Trade Unions and NGOs in Malaysia: Contentions and Collaboration in Organizing Migrant Domestic Workers[1]

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Abstract

Domestic work remains vastly perceived as non-work in many countries in Asia, including Malaysia. Excluded and unrecognized in labor laws, migrant domestic workers (MDWs) become invisible from protection against human rights abuses; thus, trade unions (TUs) become constrained to represent domestic workers as well as to organize them. The increasing reports of human rights abuses against MDWs led the attempt of Malaysian TUs and non-government organizations (NGO) to organize domestic workers for many years. The NGOs in Malaysia with concerns as human rights, migrants, women, and religious groups initially addressed the problems and conditions of domestic workers. However, TU-NGO relations remain an important factor in differentiating the organizing strategies of NGOs and TUs in responding to domestic workers issues. As the study includes labor-oriented

NGOs and non-TU organizations such as self-organized workers as part of the broader labor movement, I intend to show in this discussion, through empirical data, the areas of tensions and spaces for collaboration that exist among these groups in Malaysia. This article discusses the contentious and collaborative relations of civil society groups with the established TUs in Malaysia using the Gramscian notion of establishing hegemony among allied social forces in civil society and establishing linkages between civil society and political society.

Keywords: TU-NGO relations, labor organizing, labor migration, domestic workers, migrant workers

Introduction

Asia is a huge source of domestic workers, estimated at around 21 million, both within the region and internationally, but these workers are largely unorganized (ILO 2013). The rapidly growing economies in East and Southeast Asia saw the increasing demand and flow of migrant domestic workers from poorer countries (i.e., Indonesia, the Philippines, Cambodia, Nepal, etc.) to industrializing ones. Inequalities within and between the countries in this region has also grown alongside spectacular economic growths in the region. Industrializing countries such as Malaysia, Singapore, Hong Kong, and Taiwan increased their demand for migrant labor in general, and in particular, MDWs. As employment opportunities in the productive sphere opened for local women in industrializing economies, so did the demand for domestic workers open possibilities for women from other countries to work as MDWs. In many of these countries, domestic work is still considered non-work and domestic workers lag behind in "basic work-related rights and protections," such as minimum wages and work hours (ILO, 2013).

In many countries in Asia, domestic work is still considered non-work. In the case of Malaysia, domestic workers are excluded from the coverage of labor laws and mentioned only once in the 1955 Employment Act as "domestic servants." Exclusion from the labor laws means lack of legal protection and exclusion from the coverage

of workers' benefits and conditions (i.e., minimum wages, hours of work, etc.). The mostly foreign domestic workers in Malaysia are subject to the same regulations governing migrant workers in general, under which the primary goal of migration regulations is to control the entry and stay of foreign workers (Elias, 2010; Kaur, 2007). As of 2016, there were more than 156,000 documented MDWs in Malaysia (Ministry of Home Affairs, 2016), who were mostly low-paid, subjected to difficult work conditions, and vulnerable to physical, psychological, and sexual abuse. However, according to TUs and NGOs in Malaysia, the figure could be higher given the high incidence of 'undocumented' or 'runaway' domestic workers.

Labor organizing of domestic workers in Asia emerged in the mid-1990s, demanding recognition and lifting the veil of exclusion of domestic work from the productive sphere. The most prominent example points to the successful organizing of local (Chinese) and migrant (i.e., Filipina, Indonesian) domestic workers in Hong Kong. Given that domestic workers are already organizing in many parts of the world, the primary question of this research has been why organizing domestic workers has been difficult and unsustainable in Malaysia, in comparison to Hong Kong. Elias (2010) identified factors that restrain MDWs in Malaysia from exercising agency and claim rights. "These include: (1) poverty (and the status of domestic workers as low wage laborers from poorer states in the region); (2) legal factors including the tying of employment visas to a specific employer (thus when a worker leaves her employer she becomes illegal) and lack of access to the rights enshrined in the Employment Act; (3) restrictive employment practices which include holding on to workers' passports and not granting rest days; and, of course, (4) the intersection of these constraints with gender inequality" (Elias 2010, 850). The increasing reports of human rights abuses against MDWs led the attempt of Malaysian TUs and NGOs to organize domestic workers for many years now. However, due to the exclusion of domestic workers from the labor laws in Malaysia, TUs are constrained to represent domestic workers as well as to organize them. With the lack of regulations and policies covering domestic workers, NGOs, rather than TUs, initially engaged domestic workers' issues in Malaysia. This article refers to NGOs as organizations with concerns as human rights, labor, women, migrants and religious associations addressing specific issues of MDWs in Malaysia.

The research questions of this study are: (a) to what extent do TUs, NGOs and MDWs in Malaysia claim human and labor rights through labor organizing?; (b) what are the constraints and spaces embedded in the Malaysian political-economic contexts that shape and inform their organizing strategies; and (c) to what extent do state and civil society relations in Malaysia shape the MDW organizing strategies of TUs and NGOs.

The involvement of non-TU organizations in labor issues and even organizing workers unattended by TUs have been a source of debate and tension among civil society groups. More often than not, TUs are perceived to only cover traditional workers–the formally employed with employer-employee contracts, ignoring the non-formal, the migrants and even women workers. This article discusses the collaborative and contentious relations between civil society groups and established TUs in Malaysia. These tensions and collaborations likewise shape their strategies and actions in engaging and organizing MDWs. This study includes labor-oriented NGOs, non-TUs and self-organized workers' organizations as part of the broader labor movement. The study's empirical data show the areas of tensions and spaces for collaboration that exist among these groups in Malaysia. Based on findings from empirical data, I suggest that while there are spaces of collaboration, there are also separation of initiatives and tensions in the relations of TUs and NGOs[3] particularly along the dimensions of (a) representation, (b) areas of collaboration, and (c) roles and functions. This article tackles the contentions and power relations of these social forces within the Malaysian political and civil societies, which influence the MDW organizing strategies of TUs and NGOs.

The article is organized according to the following discussion themes: (a) contextualizing the terrain from recent literature on TU and NGO relations; (b) locating TUs and NGOs in Malaysia's state-civil society relations within Gramsci's conception of state-civil society; (c) roles, relations and tension among TUs and NGOs in Malaysia; and (d) beyond tensions, the spaces for collaboration.

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3 Here I refer to the local, regional and international human rights, women, migrant NGOs based in Malaysia.

Voices from the field

In gathering empirical data, I employed qualitative and participatory-observation methods focused on collective groups, specifically TUs, NGOs and other self-organized migrants or religious groups, but engaged individually with MDWs in Malaysia. I was in the field, in this case in Malaysia, for six weeks each year in 2013 and 2014. From an initial list of 10 key informants, this number swelled to 32 through the 'snow-ball' method of adding interviewees based on referrals of core key informants. The key informants identified in this research provided consent, through signed forms before the interviews, to use their names as their inputs rely on official positions in their respective organizations. Other respondents were anonymized upon their request to protect their identities and sensitivity of their positions. Data-gathering methods included structured key informant interviews (face to face, phone and Skype interviews); unstructured conversations with migrant domestics; participant-observation in activities (i.e., meetings, seminars and conferences) of TUs and NGOs as well as participation in the domestic workers' social activities (i.e., picnics, birthday parties, travels). Those interviewed included leaders and officials of major TUs, human rights leaders of NGOs, migrants and domestic workers, academics, embassy officials of sending countries, a political leader, a religious worker and a staff of a recruitment agency for domestic workers. I place this study in the realm of social research using qualitative methods, such as field research and participant-observation. Data collected from the field were eventually transcribed and coded. I developed a coding system which is stored through the MaxQda software. Data from secondary literature is organized under the Mendeley referencing software which also complemented my coding system.

**Contextualizing state-civil society relations
in Malaysian political-economy**

In examining TU-NGO relations in relation to organizing MDWs, I situate TUs and NGOs within the broader context of state-civil society relations in Malaysia. As I have extensively discussed in my dissertation, I refer to the Gramscian notion of state and civil society relations, which places a significant role on civil society in the formation of the State.

The calculated decision to use the Gramscian approach in state-civil society relations reflect the insistence of this research to examine, at the national level, the relations of social forces in Malaysia as influenced by institutional, political-economic, and social dimensions. The State in the Gramscian sense consists of the symbiotic relationship between the political society and civil society where hegemony resides expressed through consent of a particular political-economic and cultural order. Hegemony is reproduced in civil society where norms, ideas and beliefs are shaped and the reproduction of cultural life takes place via the media, schools and religious institutions (Gramsci, 1971b; Heywood, 1994; Jessop, 1997). If civil society becomes the site where consent is manufactured through the shaping of ideas and norms, then it is also the site where ideas and norms can be challenged, where alternatives can be articulated. However, hegemony applied within the civil society forces would mean that the counter-hegemonic project of working-class groups attained hegemony with other civil society groups.

Applying the hegemony concept to the different social forces in Malaysia, particularly those involved in domestic workers' organizing, will show that consensus has not been achieved. Consensus in the neo-Gramscian sense implies that the working class would exercise leadership and establish consensus through consent from the allied classes and the bourgeoisie (Cox, 1983; Leysens, 2008). Hence, Gramsci's notion that the success of a working class-based counter-hegemonic project, means first, they have to be the State or to establish hegemony in the political and civil societies. I refer to the national and transnational social movements in Malaysia as the voluntary collective organizations pushing for the counter-hegemonic values of democratization, human and labor rights, and race/gender equality. Addressing domestic workers issues and pushing for the recognition of domestic work as work, manifest as the counter-hegemonic project in the face of a repressive State and labor regime. The Malaysian TU movement, while being part of the counter-hegemonic project, has not established leadership and consensus within the civil society. Interestingly, Malaysian TUs are also located within State structures, being part of the tripartite and industrial relations framework that supports the political hegemonic project of the Malaysian political society. I argue in this study that the Malaysian TU movement is situated in a nascent labor movement yet enmeshed within an exclusionary labor regime as a social partner that in turn, engendered

the emergence of alternative collective organizations challenging the status quo. It is in this context that the Malaysian civil society, TUs and NGOs find themselves. Their roles, the construction of their strategies and their relationship with each other are dimensions that are influenced and shaped in the hegemonic project of Malaysia's socio-cultural, political, and economic context. I discuss briefly below how the Malaysian political-economic context influences and has significant implications on the TU-NGO relations and their organizing strategies towards domestic workers.

The Malaysian labor movement emerged and was shaped by the peculiarity of the Malaysian political economy. This political, economic and social context unraveled in post-colonial Malaysia when the nation encountered its first political and economic upheaval after independence. The 1970s, immediately after the 1969 race riots in Malaysia, highlighted economic inequalities that instigated the ethnic/race cleavage in Malaysia's social and political economy. This decade also became a significant period of change in Malaysia's political economy with the installation of the New Economic Policy (NEP). The NEP, or the so-called 'affirmative action,' meant to address poverty among the majority Malay population and was also intended to shape capital formation in Malaysia by targeting "an elite group within the business community as recipients of state-created rents to promote the rise of Malay-owned conglomerates" (Gomez, 2009, p. 5). Taking after the developmental state model of Japan, the Malaysian state actively participated in the economy with state-owned enterprises integrated in the corporate sector, substantially funded by their oil resource. "The NEP entailed partial abandonment of laissez-faire economic management in favour of greater state intervention"(Gomez, 2009, p. 5). Rapid structural change further ensued in the 1980s as the new political leadership under Mahathir combined developmental state model and neoliberal policies patterned after the US economic model of "free market system, with its strong emphasis on wealth accumulation and the promotion of the private sector as the primary engine of growth"(Gomez, 2009, p. 4). However, Hill, et. al. (2012) argues on Malaysia's political economy that, "Malaysia has always been one of the most open economies in the developing world" (Hill et al., 2012, p. 1692) and that the "ethnic dimension is central to an understanding of virtually every facet of the country's political economy" (Hill, et.al., 2012, p. 1689). Whilst the NEP was intended

to correct ethnic inequalities through the development of a Malay capitalist class, "the government began to selectively promote the interests of private individuals, usually well-connected Malays," strengthening "selective patronage." Some Malay firms who enjoyed rents from the state became unprofitable (Gomez, 2009, p. 5). From these decades of significant policy changes, Malaysia experienced rapid economic growth, transformation from a resource-based economy based on agriculture, to export-led sectors based on labor-intensive, large-scale manufacturing (Hill et al., 2012).

Transformations in the production relations have also influenced and shaped how the state-civil society is configured. Previously comprised of Malaysian local workers, the agriculture sector is presently composed of more than 90 percent migrant workers. The construction and services sectors are also increasingly populated with migrant workers from poorer countries in the Southeast and South Asian regions. New dimensions of exploitation, changing employment patterns, and new forms of workers' issues have emerged which TUs and NGOs have difficulty addressing. The NEP signified a concrete hegemonic project of uplifting the 'Bumiputera' (sons of the soil or the ethnic Malays) from poverty and rectifying the dominant economic status of ethnic Chinese- and Indian-Malays. This hegemonic project is currently enforced by predominantly-Malay structures expressed as the political society and supported by civil society. The hegemony of this project is continuously reproduced through coercive legal and institutional structures engendered by the political sphere and consensus embodied in the civil society or through the media, education and religious institutions. In the last three decades, the success of this hegemonic project has been ensured but the increasing number and role of other ethnic groups in Malaysia created fissures and unforeseen cleavages in the political and civil society. Challenges are also being opened in the political sphere with the rise of opposition parties gaining control of significant federal states in the last decade such as the Democratic Action Party. The opposition political parties are pushing for more inclusive politics and democratic practices in response to issues of corruption and selective patronage. In civil society, the activist human rights, migrants, women, and humanitarian NGOs, largely influenced through the alternative liberal-democratic values at the transnational level, are challenging some elements of this hegemonic project.

Contemporary approaches on Trade Union-NGO relations

The TUs, ascribed as part of the state and labor institutions in the post-war period in industrialized countries, are in crisis amid stronger pressure from capital since the resurgence of neoliberal globalization. The TUs are even viewed as no longer representing the fractured working class of the future. The emergence of new social movements and NGOs addressing labor issues and organizing workers has opened debates on the role and relevance of TUs. Dan Gallin (2000) offered a historical overview of the relations of TUs and NGOs that emerged in the post-war period. The TUs in the prewar period have always been part of the "general struggle for a better world and were normally taken up by a well-structured socialist mass movement, which considered itself not only a political party, but also a counterculture to the existing society" advancing gender equality, consumer rights, welfare, human rights along workers' rights (Gallin, 2000, p. 4). The advancement of welfare states in the post-war period took up these general issues and delimited TUs towards specific labor and membership concerns. In effect, TUs have withdrawn from broader political/social questions and labor-NGOs, which usually operate along socialist and democratic lines, have disappeared. Gallin (2000) argued that the withdrawal of TUs from wider social and political concerns opened a vacuum for "the emergence of issue-oriented groups without traditional ties to labour" and that today's NGO movement is "the illegitimate child of the historical labour movement" (Gallin, 2000, p. 5).

The rise of transnational capital and neoliberalism termed as 'globalization' in the 1980s pushed back the role of the state in regulating the market and rolled back social protections for workers and vulnerable segments of society. Addressing the global issues and negative impacts of globalization such as environmental degradation and increasing migration, to name a few, have been the purview of non-labor NGOs such as environmental, human rights and migrant organizations. The transnationalization of capital through easy mobility has created a global labor market of casualized and informalized workers. In responding to these issues, NGOs seem quicker than TUs, given "The fact that the structure of the TU movement has retained its territorial base in the nation state has not helped it in meeting these challenges" (Gallin, 2000, p. 7). As capital becomes unfettered and can withdraw at will, outsourcing and labor flexibility have created a

large army of informal workers, at the same time shrinking the 'core' or formal workers in industrialized countries (Gallin, 2000).

In the increasing transnational labor migration, NGOs initially addressed migrant workers' issues by framing labor rights as human rights and shifting from development agenda to more political issues (Ford, 2004, 2006). As TUs remain bounded within territorial- and national-based industrial relations, it was difficult to address issues of transnational migration and informal workers considered temporary in the first place. In the increasingly globalizing world, especially in the 1980s when transnational labor migration massively occurred, NGOs have been at the forefront in addressing the issues of temporary migrant workers. Particularly in East and Southeast Asia, NGOs have undertaken "activities ranging from data collection and advocacy to case management and even migrant worker organizing" (Ford, 2004, 2006, p. 300) instead of TUs. The NGOs in the form of human rights or migrants groups tackled the work necessary in securing rights for temporary migrant workers who were usually excluded from formal industrial relations and viewed as competition in employment by TUs (Ford, 2006).

From a transnational civil society perspective, Egels-Zanden and Hyllman (2006) reviewed the TU-NGO relations working on corporate responsibility issues and framed the relations around two outlooks: "(i) conflict and competition, and (ii) co-ordination and cooperation" (Egels-Zandén & Hyllman, 2006, p. 304). The first perspective points to claims that NGOs are stepping on the boundaries of TU roles and "crowding out union involvement," whilst the second claims that NGO involvement complements TU activities (Egels-Zandén & Hyllman, 2006, p. 305). Through engagement in corporate responsibility, Egels-Zandén and Hyllman developed four categories of "union-NGO relationship strategies: (i) a coordinated low-commitment strategy ('truce'), (ii) a coordinated high-commitment strategy ('alliance'), (iii) a conflictual low-commitment strategy ('neglect'), and (iv) a conflictual high-commitment strategy ('war')" (Egels-Zandén & Hyllman, 2006, p. 313). On another perspective, Gallin (2000) argued that the differences and tensions between TUs and NGOs originate from differences in movement cultures: "The culture of the labour movement is one of solidarity in a struggle for social change, whereas many NGOs have a welfare and basic needs agenda rather than a social change agenda"

(Gallin, 2000, p. 28). Whilst both come from civil society with visions of a better world, their differences extend to "constituency, governance and culture," wherein TUs are defined based on "a continuing power struggle" with capital and governments that favors capital, while NGOs can choose to be "partisans or mediators or in denial," not necessarily confronting the power struggle (Gallin, 2000, p. 30).

In East and Southeast Asia, TU-NGO relations on migrant workers' issues range between suspicion and collaboration (Ford, 2006). The TUs, which focus more on terms and conditions of work, view other civil society groups as having specific political agenda such as opposition to the government or a political vision beyond labor issues. On the other hand, collaboration becomes beneficial for TUs because they would not be starting from scratch in reaching workers in this sector. The sources for TUs suspicious relations with NGOs can be summarized as: (a) NGOs' source of legitimacy when they have limited-members as opposed to TUs mass-membership structure; (b) NGOs' dependence on external funding; and (c) transparency and accountability of NGOs' organizational management (Egels-Zandén & Hyllman, 2006; Ford, 2004, 2006; Gallin, 2000). On the other hand, NGOs involved in labor issues confront TUs on their limited coverage of non-citizen workers such as migrants, non-traditional industrial workers such as women, and precarious or informal workers such as domestic workers. In transnational labor migration, labor NGOs are organizing migrant workers (not unionizing) and even workers deemed "unorganizable by unions, such as home workers and workers in export processing zones, workers employed in the informal sector, or even the unemployed" (Ford, 2004, p. 103).

According to Egels-Zandén and Hyllman, between the conflict-collaboration outlook of TU-NGO relations, TUs "are likely to choose conflict as their default strategy, while NGOs, on the other hand, are likely to choose co-ordination" (Egels-Zandén & Hyllman, 2006, p. 305). This is explained in TUs' underlying mindset of 'competing interests' in the industrial relations framework while NGOs tend to collaborate towards a win-win situation (Egels-Zandén & Hyllman, 2006). The TUs' conflict strategy may relate to Gallin's explanation that TUs by definition emerged from the conflict of interests between capital and labor; however, he viewed that TUs and NGOs both have visions of social change (Gallin, 2000).

In the post-Marxist approach on TU-NGO relations, NGOs emerged to address other forms of oppression and exploitation rather than class conflict alone. In examining the role of NGOs, Law and Nadeau (2009) applied the post-Marxist Althusserian analyses to provide an "alternative, decentered and class-sensitive way of examining the role of NGOs as spearheading social movements for change in a postmodern epoch" (Law & Nadeau, 2009, p. 54). This perspective views the role of NGOs by decentering economics in the analysis of social change, not admitting that class struggle is important but is not the only determinant of change (Law & Nadeau, 2009). According to the Althusserian post-Marxist analysis, Law and Nadeau argued that NGOs represent the other spaces and sites of struggle particularly in transnational migration where gender and ethnicity/race hierarchies intersect. Nevertheless, despite differences in political and/or theoretical perspectives, the neoliberal globalization pressures on the global economy and the social implications at the local level such as rising migrant, informal and precarious employment, strengthens the case for cooperation on TU-NGO relations (Bonner & Spooner, 2011b; Ford, 2006; Gallin, 2000; Law & Nadeau, 2009).

Studies on TU-NGO relations around labor organizing has become an increasing body of knowledge in TU and labor migration studies (Ford 2004; Ford 2006; Piper 2006; Gallin 2000). Whilst TU-NGO relations on migrant workers organizing show pockets of collaboration, tensions still remain, implying a long road towards a stability of partnerships (Ford, 2006). Michelle Ford argued that "temporary labor migration," particularly in Southeast Asia, is considered as a migration issue rather than an industrial relations concern, and TU-NGO collaboration is a new phenomenon and "patchy" at best (Ford, 2006). More attuned to the national-based industrial relations framework, TUs such as in Malaysia, are not prepared to deal with the temporary nature of migrant work as well as the household-based nature of domestic work. An important contribution in the literature of TU-NGO relations relate to Ally's (2005) study on the experiences of domestic workers organizing in Latin America and South Africa. Ally (2005) noted the bifurcation and dichotomy of TU and NGO organizing initiatives of migrant domestic workers. Ally's (2005) study argued that there are two organizing currents of domestic workers namely, "unionizing" and "associational" models. The bifurcation of TU and NGO organizing

strategies reflect separation of their initiatives and actions towards organizing domestic workers.

TUs and NGOs: Roles, relations and tensions

In the case of Malaysia, TUs and NGOs have separate programs, initiatives and strategies of action in addressing migrant labor issues. However, there are spaces and issues where they converge and the potential for collaboration is high. At the same time, tensions and minimal solidarity can be found. Based on empirical data, the key perceptions relating to tensions or dynamics of TU-NGO relations can be summarized as:

1. there are no tensions between NGOs and TUs but only differences in roles and functions on migrants' rights;
2. there are no tensions because everyone works on the issue and consults each other;
3. there are tensions emanating from duplication of roles or functions, political positions and differing approaches;
4. there are tensions and animosity because the other is not doing enough, belittles the other's efforts, or the other is doing it wrongly; and
5. tensions and dynamics will always be present, and it is fine as long as there are spaces for collaboration and solidarity.

The responses presented the variety of perceptions on TU-NGO relations as a reflection of where they were coming from. Civil society groups have expressed to expect more from the TUs. On the other hand, TUs believe that they have the utmost legitimacy to address workers' issues and not the non-mass-based organizations. On the surface however, the groups continue to present and seek spaces for collaboration. Furthermore, there are underlying factors that shape the relations of TUs and civil society groups in Malaysia.

In Malaysia, political constraints on activism and trade unionism became a common foundation for cooperation and coalition-making among TUs and NGOs in relation to migrant workers issues but not necessarily on domestic workers' issues. Malaysian TUs are similarly constrained to organize and advocate for labor and political reforms.

However, on issues that impact on workers in general, such as the national minimum wage, TUs seek support from politically-oriented civil society groups to exert pressure on the government (i.e., through social protest, etc.). Open communication lines are in place among and between the different stakeholders on MDW concerns, including the Malaysian immigration offices, embassies of sending countries, TUs, human rights/migrant/women NGOs and religious groups particularly on abuse cases against domestic workers. Collaboration and communication are likewise present among regional Global Union Federations (GUFs) and international labor organizations (i.e., Building Workers International), Malaysian TUs, NGOs, social movements, and self-organized domestic workers' groups on migration issues. However, open communication lines do not mean agreement or consensus on issues concerning domestic workers and may even become sources of tension between TUs and NGOs. Whilst there are clear commitments from TUs to work on the inclusion of domestic workers in the labor relations framework of Malaysia, NGOs and religious-based migrant groups contend that TUs remain distant with MDWs. Religious-based organizations (e.g., Archdiocesan Office for Human Development or AOHD), humanitarian, human rights and women NGOs, as well as embassies of sending countries have more access to MDWs than TUs. Furthermore, the official labor center of Malaysia, the Malaysian Trade Union Congress or MTUC, only agreed to work closely with Tenaganita, a human rights NGO, as its conduit to other NGOs. The second national labor center in Malaysia, the Malaysia Labor Centre (UNI-MLC), supported the unionization of domestic workers in principle but is not involved in organizing domestic workers, and instead prefers to focus on organizing local and migrant workers in the manufacturing and services sectors.

**Harmonious relations: The absence
of tensions due to the absence of collaboration?**

In the field of migrant rights activism, some trade unionists think there are no tensions, and admit that NGOs dominate this field in terms of the broad issues being addressed with more access to migrant workers. "I don't think there are tensions. I think the TU is a relatively small player compared to NGOs. That is my impression. That is why I think there is tension at times, but I think that is not necessarily

about TUs vs. NGOs, maybe more about best ways to go about some things" (Interview, Adam Kaminsky, BWI Program Coordinator, 10 July 2013). Kaminsky pointed that there are more than 20 NGOs working on migrant issues in Malaysia and only a few TUs (i.e., MTUC, BWI, UNI and GEFONT) are directly organizing migrant workers. However, interviews with NGO informants reveal that they perceive there are not so many organizations addressing migrant workers' rights in Malaysia. Similarly, in an interview with respondent Musarrat Perveen of CARAM-Asia, a network of NGOs in Asia, she shared that "there is no tension and there is not many NGOs working on this issue. NGOs are working, we are also working. TUs are also working" (Interview, Musarrat Perveen, CARAM-Asia Program Officer, 16 July 2013).

During the deliberations of the ILO Convention for Domestic Workers in 2011, CARAM-Asia stated that it dialogued, exchanged and provided information with the MTUC before the TU went to the ILO Governing Body. "We had meetings with MTUC, we worked together because we cannot go directly to the ILO, so it is a way to go through the MTUC, so we had meetings, to do the job and all that. So, we did work and then gave all our input and whenever there is meeting in MTUC we go there and give our inputs. Whenever we organize anything, MTUC also comes" (Interview, Musarrat Perveen, CARAM-Asia Program Officer, 16 July 2013).

This view is supported by the MTUC union former staff assigned at the Domestic Workers Desk who stressed their openness to NGO-initiated activities for domestic workers, "The MTUC is part of a coalition of NGOs and other civil society groups for domestic workers particularly on the campaign for a one-day off per week policy for domestic workers. The NGOs have important work such as rescuing abused domestic workers, while the MTUC has the role to lobby the government and employers within the national labor tripartite body. The MTUC also conducts workshops for domestic workers" (Interview, Parimala Moses, MTUC Domestic Workers Desk Staff, 13 August 2013).

Instances with overt absence of tensions between TUs and other civil society groups (i.e., advocacy on minimum wage) seems a double-edged sword. The view that there are no tensions between TUs and NGOs in Malaysia comes with a caveat that there are no tensions when there are no collaborations or cooperation happening. There

is a consensus that TUs and NGOs in Malaysia both work for migrant workers but separately, which could override the issues of tensions. An important point of agreement between TU and NGO informants is the idea that migrant rights advocacy (including MDWs) is a terrain initially addressed by non-union NGOs. A key informant from the TUs stressed the lack of involvement of the Malaysian TU movement in migrant workers issues in the beginning. This view was echoed by a key informant from the NGOs, "I think again that the whole agenda of migrant workers is not in the TUs. There were lots of other issues with them, the local workers, and a lot of discrimination. Although the [agenda] is a concern, they have to deal with different issues that they were taking up. I think, it was only toward the mid-2000s that they started taking up issues of migrant workers, it was started by the NGOs" (Interview, Glorene Amala Das, Tenaganita Executive Director, 16 July 2013).

The recent involvement of TUs on migrant workers issues could also explain the separation of initiatives and lack of substantial collaboration. From the perspective of an external trade unionist working for the BWI global union in Malaysia, Tolentino argued that a change of mindset among TUs towards migrant workers is happening. "I think Malaysian TUs are realizing the importance of organizing the migrant workers. In my personal view (and I may be wrong), but for them this is still a very new stage or a new undertaking for them" (Interview, Apolinar Tolentino,BWI Asia-Pacific Regional Coordinator, 17 July 2013). Tolentino explained that the newness and change of mindset for Malaysian TUs may be due to their response to the transformation of production relations in Malaysia in the last 20 years. The agriculture and plantation sectors used to be the bastion of Malaysian TUs but the composition of workers has drastically changed into more than 90 percent foreign labor. According to Tolentino, "Like the wood plantations 20 or 30 years ago, the plantation workers used to be one of the strongest union or federation in Malaysia, but it changed completely, and you hardly find any local Malaysian doing plantation work. And that also changed the plantation union place in the movement. They are actually, I would say, catching up on these changes and challenges" (Interview, Apolinar Tolentino,BWI Asia-Pacific Regional Coordinator, 17 July 2013).

**Changing relations, changing
mindset and developing collaborations**

Whilst not many informants challenged the claim that there is a change in the mindset of TUs toward migrant workers, and that this may open up the space for collaboration in TU-NGO relations, other informants still view that TUs are separate from the bulk of civil society actors involved in migrants' rights. But for other informants, there is a small space where TUs and other civil society groups, such as the religious groups, meet. This current small space for collaboration is supported by religious groups by referring labor cases to TUs: when troubled migrants come to them, "we also refer cases to TUs when problems are labor-related", says Josie Tey, staff of migrant workers program of the AOHD (Interview, Josie Tey, AOHD Program Staff, 20 August 2013). The Archdiocese organization based in Kuala Lumpur is actively involved with other NGOs on migrants and domestic workers issues. The informant consistently stated that, "We have established good networking relations among the different groups; we share information or findings in studies, and generally, help each other. We have campaigns and advocacy in addressing the issues of MDWs as women in Malaysia" (Interview, Josie Tey, AOHD Program Staff, 20 August 2013).

The change of the top tier leadership within the TU center, the MTUC, was mentioned as important in the change in working relations between NGOs and TUs on the issues of migrant rights and domestic workers. The former MTUC President, Khalid Atan,[4] was viewed as instrumental in shaping a more collaborative relationship between TUs and NGOs. Having worked with Tenaganita in the past, Khalid, as president of MTUC, contributed in sustaining collaborative work relations between NGOs and MTUC. He institutionalized programs for migrant workers during his term by strengthening the migration program and establishing the Domestic Workers' Desk. Tolentino opined on the emergence of growing trust between TUs and NGOs, "I think eventually it also has to do with the leadership, the trust that had been built gradually between these social groups or institutions, because here in Malaysia, there were even cases that the migrant NGOs are asking the unions to extend legal assistance to their own clients"

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4 In early 2016, Khalid Atan passed away

(Interview, Apolinar Tolentino,BWI Asia-Pacific Regional Coordinator, 17 July 2013).

Contentions and contestations

The working relations of TUs and NGOs were not this cooperative in the past. Tolentino confirmed that tensions in the past existed but did not elaborate on specific examples. He revealed that "The other interesting element is that the working relationship between TU organizations and migrant NGOs are much better now I would say, because there was a time, there was a tension" (Interview, Apolinar Tolentino,BWI Asia-Pacific Regional Coordinator, 17 July 2013). A major source of tension was the difference in organizational structure and duplication of services provided to workers. Malaysian TUs viewed NGOs as non-members-based organizations and questioned their funding which come from donor organizations or individuals. This implied a deeper questioning on the NGOs legitimacy and accountability to represent workers, whereas TUs argue that they have clearer accountability because they rely heavily on dues payments from members. However, Tolentino clarified that this was before niches, expertise and specific roles were delineated between TUs and NGOs, "...migrant NGOs have a good expertise on research, for example on policy work. And this is complementing the work of TUs. For example, at the height of the debate on the minimum wage, whether it should cover migrant workers or not, it was a good illustration that this network has a common position, that the minimum should cover both local and migrant workers" (Interview, Apolinar Tolentino,BWI Asia-Pacific Regional Coordinator, 17 July 2013).

Tensions also arose in differences in political positions on human rights or migrant workers' rights. The confrontational role of NGOs towards the government, in contrast to TUs, became a source of tension among the civil society groups. Adam Kaminsky of BWI stated, "...you have a lot of NGOs who are antagonistic toward the government and maybe the TUs are less antagonistic toward the government so they might be in opposition" (Interview, Adam Kaminsky, BWI Program Coordinator, 10 July 2013).

There were contrasting views on the perceived improvement in the tensions and limited working relations between TUs and NGOs, particularly on migrant workers' issues. Charles Hector of the Malaysian Bar Council (MBC) recounted that the TUs admonished other civil society groups from intervening with labor issues since it is the role of TUs. He stated that, "There is a movement toward TU-civil society collaboration, but of course we got a counter movement in our last statement that some unionists are saying that we should not participate in civil society. Some unions are saying that on issues that concern the workers, it should be union action" (Interview, Charles Hector, MBC Executive Committee member, 12 July 2013). The mentality of exclusivity that TUs expressed through their statements and actions seep through and create fissures with other civil society groups. The fissures permeate deeply even into the differences of language, ideas and actions of TUs and NGOs in Malaysia. However, even among NGOs, there are tensions and differences of positions to take with regard to TU-NGO relations.

Still, some trade unionists remain critical towards some NGOs, "I think if you talk about the NGO, the only NGO which is a little bit flexible is (Tenaganita–anonymized by the author) …. But the rest of the NGOs, sometimes they feel they are superior. They talk about the law, about all the legal things. They will talk and talk about all the law of the country, everything they will talk but only on paper, not on the ground" (Shafie BP Mammal, UNI-MLC president, 13 August 2013). The rest of the NGOs view that TUs only collaborate with a handful of NGOs in Malaysia, "The TUs have effectively isolated themselves from civil society groups; at the same time civil society groups have not much improved the relationship with the TUs. There has been some relationship but very limited and mainly with the MTUC" (Interview, Charles Hector, Malaysian Bar Council Executive Committee member, 12 July 2013). The MTUC confirmed they mostly work with Tenaganita and not with other NGOs, "we are also working with NGOs. Like, most of the time we are working with Tenaganita. In fact, not only migrant workers but other domestic workers are working very well with the Tenaganita" (Interview, Mhd. Khalid bin Atan, MTUC President, 12 August 2014).

The back and forth in relations between TUs and NGOs continue to strain the delicate balance of collaboration that has been established through

the years. These and other issues are sources of tensions among TUs and NGOs. Some NGOs and human rights activists in Malaysia contend that the national TU has more opportunities to address domestic workers issues as one of the tripartite partners with the State and business but that they have not been dynamic about it (Interview, Glorene Amala Das, Tenaganita Executive Director, 16 July 2013). In their defense, MTUC President Mohd Khalid bin Atan stated that their organization was still working within the tripartite system to amend labor laws and include the recognition of domestic workers (Interview, Mhd. Khalid bin Atan, MTUC President, 12 August 2014). MLC-UNI President Mohd. Shafie BP Mammal also said that due to lack of legal recognition, their hands are tied in organizing MDWs into unions because they will not be recognized when registered (Mammal 2013).

Beyond the tensions, spaces for collaboration

Despite the tensions, there is however, already an open space for cooperation and coalition-making among civil society groups. Open communication lines among and between the different stakeholders, state and civil society groups seems to be in place especially among the TUs, human rights/migrant/women NGOs and religious groups in Malaysia addressing cases of abuse and violence towards domestic workers. Regional and international labor organizations (i.e., BWI, UNI, and ILO) are also present to support the local initiatives of social movements on migration issues. The existing self-organized domestic workers' groups also play a role in building the momentum for organizing. In the present set-up, intra-TU collaboration on migrant workers issues exists, taking on the following: unionizing migrant workers; tripartite negotiations for inclusion of migrant workers in the minimum wage law; setting up an SMS hotline for abused and distressed migrant workers including domestic workers; and other programs. The network of NGOs in Malaysia likewise has national and regional collaborations on service-provision, such as shelters and counseling for abused domestic workers; campaign advocacy to declare domestic work as work; case management; capability trainings, and other programs.
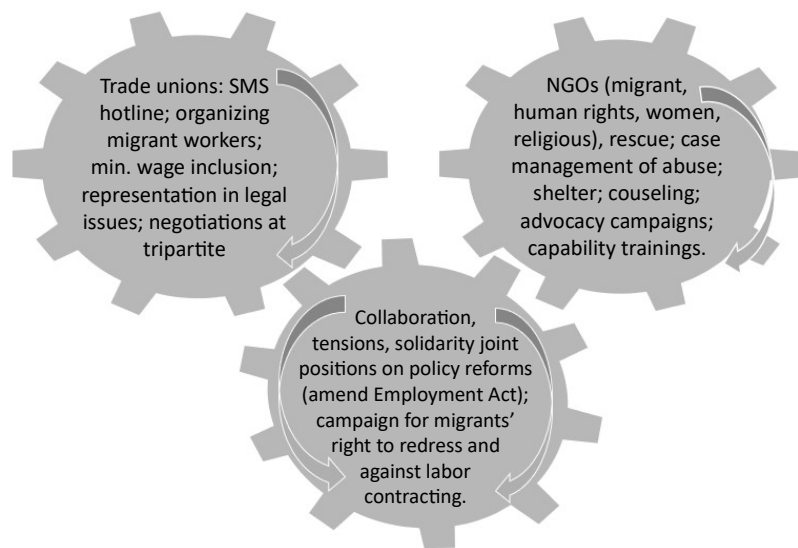
The TUs and NGOs in these two separate initiatives meet on specific issues and projects related to MDWs on joint actions, to name a few: (a) policy reform advocacy and negotiations to amend the Employment Act of Malaysia and include domestic workers in its coverage; (b) campaign on the right to redress of migrant workers to stay in Malaysia while pursuing labor complaints or cases; (c) joint statements against the newly approved labor contracting policy; and (d) campaign for the one day-off per week for domestic workers. The TUs support these separate initiatives and cultivate spaces for collaboration, "the idea is that to broaden, not to interfere with the work of the TUs but to broaden the scope of the cooperation. So, there is something that we can do as a network of TUs working on migration and there are some things that we cannot do" (Interview, Adam Kaminsky, BWI Program Coordinator,10 July 2013). As for the NGOs, "Dynamics will always be there, even within the TUs. But when MDWs are concerned, they become part of the coalition. They included us in many dialogues" (Interview, Glorene Amala Das, Tenaganita Executive Director, 16 July 2013).

This space of collaboration is broadened through the clear delineation of the limits and capacities of what TUs and NGOs can do in relation to the issues of MDWs. However, I perceive that the conscious effort to delineate roles and functions reflect the coping mechanisms to minimize tensions among themselves. According to Tolentino, "... recently with the recognition of the specific roles that the unions can play and migrant NGOs niche and expertise and working together on certain issues like this campaign on the right to redress, the minimum wage to cover also migrant workers, are clear examples of a better working relationship between the two players" (Interview, Apolinar Tolentino,BWI Asia-Pacific Regional Coordinator, 17 July 2013).

Figure 8.1 illustrates in summary the actions/initiatives and the interrelations of TUs and NGOs in Malaysia towards domestic workers issues. The figure below frames the relationship of TUs, NGOs and other civil society groups in Malaysia with points of convergence and synergies as well as divergence on specific issues relating to domestic workers. TUs engage domestic workers' issues through assistance such as responding to SMS hotlines, legal counseling, and representation as well as representation of domestic workers' issues within and outside tripartite structures. The case of MTUC engaging indirect organizing likewise includes domestic workers in TU campaigns (i.e.,

minimum wage campaign). On the other hand, NGOs (i.e., human or migrant rights organizations) and other cause-oriented civil society groups (i.e., religious-based groups), engage in advocacy campaigns for domestic workers' rights, rescue, case management and running of shelters for runaway domestic workers. In cases and issues where these groups meet, such as campaigns to amend the Employment Act and migrant workers' rights, collaboration and solidarity exist as well as tensions and contentions.

Figure 1. Actions, Initiatives and Interrelations of TUs and NGOs in Malaysia

Trade unions: SMS hotline; organizing migrant workers; min. wage inclusion; representation in legal issues; negotiations at tripartite

NGOs (migrant, human rights, women, religious), rescue; case management of abuse; shelter; couseling; advocacy campaigns; capability trainings.

Collaboration, tensions, solidarity joint positions on policy reforms (amend Employment Act); campaign for migrants' right to redress and against labor contracting.

Analysis: Institutions, policies, stakeholders' relations, and implications on TU-NGO relations in organizing MDWs

From the empirical data, I outlined the relations and interactions of different social actors involved in the terrain of MDWs organizing. Underlying these relations are power constellations expressing contending interests and degrees of influence at different dimensions, at the policy and institutional levels, in the household, community and social spaces. The TUs and NGOs working on domestic workers issues not only relate with the Malaysian government and employers but also with different state institutions such as the labor and immigration

offices, as well as other social actors involved in the domestic service industry of Malaysia. Aside from the employers, the roles of privatized recruitment and placement agencies, embassies of sending countries and religious groups also have influence in shaping the strategies in organizing domestic workers. The TUs and NGOs perhaps need to strategize in engaging these forces, such as the regulation of the domestic worker manpower agencies, reign in the unmonitored power of MDW employers inside the household and mobilize symbolic moral pressure from religious groups (Islamic, Catholic, Baptists, etc.). These groups have the potential to support domestic workers' issues. With these in mind, designing a strategy towards the empowerment of domestic workers perhaps also needs analysis in breaking down the power constellations of other social actors in Malaysia.

The figure below illustrates the link of these relations with the underlying power relations among and between the social actors and forces surrounding the world of the MDW in Malaysia. (See Figure 8.2). Within the complex state-civil society relations, the Malaysian state, with its institutions and employers, advance the hegemonic project expressed through a neoliberal, yet nationalist development paradigm anchored on low-cost local and foreign labor. The Gramscian hegemonic concept is maintained on two prongs, through political coercion and consent from civil society. In Malaysia, coercive policies on labor are maintained and reproduced through political and labor institutions. This engenders a power imbalance expressed through the sense of impunity from unfair labor practices of employers towards migrant workers in general, and domestic workers in particular. Oppressive labor practices towards MDWs may become the norm when employers are not called into question. These employer practices are supported and facilitated by state institutions and the labor regime in Malaysia involving recruitment agencies, politicians, bureaucratic officials and the silence of the general public. The TUs and NGOs vocal enough to question such practices are branded as 'troublemakers,' un-nationalistic, and pressured to toe the line of the state and its institutions through legal and political pressures.

However, among the non-state actors in the civil society sphere, TUs and the workers-led collective organizations representing migrant workers are not able to assert leadership and consensus, thereby engendering

tensions within the nascent labor movement. NGOs working on migrant workers' rights and the self-organized domestic workers networks remain in the periphery of Malaysian labor relations.

Figure 2: Relations and Activism of TUs and NGOs in Malaysia
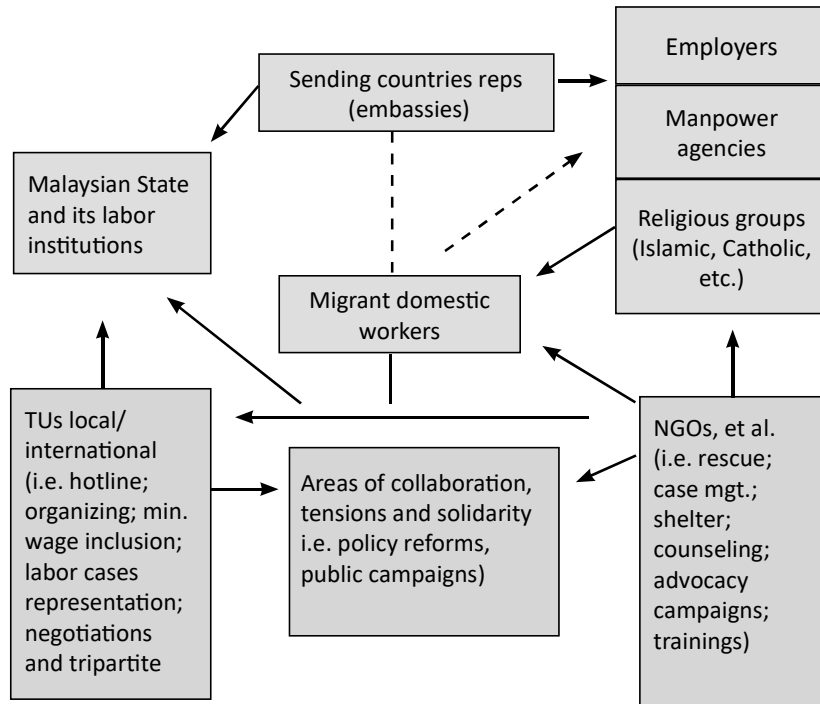
The TUs on the other hand, have access to state policy-making process in so far as labor policies are concerned but their access to and representation of MDWs are limited. Non-recognition of domestic work as work and exclusion of domestic workers from Malaysia's labor relations reflect the traditional focus towards the formal, the male and the industrial workers in Malaysia. Migrant workers in general are viewed as dispensable and disposable, adding another layer of vulnerability for MDWs. At the household level, the imbalance of power between the employer and domestic worker is particularly heightened because the household is beyond the regulations of labor institutions. The household has yet to be considered a workplace.

Power imbalance is expressed through different forms of control employers use on employment and basic freedoms (i.e., food, mobility, communication, work conditions, identity). Through the structure of dominance expressed through coercive policies and norms, migrant domestic workers also surrender consent and enter into contracts with recruitment agencies, employers and immigration officials curtailing their rights and freedoms.

From these areas where collaboration and/or tension exist between TUs and NGOs, the neo-Gramscian state-civil society and hegemony framework stress that it is important for the TU movement in Malaysia to establish consensus from its allies as well as its rivals. Whilst TUs are bestowed institutional recognition and official functions within the labor relations system, the TUs' leadership role, particularly in the case of domestic workers, has not been seamlessly accepted by other civil society groups. Further, the TU movement has not strayed too far from the parameters of the labor relations system of Malaysia, which in this case has a strong labor control regime that views domestic work as 'non-work'. This emanates from a patriarchal structure of production relations which, in Malaysia, has feminized domestic work as primarily a woman's work and viewed as low-skilled, demeaning, and low-valued in economic production. The narrow framework of industrial relations in Malaysia resists the inclusion of reproductive work; hence, domestic work is still considered informal work. The specific character of domestic work requires broader political and ideological parameters specifically integrating social reproduction analysis in the production relations in Malaysia.

Conclusion

Among the findings of this study is that despite the constraints and spaces on organizing MDWs in Malaysia, TUs and NGOs make strategic decisions based on the spaces allowed by the political and labor contexts. The combined organizing strategy of TUs and an NGO in Malaysia resulted in the formation of the Association of Domestic Workers, which is under the auspices of MTUC and intending to function as a union despite being organized as an association. Migrant domestic workers in Malaysia also engage in self-organizing and formation of support groups with other migrant workers along ethnic/

national lines. Empirical data yields agency and independent ways of coping and resistance from MDWs unreached by NGOs and TUs. Consequently, the emergence of self-organized migrants and domestic workers' groups generate non-traditional working-class issues and conflicts.

In organizing domestic workers Malaysia, empirical data shows that Malaysian TUs and labor-oriented/human rights NGOs approach organizing through conventional and narrow worker representation, befitting national-based or workplace-based workers. Possibly due to political constraints on activism, TUs and NGOs primarily advocate for legislative and policy reforms, before organizing can truly begin for MDWs. Likewise, religious-based groups and NGOs remain focused on service-oriented assistance. The TUs and NGOs in this sense realize the importance of engaging the self-organized but ethnic/national-based migrant workers' organizations as well as the other actors in the domestic service industry. Both NGOs and TUs opened lines of communication and networking with embassy officials from sending countries, as well as with Malaysian immigration officials, employers' associations and recruitment agencies.

This complements the separate transnational links of local TUs with global/regional TUs and the NGOs with regional/global social movements (e.g., GUFs, ILO, IOM) in the field of migration and human rights. The TUs, while intending to unionize domestic workers, are constrained by the enterprise-based and repressive labor relations in Malaysia such as outright dismissal when workers begin organizing. Hence, the TUs utilize multiple strategies, reforming repressive labor laws or pushing for international labor standards such as right to association on the one hand, and organizing migrant workers at the same time. "While we can continue that, we believe we also need to support the groupings by ethnicity, or by citizenship and form a network or alliance among the existing social groups. It could be church-based, it could be as I said, by ethnicity, and discuss a common problem. Then to begin with, there must be a strong tie between this group with their embassies or high commission. And have them part of the union alliance. While you continue organizing them on an enterprise based, you also develop other means, broader, and stronger support group because what you are working in the enterprise is influenced by a much broader social policy" (Interview, Apolinar Tolentino, BWI

Asia-Pacific Regional Coordinator, 17 July 2013). This type of strategy reflects a neo-Gramscian notion of establishing hegemony within allied social forces in the civil society as well as the process of establishing linkages between civil society and political society.

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