert over domestic workers’ day-to-day lives. Fourthly, the wait period without rest days comes to an end because the worker’s bargaining power has increased, largely because of her own effort and will. As days off are perceived as benefits to be earned, FDWs shoulder the burden of claiming their right to a day off. Finally, caring for the elderly and, sometimes, for children is especially strenuous for domestic workers. It is precisely these caregivers who require days off most. These findings point to the necessity for workers to have mandatory, non-tradeable days off, beginning with the recommendations in this paper to cap the number of days that can be traded for compensation in the hope that FDWs have four mandatory days off per month in the future.

During an FDW's rest day, hiring a 'respite caregiver' through providers such as Active Global Specialized Caregivers (AGSC) and Jaga-Me could address employer concerns for an elderly family member requiring 24/7 care. A respite caregiver, who is usually a registered nurse, would effectively replace a FDW for a short period of time and provide care for an hourly rate of around S\$25 (AGSC, n.d.). The cost of using such providers is likely a concern considering that the cost of paying an FDW to forgo her rest day is her monthly salary divided by 26 (MOM, 2018). As revealed in our focus groups, this may cost as little as S\$25 for the entire day, whereas if a nurse was hired through AGSC, this may cost employers up to S\$200 for 8 hours. Paying an FDW is still the most economical decision because of this large difference in cost. Interestingly, based on customer reviews featured on Jaga-Me's website, it appears that nurses are not being hired for the purpose of replacing FDWs on their rest days. Rather, nurses are hired to train FDWs to take care of family members with high care needs (Jaga-Me, n.d.). While showing the potential of the private sector to provide solutions to care issues, the very presence of these providers highlight a lack of State-provided solutions and a reliance of employers on FDWs to provide care on a 24/7 basis.

Despite the fact that a number of privately-provided respite care solutions are available in Singapore, our research found that none of the FDWs we interviewed had encountered their employers using these services to meet their 24/7 care needs on their rest days. Instead, one participant recounted how her employer hired two FDWs so that each received a weekly rest day (alternating each week who would get Sunday off) while the care needs for a young child requiring 24/7 supervision would always be met. Though this respondent experienced difficulty adjusting to alternating rest days, this strategy was one of the few solutions, albeit a very costly one, that our respondents encountered while working in Singapore. The only other solution encountered was articulated by one respondent whose employer made care arrangements with a wider family network to take turns offering respite care for an elderly woman with dementia who had 24/7 care needs. This FDW explained that her employer enlisted the help of other family members to take turns replacing her during her day off. Explaining how it works, she told us, "first Sunday, my boss' sister, second Sunday, this one is my boss' brother's wife so they take turns. Today is my boss' la." In contrast to hiring two FDWs, this strategy presents itself as one solution that can be carried out without taking on extra financial costs.

Understandably, employers who depend on domestic workers for assistance with their elderly parents or young children may be dismayed by the costs of respite care. While this report advocates protections for FDWs' right to rest, that does not mean by default that employers should bear the complete cost for providing care. This report seeks to address the problems employers face in a head-on, empathetic manner by understanding employers' needs (a lack of money, time, structural support and a weak care infrastructure) in light of FDWs' fundamental right to rest. The hope is to challenge the idea that increased protections for FDWs and affordable care are mutually exclusive by exploring potential solutions to shift the "either-or" paradigm. Concurrent with our call for two days off to be non-tradeable, we also urge the State (who has a duty to manage the needs of FDWs and those with care needs) and the private sector to step into this gap to provide respite caregiving services at rates which are affordable for employers.

Section 7: Future Opportunities for Singapore

In rapidly aging societies, the demand for care has resulted in the employment of FDWs in many developed countries, including Singapore (Teo and Piper 2009; Østbye et al., 2013). In fact, FDWs are employed by 49% of households with an elderly person who requires help with an activity of daily living such as eating, bathing, or using the toilet (Ansah et al., 2012). Efforts by the Singaporean government to deal with their rapidly aging society include home and community-based services as well as subsidies directed at the most needy in the population. An example of such a subsidy is the Foreign Domestic Worker grant, a S\$120 monthly cash payment to families with a household monthly income per person of up to S\$2,600 who need to hire an FDW to support a family member who requires permanent assistance with three or more activities of daily living (Ministry of Social and Family Development, 2018). Critics argue that the State is subsidizing the care provided by the family unit within the household instead of spending on institutions of care (Teo and Piper, 2009). Moreover, despite alternative care arrangements, live-in FDWs have “become one of the more common de facto modes of providing care for the elderly” (Yeoh and Huang, 2009) and the FDW grant may only serve to increase the preference for and dependence on FDWs (Østbye et al., 2013). This dependence on FDWs to provide care is multi-faceted. While cost is a significant component, the niche demands of care work are also a factor - for example, when hiring a respite caregiver for a day, this does not necessarily provide a caregiver who is “trained” to care for that particular person, especially when they may be a terminally ill older person, or a young child who needs to be familiar with the caregiver.

It has been forecast that healthcare costs are expected to rise in the Asia-Pacific region in the next 15 years (Straits Times, 2016). In Singapore, the annual cost for each elderly person is expected to hit US\$37,427 by 2030 which is ten times the current cost of US\$8,196.6 In November 2017, Prime Minister Lee Hsien Loong announced that the government would be increasing taxes for the sake of spending on infrastructure and healthcare (Straits Times, 2017). As steps are taken to move towards tackling the issues associated with a rapidly aging population, we urge the State to acknowledge: the role that FDWs have played as primary caretakers for many elderly Singaporeans and are likely to continue to play, to establish two mandatory and non-negotiable rest days per month for all FDWs (without prejudice to the broader goal of all workers having at least one weekly rest day) and to provide greater support to all families that require 24/7 care to be able to afford respite care services.

Section 8: Amending the Employment Act to cover FDWs

As previously stated, FDWs are not covered by the Employment Act (EA) which guarantees maximum daily or weekly working hours, maximum monthly overtime compensation and better overtime compensation structure. Instead, they are not afforded these guarantees as they are covered by the Employment of Foreign Manpower Act (EFMA) and its appended regulations. It is not a new phenomenon studied in literature that amending the legislation to cover FDWs under the EA should

⁶ This figure includes public spending, private insurance and out-of-pocket spending.

be considered as a serious option to providing FDWs with greater working protections. TWC2 (2013) has already outlined the ways in which extending the EA to FDWs would be beneficial – including putting a limit on working hours and providing reasonable rest periods for domestic workers.⁷ There should also be the option of being paid a higher rate for working overtime on a rest day, as employees covered by the EA are paid a basic rate of 1.5 times their normal rate of pay for overtime worked on a work day. For overtime work done on a rest day at the employer’s request, the compensation is twice the daily wage. The EFMA, in comparison, does not even provide a minimum wage or maximum number of working hours for those under its protection. In addition to this, a shadow report to the UN’s Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) Committee, TWC2 and HOME (2017) specifically recommended that “domestic workers who are terminated by their employers for asserting their right to a weekly day off should be allowed to change employers.” At present, FDWs cannot change employers without the consent of their current employer. As such, these recommendations would bolster a revised day off policy that has the capability to take the unrestricted decision-making power out of the hands of employers and employment agencies so that they can be in a position to abide by these rules and enforce them as necessary.

While being covered by the EA would be ideal for FDWs, there is much resistance to the idea by the Singapore state. The opposition boils down to the perception that domestic work is not viewed as ‘real’ work and “the home has not been seen as a workplace, subject to labour laws or labour relations” (ILO, 2015). Domestic workers can, as explored, realistically fear being let go by their employers and sent home if they cannot find another employer in a short amount of time. The Ministry of Manpower frequently refers to the fact that FDWs live and work closely to their employers, and therefore it is not ‘practical’ to regulate exact aspects of the work FDWs do. This is used as reason not to extend EA coverage, whereas this rhetoric perpetuates the vulnerability experienced by FDWs from an imbalance of bargaining power. As such, while regulation is challenging in the home workplace (Tay, 2016), it should not be cited as a reason not to seriously explore how FDWs can be better supported in accessing their rights. ILO literature states that employers “do not have the human resources management skills or tools of an enterprise. The employment relationship therefore, while it exists, is not realized in practice in most homes around the world” (ILO, 2015). The position of MOM depends upon employers to act in good faith and bear the interests of FDWs in mind when setting out ground rules for employment which is not always achieved. The defence argument is also circular: while MOM says it is difficult to enforce EA terms because FDWs’ rest day hours and working hours are “difficult to define and regulate in the same way as employees working in offices or factories” (Teo and Piper, 2009), precisely by having a term in the EA that stipulates working, overtime and rest hours (and compensation gained as such), this issue can be avoided. Ultimately, excluding FDWs from the EA only serves to enforce the perception that they are not ‘real employees’ and the work they do is not of value to society.

⁷ The importance of limited working hours and reasonable rest periods is highlighted as a key finding in the Foreign Domestic Workers’ Living Conditions Survey carried out by TWC2 from 2014 - 2016. The survey shows FDWs typically work for more than ten hours per day and the average daily working hours for the 472 valid responses of the survey was found to be 13.9 hours long.

While these ambitions of amending the EA to include FDWs are aspirational and realistically a long-term goal, this should not undermine the necessity for its coverage to be extended to domestic workers. Even though domestic work can be unpredictable, there is an opportunity for FDWs to benefit from a standard rule on rest days with set working hours, a clear policy on overtime hours and better compensation structure for overtime work and working on rest days. Ultimately, the changeable nature of domestic work should not be used as a justification to prevent better working conditions for FDWs and a mandatory two day off policy can be the first step to this wider aim.

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