

# 21<sup>st</sup> Century Empowerment

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*The rights of migrant domestic workers in Malaysia*

What are the possibilities to protect the human rights of migrant domestic workers in Malaysia?



*“We believe in empowering the workers, before the shit hits the fan.”*

Name: Gina Overkleeft  
Student number: 5762200  
Supervisor: Maggi Leung  
Date: November 1st, 2016  
Msc. International Development Studies  
Universiteit van Utrecht

**Abstract**

Migrant domestic workers (MDWs) in Malaysia are a highly vulnerable group, since they are domestic workers, migrants and women. Their rights can easily get violated, due to different reasons. This research aims to create possibilities for the protection of the rights of MDWs with a rights based approach. The challenges for this protection have been outlined after qualitative interviews with 19 MDWs in Kuala Lumpur. Five topics of challenge were sorted out from the data: challenges in migration channels, working conditions, perception on MDWs, rights and policies. Afterwards, through thematic interviews with stakeholders the possibilities for protecting the rights were outlined. One of the most valuable conclusions is the creation of a comprehensive framework through creating more data on the situation, doing evidence based advocacy and creating a specific domestic workers act. Another valuable conclusion is that MDWs should increase their empowerment through transferring knowledge via a smartphone application: [DW]app.

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## Abbreviations

ADB	Asian Development Bank
ASEAN	the Association of Southeast Asian Nations
GNI	Gross National Income
G to G	Government to government
HDI	Human Development Index
ILO	International Labour Organization
MAPO	Anti-Trafficking in Persons and Anti-Smuggling of Migrant
MDW	Migrant domestic worker
MoU	Memoranda of Understanding
NEM	New Economic Model
NEP	New Economic Policy
NSI	North South Initiative
NICs	Newly Industrializing Countries
OCW	Overseas Contract Worker
POEA	Philippine Overseas Employment Administration
US TIP	United States Trafficking In Persons Report
WAO	Women's Aid Organization

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## 1. Introduction

Imagine working in a household of an unknown family in an unknown country, migrant domestic workers (MDWs) do so. Economical, social and demographic reasons have driven you to Kuala Lumpur, the capital of Malaysia, in the hope of improving your families' lives. But the situation in where you have ended up in is not optimal. Maybe you are working every hour of the day, every day of the week, or even every day of the year. Maybe your employer is not being nice to you and you do not have the possibility to go back to your own country. What can be done to improve this situation and to make sure other MDWs will not end up in the same situation?

### 1.1 Problem definition

Universal human rights should protect each person in the world. No human shall be held in slavery. Each worker has the freedom of forming an association and the right for collective bargaining. Each worker should be protected against forced work and abolition and each worker should not be discriminated. For a lot of people these rights are being protected, but there are also a lot of people of which these rights are violated and hard to protect. A group of workers which is very vulnerable for the violation of their rights are MDWs. On the one hand, they are vulnerable because they do domestic work. Since 2011 there is a convention for domestic workers, but this convention is ratified by only 22 countries (ILO, 2016). Because so little countries have ratified the convention, the convention cannot make a global change for domestic workers. Seeing domestic workers not as real workers makes it hard to protect the employees in this sector. On the other hand this group of workers is vulnerable because they are migrants. Migrants are often being treated unequally, and violation of human rights of migrants is common in the world, which makes MDWs an extra vulnerable population.

Malaysia, an upper middle income country, has a great demand for domestic workers due to the fact that more women enter the workforce since the economy started growing. Therefore, household tasks are being outsourced to domestic workers. Domestic workers often come from other countries, because they can earn more money in Malaysia and there is a greater demand for work in Malaysia than in their home countries. But, with having said that MDWs are vulnerable for the violation of their human rights, a problem raises. It is important that human rights are protected, but the question on how this can be done best remains. A lot of research has been done on this topic, as well as lots of action has been already taken to protect the rights of MDWs, but, still, not much has changed according to the literature. The goal of this research is therefore to find out what the current situation is for MDWs and how this situation can be improved.

The main question is consequently:

*What are the possibilities to protect the human rights of migrant domestic workers in Malaysia?*

To answer the main question this research is divided in four sub questions, which are as following:

1. What are the challenges for the protection of the rights of MDWs?
2. What are the possibilities for the protection of the rights of MDWs on national level?
3. What are the possibilities for the protection of the rights of MDWs on international level?
4. What are the possibilities for the empowerment of MDWs?

In the next paragraph the scientific relevance and social/development relevance will be demonstrated. This part also demonstrates some of the most valuable research that has been done already and discusses why the rights based approach of this research is valuable. The next chapter, chapter 2, addresses the theoretical background for this research. Chapter 3 will broaden the theoretical background with a contextual background, focusing on the three countries of interest; Malaysia, the Philippines and Indonesia. MDWs in Malaysia mostly come from the Philippines and Indonesia, therefore the focus in this research is on MDWs from these two countries. In chapter 4 the methodology will be discussed where after the outcomes of the data analysis will be presented by answering the sub questions. The conclusion and reflection present a comprehensive outcome of this research and possibilities for further research.

## **1.2 Scientific relevance**

The scientific relevance of this research needs clarification due to the fact this topic is already researched a lot. The issue of the rights of MDWs remains important since the issue is not nearly solved it deserves more research. Nevertheless, this research aims to find another angle to the problem than others have been researched; a rights based approach.

This research uses a rights-based approach, since the rights of MDWs in Malaysia have been often violated. Rights-based NGOs and other organizations aim, consequently, to strengthen the institutions that have to protect the rights and aim to empower the ones who hold the rights (MDWs) (Bruno-van Vijfeijken, 2009). This research aims to answer the question how the protection of these rights can be improved. It therefore researches institutions that bear the duty to protect the rights and researches the MDWs themselves. Concluding, not only the questions in the data collection are focused on rights, the whole approach of this research is also rights-based.

This approach is different from other approaches since it focuses on the two main actors in rights. Eventually, with this research I aim to demonstrate possibilities for the protection of the rights of

MDWs. Other approaches seem to focus more on the current situation, as seen in previous research, or on the tasks of stakeholders. This research aims to distinguish itself from previous research through focusing on the two main actors in rights issues (the duty bearer and the rights holders). Nevertheless, it remains valuable to investigate how other researchers have approached the problem of MDWs in Malaysia.

Migrant domestic workers are all over the world and are, therefore, researched in every part of the world. Since the 1970s, in contrast with what modernists predicted, the amount of paid domestic workers has increased significantly (Moors, 2003). In countries such as China and India, with both large urban and rural areas, internal migration is predominant. In many Western countries, like the US and the UK, and in countries with a growing economy, such as Malaysia, domestic work is predominantly occupied by immigrants (Moors, 2003). Research, consequently, often focused on transnationalism and the interconnectivity of migrants and their relatives on economic and social level independent of state boundaries (Yeoh & Huang, 2005). Nevertheless, the main point of focus of transnationalism research is the identity of MDWs and their self-consciousness (Anderson, 2001), which was not valuable for this rights-based research. One of the conclusions from transnationalism research is that transnational communities are settled upon a shared feeling of identification (Guarnizo & Smith, 1998). This can be seen in the on nationality based communities of MDWs in Malaysia.

Furthermore, investigating MDWs with a focus on gender researched their identity as well and, moreover, the international division of reproductive labor (Parreñas, 2000). Since, most MDWs are females, research with a gender approach concluded the feminization of migration and the differences between men and women in migration (Boyd & Grieco, 2003). Because more women entered the workforce, the demand of domestic workers has increased, which is visible in Malaysia (ILO, 2013).

Eventually, research on MDWs in Malaysia often has a common approach of state practices and interventions. Since policies in Malaysia are aiming to de-motivate blue collar migrants to move to Malaysia, a rights-based approach can be very valuable (Czaika & de Haas, 2013). Nevertheless, previous research has often outlined the current policies, what is done now and what has been done, instead of what should be done to protect the rights of MDWs. Therefore, in this research the question of what should be done is aimed to be answered.



### 1.3 Social and Development relevance

The social relevance of this research is clearer than the scientific relevance. Malaysia faces the problem of MDWs, since their rights are often being violated. The situation creates a pressure on the Malaysian government and it does not contribute to their growing economy. It is therefore valuable to measure the situation and to research how the situation can be improved. If this research is able to give recommendations for the improvement of the situation of MDWs, this group is able to contribute more to the development of their country of origin. This will be further elaborated in the chapter on migration and development in the theoretical framework.

Furthermore, giving recommendations to improve the situation of vulnerable groups in society is important because of ethical reasons. Since we know that the violation of rights of MDWs in Malaysia is high due to previous research, it is important that possibilities for the protection of MDWs are researched as well.

The last reason why this research is relevant for the Malaysian society is that Malaysia continues to need domestic workers from other countries. Currently, there is a huge labor demand, because the economy of Malaysia is growing, but there are not enough domestic workers (Abdullah, Azam & Abdullah, 2016). If Malaysia wants to continue receiving domestic workers from other countries, the situation for MDWs should change or sending governments will put a ban on sending migrants to Malaysia (Kaur, 2007).

From a development angle this research is relevant, because migrants are, on the one hand, valuable for the continuous growth of the development of Malaysia, on the other hand, they are valuable for the development of sending countries, due to remittances sent by migrants. In chapter 3 on contextual background the amount of remittances sent and received by Malaysia, the Philippines and Indonesia are demonstrated. If remittances are invested in businesses and education they improve the development of that particular country (Willis, 2014). Hence, one can conclude that if the situation of MDWs improves, countries will keep sending MDWs to Malaysia and this can improve the development of Malaysia and the sending countries.

## 2. Conceptual framework

In this chapter a theoretical background of MDWs in Malaysia will be demonstrated on the hand of literature search. The conceptual framework will first of all show knowledge on migration, beginning with the elaboration of migration in general, the link between migration and globalization and between migration and development, the increase of South-south migration and of women in migration. Part 2.2 will explain the term 'domestic worker' and will demonstrate the most valuable theories on domestic workers. The third part, 2.3, will discuss rights issues and focuses on human rights activism. The last part will address the concept of empowerment, which is often used by NGOs and other help organizations. This conceptual framework will therefore focus on four concepts: migration, domestic work, human rights and empowerment.

### 2.1 Migration

In this research the focus is on international migration caused by economic reasons. In other words, MDWs are people that are forced or voluntarily driven to migrate internationally because they need more money. International migration caused by economic reasons has increased since the time of globalization. The next part will discuss how migration flows have changed since globalization, which is valuable for understanding the drivers of MDWs.

#### 2.1.1 Migration and globalization

Czaika & de Haas (2013) state that since the time of globalization, rules and restrictions on migration are about who is getting into a country and who is not, and not about restricting the whole migration flow, which was previously stated in influential literature. Czaika and de Haas furthermore state that developing countries are actually implementing migration-facilitating policies instead of restriction policies. This is also visible in Malaysia where policies are, on the one hand, focused on facilitating high skill migration. On the other hand the Malaysian government aims to counteract blue collar migrants (McKeown, 2013). It is important to notice that Malaysia has a high demand for domestic workers, but the government implements policies that aim to hold back blue collar migrants. The vulnerability of MDWs is therefore increasing, since they cannot rely on policies, like white collar migrants can. Nevertheless, Czaika and de Haas state that policy restrictions cannot hold back migration, because economic and other political forces also playing a role in driving people to migration. MDWs are, therefore, not being hold back due to restriction policies, since their economic drivers are more powerful. The exclusion of profitable migration policies, contribute to the vulnerability of MDWs (Georgi & Schatral, 2012). The next paragraph will answer the question if migration contributes to development or if migration of low skilled migrants just makes them more vulnerable.

### 2.1.2 Migration and development

After a time of concern on migration because of fear of brain drain, many research has been done to discover what the effects of migration on development actually are (Ratha, Yi & Yousefi, 2015). De Haas (2010) states that remittances and brain drain were getting revalued again, and the effect of diasporas was getting researched. This led to an optimistic stance towards migration, because it raises hope for development (de Haas, 2010). Bowles (2009) admits this change, but sees it more as a multi centered paradigm instead of a single optimistic paradigm. It is important to understand that these paradigm shifts on effects of migration on development eventually led to changes in migration policy. In chapter 3 the policy changes in Malaysia will be further elaborated. In this chapter it will be questioned if the Malaysian government answered to this paradigm shift in an optimistic way. Merely, first it will be further demonstrated how migration can contribute to development through remittances. Remittances are financial or physical capital that is send back to the country of origin of the migrant (Willis, 2014).

From the views of de Haas (2010) and Bowles (2009) it does not become clear if migration contributes to development, because de Haas sees the current paradigm as optimistic and Bowles sees the current paradigm as multifaceted. Adams and Pages (2005) have statistically proven that international migration contributes to development in the sending country through remittances because it decreases poverty. Unfortunately, this conclusion is not solid since Adams and Pages admit that there is a lack of data on undocumented migrants and unofficial remittances. But, one can determine two valuable things. First of all, remittances are sometimes spend on imported goods, which are not profitable for a country's development, or, second of all, on investments in business or education, which can be profitable for a country's development (Willis, 2014). Although remittances can promote a country's development it can also increase inequalities between people. Due to the fact that remittances flows have increased and are currently even larger than bilateral aid (OECD, 2012), migration policies adapt to this in a migration facilitating way (Willis, 2014). In chapter 3 the actual amounts of the remittances received and sent from the countries in this research will be interpreted on the hand of table 2.

### 2.1.3 Migration trends

There are currently two trends visible in global migration: feminization of migration and an increase in South-South migration. These two trends embed the research population in a larger picture of international migration. The first trend, South-South migration, will be briefly demonstrated in this paragraph. The second trend, feminization of migration, will be discussed in the next paragraph. Both trends are valuable for this research, because it describes the flow of MDWs to Malaysia. During the 1990s migration mostly consists of people who migrated from the global South to the global North

(Khatiwada & Samaniego, 2014). Since the year 2000 there has been a shift in global migration from mostly South-North migration to a great part (57%) that is South-South migration (Khatiwada & Samaniego, 2014). From 2000 till 2013 South East Asia became the biggest contributor to global migration flows (Khatiwada & Samaniego, 2014). According to Khatiwada and Samaniego (2014), this increase in migration goes hand in hand with the growing concern on exploitation of low skilled migrants. This is currently visible in Malaysia, a migrant receiving country, where the exploitation of low skilled migrants is an issue of concern. The trend of South-South migration also goes hand in hand with the increase of migration for domestic work (Deshingkar & Zeitlyn, 2015).

According to Piper (2008) migrating women were for a long time categorized as accompanying instead of independent migrants. Piper states that more women are migrating independently and are more involved in temporary migration regimes nowadays. A recent report of the ADB (2014) showed that 48% of world's migrants are women, although this is a slight decrease of 1% , the absolute amount of migrant women is now 111 million. Although there are still more migrant men than women, women do play a bigger role in labor migration (Piper, 2008 and Deshingkar & Zeitlyn, 2015). This is due to the fact that there is growing demand for feminized jobs such as health care and domestic work (Piper, 2008), which this research is about. This and the fact that men have a harder time finding full-time jobs nowadays, according to Piper, push women to migrate for economic reasons (Piper, 2008).

Furthermore, Datta (2014) concludes that there is a predominance of women in migration for care. Care work includes work in the home, nursing and nurturing work (Datta, 2014). Care work is therefore not only domestic work, but also includes jobs in the health care sector. The focus of this research will, nevertheless, be on domestic work. Migration for care work is gendered, due to the fact that more women are involved in these jobs than men (Datta, 2014). Therefore, migration for care has different drivers than other labor migration (Deshingkar & Zeitlyn, 2015).

Female migration is, contrary to male migration for labor shortage, mostly to serve the transfer of care tasks from wealthy females to less wealthy females (Kaur, 2007). Drivers of migration for care are both individual decisions as family decisions (Kaur, 2007). For migration in general, drivers are demographic, economic, social or environmental. Environmental reasons are not visible with MDWs very often. Push factors of MDWs are mostly from economic perspective, namely as a family survival strategy. The most important pull factor of MDWs is the ability of earning more money in the receiving country. Migration from the Philippines to Malaysia is pulled by the fact that there are good facilitating agreements between the countries and many Malaysian households are English speaking. Migration of Indonesians to Malaysia is mostly pulled by the fact that the cultures are quite similar

and Indonesian language is similar to Malay. Demographic and social drivers of MDWs are visible in the fact that women migrate to other countries where there are more wealthy households to take care of. Concluding, economic drivers are the most important for MDWs, but also demographic and social drivers play a role for MDWs.

## 2.2 Domestic work

As mentioned earlier, migrant domestic workers belong to two vulnerable groups. Vulnerability as migrant workers is already examined in the previous part and vulnerability as domestic workers will be elaborated in this chapter. Simply stated: domestic workers are workers who work for households of private persons with activities such as cleaning, cooking, care taking of children, elderly or sick family members, washing and so on (ILO, 2013). The reason for the vulnerability of this group of workers is that domestic work is often seen as a “help out” instead of actual work (ILO, 2013). The ILO (2013) estimates the amount of domestic workers globally at 53 million, excluding child domestic workers, from which 83 per cent is female. Male domestic workers often work as gardeners or drivers, but are less frequently occurring. This thesis will focus on female domestic workers, since this is the largest part of domestic workers. The next paragraph will explore the ILO’s action for domestic workers and afterwards convention 189 will be examined. Exploitation of domestic workers in the sense of low wages, long working hours, physical or mental or even sexual abuse, restrictions on their freedom can all be partly ascribed to worldwide lacking regulations and rules for domestic workers (ILO, 2013). Nowadays, domestic work is still not seen as real work by a lot of countries. The ILO has established convention 189 to ensure domestic work is seen as real work. This convention and the ratification of the convention will be further explained in chapter 3.

Female migrants who move to Malaysia to work as domestic workers are placed in private households, which increase their vulnerability (Yeoh et al., 1999). Furthermore, domestic work, like mentioned above, is often not seen as real work, so employment falls under less social en legal rights (Yeoh et al., 1999). Working hours, salary and other working conditions are likely to be conform standards for family or not real employees (Yeoh et al., 1999). Living-in with the employer, which is mandatory for getting a Visa as a maid in Malaysia, gives the employer total control over his or her employee (Killias, 2010). Besides the working conditions, the employer also controls the non working situation of the employee, such as when and where to spend leisure time (Killias, 2010). This fact, creates even more vulnerability of MDWs in Malaysia. The next paragraph will elaborate human rights activism, whereas the actual rights of MDWs will be discussed in de contextual chapter of this research.

## 2.3 Human rights activism

This paragraph will explain human rights activism and strategies in taking action. It is valuable to understand this before researching the strategies of NGOs in Malaysia, since the research has a rights based approach. Human rights activists often focus on rights based advocacy and aim to protect and promote the human rights of all persons. These human rights will be discussed in chapter 3, where the context of this research is stated. NGOs, such as the Human Right Watch and Amnesty International, are the most influential actors in human rights activism. In general, human rights activists act in four ways to aim success in protection and promotion of human rights (Ignatieff & Gutmann, 2003). In the first place, most human rights organizations offer direct help for victims of violation of rights, which is visible in shelters and organized workshops for MDWs in Malaysia. Secondly, human rights organizations aim to collect as much data as possible to visualize the problem and to have a strong base for the next step in their strategy; advocacy and campaigning (Lauren, 2011). Advocacy and campaigns are the means to achieve the goal of influencing policy and to raise awareness among politicians about human rights violation (Ignatieff & Gutmann, 2003). Furthermore, human rights organizations aim to raise awareness among the public as well. They raise questions on inclusiveness and aim to create a better knowledge of the public about human rights issues to get more support for their actions and their policy influencing (Ignatieff & Gutmann, 2003). Researching MDWs through a rights-based approach will make use of these four steps in concluding the possibilities for protection of the rights.

## 2.4 Empowerment

This part will demonstrate the concept of empowerment and will explain what it is and what the strategies for empowerment are. Empowerment is the increase of self-government and independency and ensures that people have the power to make choices on their authority (Conger & Kanungo, 1988). Empowerment is an approach to ensure that people without power can create responsibilities and power (Rappaport, 1981). Rappaport (1981), stated that empowerment is seen as a self-help tool, since power is not given to powerless people but they develop it through building knowledge and skills. Eventually, when people have gained empowerment they are more likely to engage with other people and institutions (Conger & Kanungo, 1988). Knowledge and skills can be developed in several ways and NGOs and other help organizations often make use of the theory of empowerment (Lipschutz, 2004). These organizations transfer knowledge and skills through training and workshops, to empower marginalized people (Conger & Kanungo, 1988). It will be shown in the empirical part of this research if organizations that help MDWs in Malaysia are making use of trainings and workshops, and it will be shown if there are more possibilities for empowerment of MDWs in Malaysia.

### 3. Contextual background

This chapter will demonstrate background information on the countries of interest, with addressing migration policies and the current state of development and remittances involved. Thereafter, convention 189 and the rights of MDWs are discussed and categorized into human rights, labor rights and migrants' rights. This to make sure the situation of MDWs is set in context and the empirical part of this research can be understand with taking the context in mind.

#### 3.1 Malaysia

Geographically Malaysia consists of two parts; one part is the peninsula attached to Thailand and the other part 'the Malaysian Borneo' which is called East Malaysia. In the beginning of 2016 the population of Malaysia is counted over 30 million, which is good for a 44<sup>th</sup> position in the list of most populated countries. The population of Malaysia has multiple ethnical backgrounds, which also influences the political structures. In the previous decades, since the 1970s, Malaysia has developed from a low income country to a

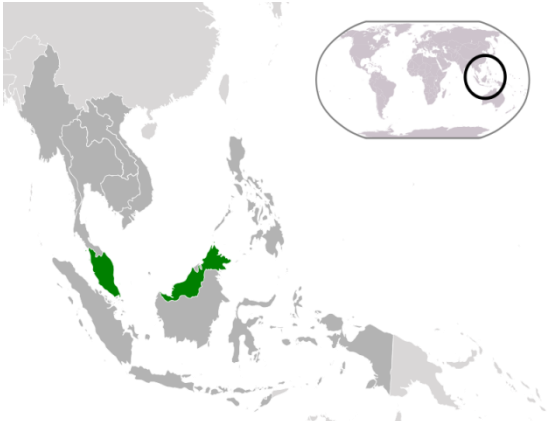


Figure 1 Map of Malaysia by Wikipedia.com, source: [https://commons.wikimedia.org/wiki/File:Location\\_Malaysia\\_ASEAN.svg#/media/File:Location\\_Malaysia\\_ASEAN.svg](https://commons.wikimedia.org/wiki/File:Location_Malaysia_ASEAN.svg#/media/File:Location_Malaysia_ASEAN.svg)

middle income country. This is the result of development policies of both the national government as well as development banks such as the ADB. Kuala Lumpur, the capital of Malaysia, has almost 2 million citizens of different ethnic backgrounds. The economy in the capital is mainly based on business, retail and tourism, with 8.9 million tourists visiting the city.

##### 3.1.1 Demographics

As mentioned in the previous paragraph the Malaysian population has multiple ethnic backgrounds. The largest part of the Malaysian population is Malay (67.4%) or commonly known as Bumiputera (Nair, 2010). Malaysia also has a large Chinese (24.6%) and Indian (7.3%) population. Furthermore, 0.7% of the population has other ethnic backgrounds as shown in figure 2.

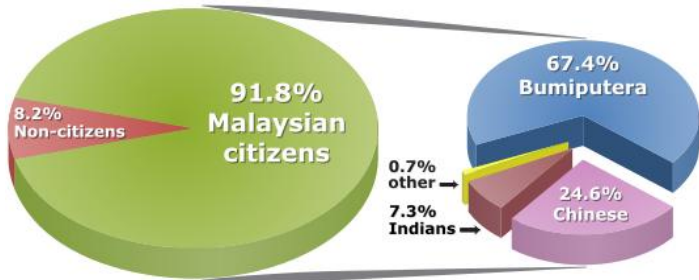


Figure 2 Percentage distribution of Malaysian population by ethnic group, 2010 by PNG:Data from Malaysian Government Statistics (2010).

Although the country is economically growing, different ethnic groups are not able to benefit from the development. Especially rural Bumiputera households are suffering from growing privatization and commercialization, because they have a lack of physical and natural capital and are often dependent on low income activities (Nair, 2010). Furthermore, Bumiputera rural students are fundamentally achieving less than non Bumiputera students (Hatta & Ali, 2013). But what is more valuable for this research is the fact that low skilled migrants are not able to benefit from the national economic growth. This is due to the fact that governance structures are not promoting integration and duration of low skilled migration, as already explained in chapter 2. It seems likely, that Malaysian citizens with different ethnic backgrounds are living on good term with each other. In chapter 5 it will be explained, that this is not the case and people often think in stereotypes.

### **3.1.2 Economic growth**

Since independence in 1965, Malaysia developed from a low income country to a upper middle income country and is still economically growing. In 1970 the New Economic Policy (NEP) was established and national policy started to focus on economic development plans. Two strategies were included in the NEP to improve national development and national unity (EPU, 2004). First of all, NEP aimed to reduce and eradicate poverty and to stimulate growth. Secondly, with NEP the government of Malaysia aimed to repair the economic instability among ethnic groups to eliminate the connection between economic position and ethnicity (EPU, 2004). After implementing Malaysia plans (the 10<sup>th</sup> plan is ending in 2016), Vision 2020 and the New Economic Model (NEM) three goals are currently set. The first important goal is inclusiveness and inclusive growth to stimulate development. The second goal is to create a developed and competitive economy. The last goal is to establish sustainable growth, through innovative technologies. Through these goals the Malaysian government aims to become a high income country by 2020. With a growing economy, the women work force is also growing and eventually results in a high demand for domestic workers, because working women can often not combine work with domestic work in Malaysia (Kaur, 2007)

### **3.1.3 Political structures**

Malaysian politics take place in a federal representative democratic constitutional monarchy (Fenston, 2001). From the time when Malaysia was a British colony the Westminster parliamentary system is left and it consists in Malaysia of 13 states and 3 federal territories (Fenston, 2001). Although the government of Malaysia is quite stable, there have been some political corruption scandals (Fenston, 2001). What is most valuable for this research is the international relations Malaysia has. Malaysia is a member of the United Nations, the Common Wealth of nations, the Organisation of Islamic Cooperation etcetera, but it is also an active member of regional cooperation's such as the ASEAN. Like earlier mentioned, Malaysia has bilateral arrangements with



Indonesia and the Philippines, and is part of regional cooperation's with these countries. Agreements on migrant rights could, and are, being made in these regional cooperation's and bilateral relations. It is, nevertheless, questionable if these agreements are decreasing the vulnerability of MDWs since agreements are often focused on non-facilitating migration.

## **3.2 Migration policies**

### **3.2.1 Labor migration in Malaysia**

Since the 1970s the NICs (Thailand, Singapore and Malaysia) started to rise and implemented export-oriented strategies (Kaur, 2010). This resulted in a huge change in the economy in Malaysia and caused more production and a greater demand for labor (Kaur, 2010). Gaps in the labor force were since then filled up with migrants from neighboring countries. Besides economic changes caused by establishing NIC, growing regionalism in Southeast Asia resulted in new migration corridors and interconnected politics and economics among the sending and receiving states (Kaur, 2010). Eventually, the new migration corridors that influenced Malaysia have three visible characteristics, according to Kaur (2010). First of all, the recruitment process and placement is in the hand of private companies (Kaur, 2010). These private companies are based on profit making, so migrants have to pay high fees which results in high numbers of irregular (undocumented) migrants (Garcés-Mascreñas, 2015 & Kaur, 2010). Secondly, low skilled migrants are dominating the international labor movements in the region (Kaur, 2010), including MDWs. And thirdly, Memoranda of Understanding (MoU), agreements between governments, meant to regulate labor migration, are established. This resulted in the fact that Indonesia and the Philippines both have targets for the number of migrants each year in their development plans (Kaur, 2010 & Kaur, 2014).

Both skilled migrants and unskilled migrants are coming to Malaysia due to the great demand for labor. Almost 20% of the current labor force in Malaysia is coming from other countries (Nair, 2010). Whereas highly skilled migrants are seen as necessary to keep the economy growing, unskilled migrants are seen as superfluous and the cause of decreasing wage rates in already low wage jobs (Nair, 2010). This makes unskilled migrants contributing to an increase in poverty in Malaysia, which is unwanted by the government, because Malaysia wants to continue growing economically (Nair, 2010). Another problem is the fact that many unskilled migrants are illegal (Garcés-Mascreñas, 2015). Although there is no exact number of illegal migrants, it is estimated at around one million by the government (Nair, 2010). Illegal migrants are extra vulnerable to exploitation and to human rights violation (Nair, 2010). Due to these problems, the Malaysian government has agreed to MoUs with Indonesia and the Philippines. MoUs are informal agreements between countries and can avoid international laws (Kaur, 2007). MoUs consist of rules and conditions for migrants and both countries

have to guarantee the migrant will, eventually, return to the country of origin (Kaur, 2007). Due to this fact, the question raises if these MoUs make any difference for migrants or for the economic development of Malaysia (Kaur, 2007).

Furthermore, Malaysia has three policies which facilitate foreign workers to come to Malaysia; the Immigration Act, the Employment of Foreign Workers' Act and the Penal Code (Kaur, 2010). From these acts one can conclude that low skilled migrants has less facilitating regulations than high skilled migrants. Low skilled migrants, including domestic workers, are forced to get a Work Permit/Visit Pass for one-year (commutable up to five years) and cannot earn more than RM2500 per month (This is approximately 540 euro, but most low skilled migrants are often earning less than 210 euro, according to the literature) (Kaur, 2010). This Work Permit/Visit Pass has further restrictions among age and among having families coming over (Kaur, 2010), but it also creates a predominance of temporary migrants in Malaysia (Piper, 2008). Concluding, low skilled migrants in Malaysia are limited in their duration and in their possibility to integrate (Piper, 2008). This weak governance structure of Malaysia further creates a high vulnerability of low skilled migrants.

### **3.2.1 The Philippines**

In the Philippines the government facilitates out migration through the Philippine Overseas Employment Administration (POEA), which is a regulator of migrant recruitment systems (Willis, 2014). Overall, there is a positive discourse on Philippine migrants as being leaders of the nation (Willis, 2014). This discourse is meant to ensure that migrants continue to keep good contact with the Philippines, and this should result in willingness to send remittances not only to their family but also to their hometown association of something similar to that (Willis, 2014). The fact that the Philippines has signed the domestic workers convention and the migrant convention results in better regulation for MDWs going to Malaysia. Furthermore, having MoUs with Malaysia ensures the conditions and laws for Philippine MDWs is on paper. Nevertheless, the questions remains if these laws are actually enforced.

### **3.2.2 Indonesia**

Migration from Indonesia is less regulated in policies and laws than migration from the Philippines. Although many Indonesian migrants are documented, most of them do not register as overseas contract worker (OCW) (Ali & Hartmann, 2015). Indonesian migrants are often recruited by private agents who arrange their travel and their jobs, but also ask for high fees (Kaur, 2007). In 2009 the Indonesian government got informed of abuse scandals of Indonesian migrant domestic workers in Malaysia through formal reports of the Human Rights Watch (Roos, 2016). From that moment until November 2011 the Indonesian government banned on sending labor migrants to Malaysia. In

November 2011 the Indonesian government agreed with the Malaysian government in a MoU, which should have solved the exploitation among migrants through several rules. The migrants should get 200 hours of training, time to obtain official documents and the placement should be done by private agencies (Roos, 2016). However, it is not yet sure if the MoU made a difference, and, again, if these rules and regulation are actually enforced.

### 3.3 Development

Due to difference in the economic situation in the three countries migration between them exists. But not only the economic situation differ in these countries, also the overall development differs. Malaysia with a human development index (HDI) of 0.779 (as shown in table 3) has the highest HDI of the three countries and is placed 62<sup>nd</sup> in the global ranking (HDI, 2016). This means that Malaysia is more developed than Indonesia and the Philippines and it can be concluded that people mostly migrate to Malaysia. Indonesia and the Philippines are almost at the same rank (respectively 110/115) with a HDI of respectively 0.684 and 0.668. From an economic perspective Malaysia is far more developed than Indonesia and the Philippines, this is shown in the GNI per capita in table 3. Malaysia has more than twice as much GNI per capita than Indonesia and almost three times as much GNI per capita than the Philippines. The HDI and the GNI per capita both give explanations why Malaysia has a positive net migration and Indonesia and the Philippines have negative net migrations. Net migration is according to the world bank “..... *the net total of migrants during the period, that is, the total number of immigrants less the annual number of emigrants, including both citizens and noncitizens*” (Data.worldbank.org, 2016). Therefore, Malaysia has more migrants coming to their country and Indonesia and the Philippines are sending more migrants to other countries.

	Indonesia	Malaysia	The Philippines
HDI	0.684	0.779	0.668
Rank	110	62	115
GNI per capita (PPP in US dollars)	9.788	22.762	7.915
Net migration	-700.000	450.000	-700.000

Table 1 Human Development Index, source: <http://hdr.undp.org/en/data>, Net migration, source: data.worldbank.org. (2016)

### 3.4 Remittances

Like earlier mentioned, this research is focused on MDWs in Malaysia from which the biggest sending countries are Indonesia and the Philippines. From table 2 it can be concluded that remittances in financial capital are more sent from Malaysia than received in Malaysia, this complements to the fact that Malaysia receives more migrants than it sends migrants. It can also be concluded that both Indonesia and the Philippines are receiving more remittances than they sent. This can be due to the fact that Indonesian and Philippine people are migrating more often out of the country, which can be seen in table 3.

	Sent (US dollars)	Received (US dollars)
<b>Indonesia</b>	4.1 billion	10.5 billion
<b>Malaysia</b>	8.1 billion	1.3 billion (2012)
<b>The Philippines</b>	29.7 billion 162.0 million (2012)	29.7 billion

**Table 2** Remittances received and sent from the most important countries in this research in US dollars in 2015 as defined by Development Indicators Group, World Bank.

	Stock of immigrants	Stock of emigrants
<b>Indonesia</b>	0.3 million	3.9 million
<b>Malaysia</b>	2.5 million	1.8 million
<b>The Philippines</b>	0.2 million	5.3 million

**Table 3** Stock of immigrants emigrants in 2015, UNPD (United Nations Population Division). Trends in international migrant stock: The 2015 Revision.

Furthermore, in table 3 one can see that in 2015 Malaysia received the most migrants, 2.5 million, and the Philippines had the most emigrants at a number of 5.3 million. Table 2 and 3 are complementary to each other: more emigrants means more remittances received in the countries of interest. Nevertheless, table 2 and 3 are only showing the documented amounts of remittances and migrants. According to the national governments, the amount of undocumented migrants remains high in these countries and the remittances are often not sent through an official way.

Since the Philippines has policies which encourage out-migration, the country also has a high economical dependence on remittances (Cai, 2015). Remittances send to the Philippines have tripled from 2006 until 2016 according to tradingeconomics.com (2016). Since remittances in the Philippines flow to areas from where people have migrated (often not the poorest areas according to Cai, 2015), remittances are unable to contribute significantly to the development of the Philippines. Cai (2015) therefore recommended policy adaptations, which should stimulate OFWs to donate money in times

after natural hazard and to special foundations. Nevertheless, Hugo and Stahl (2004) address the fact that the largest part of remittances in the Philippines is spend on consumption and only a small part on investment.

Remittances send to Indonesia have increased five times since 2006, with the fastest increase the last two years (tradingeconomics.com, 2016). Adams and Cuecuecha (2010) conclude in their consumption and investment research that Indonesian household receiving remittances are often poorer than households not receiving remittances. These households spend most of their remittances on consumption (food) and do not make investments since they are dependent on remittances for their basic necessities (Adams & Cuecuecha, 2016).

As shown in this chapter, there is a difference between the people who migrate out of Philippines and out of Indonesia in the sense of their households. Filipino migrants come from middle income households (Hugo & Stahl, 2004), whereas Indonesian migrants come from the poorest households (Adams & Cuecuecha, 2016). However, this does not result in a difference in the spending of remittances. Households in the Philippines and in Indonesia receiving remittances spend the largest part of their remittances on consumption.

### **3.5 Convention 189**

To ensure domestic workers will get regulations and rules, the ILO started to promote domestic work as decent work. Five main points of action were implemented, according to ILO reports. First or all, the ILO aims to get national governments to adopt policies and regulation reforms (ILO, 2013). Secondly, the ILO aims to organize domestic workers and their employers (ILO, 2013). Thirdly, the ILO aims to get support for the implementation of Convention number 189 (this domestic workers convention will be explained in the next paragraph) and the Recommendation 201 (non-binding guidelines for governments on domestic workers) (ILO, 2013). Fourthly, one of their main aims is to raise awareness for the rights of domestic workers and domestic workers in general (ILO, 2013). Lastly, the ILO build knowledge platforms on domestic work and aims to exchange ideas on action and impacts at the nation state level (ILO, 2013).

The in 2011 adopted domestic workers Convention (189) was a treaty in which standards for the treatment of domestic workers were described. In the convention, domestic work is received as decent work, with respect of domestic workers' fundamental regulations at work (Albin & Mantouvalou, 2012). These fundamental regulations consists of protection of the human rights of domestic workers, the setting of minimum terms and conditions for their employment, working time, their safety and health, social security etcetera (ILO, 2013). Furthermore, the convention consists of

rights for extra vulnerable groups among domestic workers such as child workers, live-in workers and migrant workers (ILO, 2013). Although this convention consists of clear terms and conditions for domestic workers, it is only ratified by 22 countries mostly in Europe and South America (ILO, 2016). Countries that ratify this convention have to adapt their policies among domestic workers and are obliged to evaluate their progress each year (Albin & Mantouvalou, 2012). But, with only 22 countries that have ratified this convention, the convention does not have the impact it supposed to have, according to the ILO (2013). Malaysia as well as Indonesia, neither ratified the convention, and therefore the convention can only raise awareness instead of actual implementation of policy adaptation. Nevertheless, the Philippine government did ratify the convention. One of the main consequences is the minimum wage for Philippine domestic workers in other countries of US dollar 400. Furthermore, the implementation is visible in law reforms and regulations for MDWs.

### 3.6 Rights

To understand what the possibilities are for the protection of the rights of MDWs, it is valuable to first understand with which rights they deal. This chapter will, hence, elaborate the most valuable human, labor and migrant rights. With keeping focus on rights, this research will get a rights based approach and can hopefully contribute to a better protection of MDWs rights in Malaysia. Firstly, the universal declaration of human rights is discussed, secondly the most important labor rights are demonstrated and finally the migrants rights are demonstrated.

#### *Human rights*

The universal declaration of human rights declared on December, 10<sup>th</sup> 1948 consists of 30 articles of standards and achievements for all people in the world and all nation states (UN, 2016). All nations should respect and protect these rights for all its citizens, therefore the declaration is generally viewed as the basis for human rights laws. The most valuable article for this research is the following:

*“Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their form”. (Universal declaration of human rights, 1948)*

If article 4 of the declaration is exploited in Malaysia will be researched through asking the question what are the challenges for the protection of the rights of MDWs. This is measured in a qualitative way among Indonesian and Philippine MDWs in Malaysia in this research. Because human rights should be universally equal and should be protected, this research aims to find possibilities for the protection of the human rights for MDWs. In the next paragraph labor rights which followed the universal human rights will be discussed.

## *Labor rights*

Article 23 and article 24 of the universal declaration of human rights (see Box 1) are focused on labor rights and are received by the ILO as the basis for international labor standards (Donnelly, 2013).

### **BOX 1: Labor rights**

Article 23:

1. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24:

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

(The universal declaration of human rights, 1948)

Nevertheless, domestic work needs, in the first place, to be seen as decent work and actual labor before countries will recognize that domestic workers fall under regular labor law. Nevertheless, these labor rights are universal and should be protected for every citizen in every nation. Besides the human rights and labor rights, migrant rights, discussed in the next paragraph, are valuable as well.

## *Migrants rights*

In 1990 the international migration convention has been signed and since then been ratified by 48 countries (IMC, 2016). The convention aims to connect migration and human rights and therefore protects migrants and their families. Ratification of this convention is valuable because governments are forced to adapt their policies to it. Nevertheless, in this research the only country who ratified the convention is The Philippines, Malaysia and Indonesia did not ratified it (IMC, 2016).

This chapter has aimed to give a context to the problem of protection of the rights of MDWs in Malaysia. The countries of interest have been discussed by demonstrating their migration policies, development and remittances. The situation of domestic workers in the world has been explained and convention 189 has been elaborated. The last part of this chapter showed the rights that MDWs have, to make clear which rights can be violated in their case. The next chapter will elaborate the methodology of this research. This to increase the reliability and validity of the research.

## **4. Methodology**

This chapter will demonstrate the chosen methodology with associated arguments. First of all the research strategy and research design will be briefly explained. Secondly, the three research instruments are demonstrated. Thirdly, the research population is described and the sampling strategy is presented. Fourthly, the method for data analysis is briefly addressed and finally the ethics are discussed.

### **4.1 Research strategy and design**

This research has a qualitative strategy, because interpretation of experiences is valuable for the outcome of the research. Underlying thoughts, feelings and perceptions of MDWs are valuable to eventually come up with possibilities for improving the protection of MDWs. These personal aspects can best be measured in a qualitative way.

To create a clear vision on the possibilities for the protection of the rights of MDWs in Malaysia this research has a case study design. This research is only focusing on the rights of MDWs in Malaysia, therefore, one can call this a case. Everything that is valuable for writing possibilities on this case will be measured and interpreted.

### **4.2 Research instruments**

Several methods are used in this research to visualize the possibilities for the protection of the rights of MDWs in Malaysia. First of all, to discover what the challenges of the research population (described in the next paragraph) is, interviews with MDWs were done. These interviews were, in the beginning, semi structured interviews, structured in expectations before migrating and experiences since arriving in Malaysia (see Appendix 1). Unfortunately, in the first interviews it occurs that the interviewer could not make clear that there was a difference between expectations and experiences, due to the fact that the interviews were in English and since the interviewer did not speak Indonesian or Filipino. This resulted in respondents answering the questions about expectations and experiences in the same way. Therefore, the structure of the interviews was adapted in a way the respondents got more freedom of explaining their expectations and experiences in their own way (see Appendix 2).

Secondly, to substantiate the situation of MDWs secondary data analysis was done. The secondary data is obtained from the NGOs (WAO and NSI), Embassy (Indonesian) and other organizations (Mondiaal FNV and different organizations retrieved from the internet). These two research instruments are used to answer the first sub question: What are the challenges for the protection of the rights of MDWs?.



For the next three sub questions a third research instrument is used: thematic open interviews with stakeholders (see Appendix 3). NGOs, embassies, the Malaysian human resource ministry and labor- and migrant-organizations were firstly contacted through email and later on through phoning. Unfortunately, many organizations were extremely busy, at moment of data collection, and did not have the chance to respond on my questions. Nevertheless, through internet search the strategies of some of these organizations on MDWs were found online. Furthermore, the interviews that were conducted were extremely valuable for answering the following sub questions:

- What are the possibilities for the protection of the rights of MDWs on national level?
- What are the possibilities for the protection of the rights of MDWs on international level?
- What are the possibilities for the empowerment of MDWs?

Eventually, two interviews were conducted with the WAO (one before the interviews with the MDWs and one after the interviews with MDWs), one interview was conducted with two spokespersons of the NSI (Adrian and Anne), one interview was conducted before the data collection in Malaysia with Mondiaal FNV, one interview was conducted with the first counselor of the Indonesian Embassy, one unrecorded interview was conducted with a social worker at the Indonesian Embassy and one unrecorded interview was conducted with the Philippine migrant organizations. A total of seven interviews were conducted to answer the last three sub questions.

### 4.3 Research population and sampling strategy

The research population of this research is obviously MDWs in Malaysia. The largest part of this population is from Indonesia and the Philippines (Roos, 2016). Creating a representative sample of MDWs in Malaysia was hard, due to the fact that not all MDWs have days off. After having contact with several NGOs it became clear that the two nationalities MDWs gather especially in two different places. The following table shows the amount of interviews conducted, the nationality of the respondents and how many of them worked full time and how many of them worked part time.

	Full time	Part time	Total
Indonesian MDWs	6	6	12
Filipino MDWs	4	2	6
<b>Total</b>	10	9	19

Table 4 Conducted interviews with MDWs

Primarily, the starting point for finding Indonesian MDWs was the Indonesian school in Kuala Lumpur. The Indonesian School is an initiative from the Indonesian Embassy in Kuala Lumpur and is a learning possibility for Indonesian migrants where they can follow different classes. First of all, there

are English classes to train the migrants in their English and make them more international. Second of all, there are different classes which can help the migrants with starting their own business. On the one hand there are vocational classes such as craft class and computer class. On the other hand there are pure entrepreneurial classes which teaches the migrants everything about starting a business. It was interesting to see how these classes are really focused on the dreams of many of the MDWs: starting a business back in their home country. After conducting interviews at the Indonesian School, the Indonesian ladies invited me to come to their house for a dinner party where I met more respondents. For these respondents the snowball effect of sampling was used.

Secondly, to make sure the sample was not only created by the snowball effect, another place with MDWs from Indonesia was visited, namely the shelter at the Indonesian Embassy. This is a place for Indonesian migrants in Malaysia who ran away due to different problems, but it is mostly a crisis centre for victims of violence. Since many MDWs are victim of violation of rights and often this means violence, many of the shelter residents were MDWs. Besides talking to the first counselor at the Embassy and a social worker at the shelter, I interviewed two of the shelter residents. The stories of these woman are described in chapter 5 on challenges.

Thirdly, finding Philippine MDWs started at the St. John's Church in Kuala Lumpur. This can best be described as a place of Filipino gathering in Kuala Lumpur. Before arriving at the church, one does not have any idea of how big the Philippine community is in Kuala Lumpur. The street towards the church is full of stalls where Filipino's sell stuff such as clothes and food. Some Filipino's were describing the fact that many Filipino's have second jobs with selling things or services (think of beauty salons). The church, at early Sunday morning, is a place for Filipino's to gather after a working week. Some of them spend the Sunday afternoon together, but some of the MDWs told me that they had to go back to work immediately after church. Furthermore, with knowing this place of gathering it was easy to find respondents with a Philippine nationality.

After finding the respondents, some key information about them became clear. The age of the 19 respondents is between 25 years old and 55 years old. The first interviewed MDWs who migrated to Malaysia, did this in 1991. The most recent migrated respondent, moved to Malaysia in 2015. Only one of the respondents has a permanent Visa, due to the fact that she is married to a Chinese business man who lived in Malaysia. In total there are 10 full time employed MDWs interviewed and 9 part time employed MDWs interviewed. From those 10 full time employed MDWs, only one had the whole weekend off. This respondent was employed by a movie star from Hongkong.

The second research population consists of actors in the field of MDWs from which a representative sample is impossible. The main reason for interviewing these stakeholders was to discover how the

situation of MDWs can be improved. Therefore, it is not important to have an representative sample of this population. As earlier mentioned, these actors were often too busy to answer questions. The sample is already described in the previous chapter on research instrument.

#### **4.4 Data analysis**

Data analysis is done through NVivo, but first the interviews are transcribed or the main points are written down from the unrecorded interviews. With the help of NVivo it was possible to sort the data into two concepts and corresponding nodes by content analysis. Valuable underlying messages and interpretation from the interviews were found through this analysis method. After sorting out the data, the main concepts were challenges and possibilities for the protection of the rights of MDWs, which will be presented in the next chapters.

#### **4.5 Ethics**

The topic of this research is controversial, therefore, the privacy of the respondents is really important. Since the MDWs are possibly violated by their agencies or employers, it is necessary to promise full anonymity. If employers or agency's discover what the MDWs said in the interviews they might deduct their salary or even threaten with dismissal and other punishments. It was therefore as well necessary to ask for permission of the respondents before the interview and stresses that this research is completely anonymous for the MDWs. This applies to all the interviewed MDWs, but not to the interviews with NGOs, embassies and other organizations. Furthermore, since a lot of MDWs admitted they are staying in Malaysia undocumented, it is even more important to respect the privacy of the participants.

## 5. Challenges

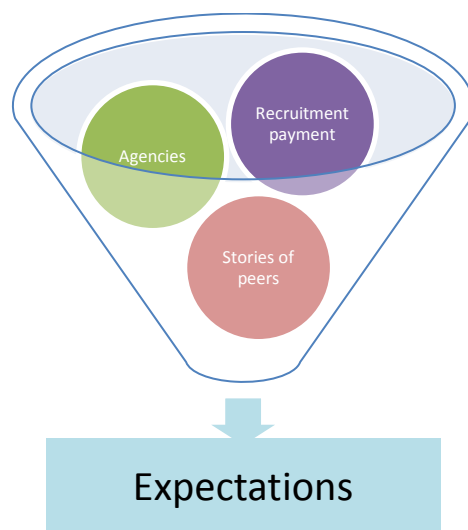
After interviewing the MDWs at different locations, it became clear that this research should be divided into two concepts: challenges and possibilities for the protection of the rights of MDWs. This chapter will, hence, focus on the challenges in protecting the rights of MDWs. First of all, the challenge for protecting the rights of MDWs starts when they get on the move and start to migrate. Secondly, after arriving in Malaysia challenges for protecting the rights occur, because of their working conditions. Thirdly, a challenge for protection of the rights of MDWs is caused by the perception of many Malaysians on MDWs. Fourthly, MDWs often have a lack of knowledge on their rights, which causes a challenge for protecting their rights. Lastly, the challenges in protecting the rights of MDWs in Malaysia that occur due to policies and laws will be demonstrated. During these challenges for protection of the rights of MDWs, rights are easily violated. This is summarized in table 2, to make a clear overview of what kinds of violation exist, to which right it belongs (some rights are, obviously, overlapping) and who the abuser is.

Kind of violation	Human/labor/migrant rights	Abuser
<b>Visa bonded to employment</b> (risk of violation)	Labor and migrant rights	Government of Malaysia
<b>Domestic work not seen as real work</b> (risk of violation)	Labor rights	Government of sending and receiving countries
<b>Trafficking caused by false promises</b>	Migrant and human rights	Recruitment agencies
<b>Too low or deducted salary</b>	Labor and human rights	Employer or agency
<b>Taking away the passport</b>	Human rights	Employer or agency
<b>Working hours</b>	Labor and human rights	Employer
<b>Medical issues</b>	Human rights	Employer
<b>Tasks, doing all household and caring errands</b>	Labor rights	Employer
<b>Judging through prejudices</b> (risk of violation)	Human and migrant rights	Judge and Malaysian citizen
<b>Seeing DW as family</b> (risk of violation)	Labor rights	Employer

Table 5 Violation of rights

## 5.1 On the move: Migration channels

As mentioned above, the challenges for protecting the rights of MDWs starts when they get on the move and start to migrate. In this stage, recruitment agencies play a large role in convincing the MDWs to migrate. Therefore, recruitment agencies are often the cause of abuse of the rights of MDWs at this stage of their journey. Official and unofficial agencies recruit MDWs, most likely, in their village in rural areas in the Philippines and Indonesia. These agencies persuade the ladies with promises which they often cannot make true. To be precise, promises are made about the kind of job the ladies will get and how much money they will earn and so on. These promises in combination with recruitment by an acquaintance, easily convinced the ladies to migrate to Malaysia. This is partly due to the commonality that people who live in villages trust people more easily than people who are raised in cities, admits the first counselor of the Indonesian Embassy. When other locals become agents they can easily convince people from their village to migrate. Furthermore, in some cases it occurred that the MDWs got money at the moment of recruitment, which can also be seen as a way to build trust. Therefore, trust is created through (promises of) money and is already present by being acquaintance, like the first counselor of the Indonesian Embassy stated: *“But still people want to migrate, because they trust everyone.”* Agencies make use of this fact by telling stories about returning to Indonesia or Philippines with lots of money and being able to build a house for your family and even start your own business. Nevertheless, these success stories are just rare cases, most of the MDWs are stuck in Malaysia or return to their home country because of physical, mental or sexual abuse.



**Figure 3** creating expectations

Agencies are likely to offer training for the MDWs before they leave their country. The first lady I spoke to was positive about her training. She told me that she learned how to talk Malaysian, how to

work, how to cook and what Malaysian people want to eat. But not all respondents were positive about their training, because often a training was promised but never given. In rare cases the respondent started the training, but has to leave early because she was sent to the employers house already.

The costs of training is almost always in the hands of the MDWs, as well as the costs for migration, visa costs and accommodation costs during the training. Although it is not always in a direct way, the costs are sometimes deducted from upcoming salaries. Nevertheless, the recruitment payment for employers is set by the agencies and is around 15.000 ringgit (around 3300 euro). In most of the cases the employer pays these costs, but sometimes the 15.000 ringgit is also deducted from the salary of the MDWs. With Malaysia having a minimum wage of 1000 ringgit, the MDW will have to pay the first one and a half year for only the recruitment costs. These months the MDW will not earn anything, and although it is illegal to deduct salary, it is hardly controllable. On the one hand, letting your employee pay for the recruitment costs is problematic for the employee. On the other hand, paying for your recruitment costs as an employer can raise expectations about the MDW you hire. The first counselor of the Indonesian Embassy sees this as an important problem, he describes this problem as following: *“To get a maid. And still illegal. Then 15.000 for a maid, so the expectations for the employer is very high. Because they have paid a lot of money. So they expect the maid will be have a good qualification... They did not follow proper procedure, they did not follow proper training. Even they did not be informed about the situation in Malaysia. So when it comes to work with them, mostly the maid is coming from the remote areas from Indonesia. They even did not know how to iron, they don’t know how to using the washing machine.”*

Besides private-to-private migration, some respondents arranged their migration by themselves. An extraordinary story was from one of the Indonesian ladies who travelled on the age of 15 with her brother in law and her niece, because she was missing her sister, who had already migrated, too much. She did not know anything about migration and did not even know that she needed documents. Due to the fact that they went by boat, an illegal way, instead of by plane, she was able to enter the country. She ended up working for a Chinese family who treated her very badly by beating her up. But being an illegal migrant will let you face a lot of problems. This will be more deeply elaborated in the next challenge: working conditions.

In other cases and confirmed by the NGO spokesman, MDWs got trafficked but do not know they are being trafficked. In one of the cases in the shelter at the Indonesian Embassy a lady told her story about being promised working in a beauty salon and getting training for doing this. The training never happened and the beauty salon ended up being a ‘happy ending’ massage salon. She worked

there for five days and went back to the agency, where she got replaced as a domestic worker in a household. Again false promises gave her hope about this job. The agency told her she just has to clean the house, but when she arrived at the household she was forced to take care of an handicapped child and do all the cooking, washing, cleaning etcetera. After all, because the agency kept her passport she ran away to the Indonesian Embassy. During the interview she told me that she did not have the feeling that she was trafficked, but after hearing her story one can conclude that she is a victim of trafficking and of sexual abuse. The social worker I spoke to at the shelter at the Indonesian Embassy told me that the trafficking cases are increasing and Adrian from the North South Initiative (NSI) stated that trafficking victims do not know that they are being trafficked, but they have to pay a lot of fees and often their passport is taken away by the agency. This was also the case with the story described above.

During their preparations of moving to Malaysia, the rights of MDWs are hard to protect since MDWs often migrate private-to-private or on their own. Protection of the rights of MDWs is at this moment in the hands of recruitment agencies, which are often unofficial and not easy to control. Furthermore, expectations are created (see figure 3) through agencies, stories of peers and recruitment payment. By creating high expectations of future life in Malaysia, it is easy for agencies to abuse their rights and traffic the MDWs. The challenge is therefore in stopping people and agencies to abuse the ignorance of MDWs.

## 5.2 Working conditions

Another major challenge in protecting the rights of MDWs in Malaysia is caused by their working conditions. Since ILO convention 189 has not been signed by Malaysia domestic work is officially not seen as decent work. The MDWs I spoke to also faced several problems with their working conditions, although sometimes they do not see this as problems. After speaking to all the MDWs one thing was visible right away; the difference between full time employed and part time employed MDWs. Ten out of 19 respondents are full time employed and the other 9 are part time employed. Both types of employment let the MDWs face different problems and advantages.

As mentioned in the theoretical framework living in with your employer as a full time domestic worker will place you in a vulnerable position. But also part time workers frequently live in constant fear, because they do not have a legal working permit for Malaysia. Without prove of full time employment a migrant cannot receive a working Visa for Malaysia. Part time employed respondents all admitted that they obtained their visas illegally. The easiest way to do this is to go to someone and pay him/her money for a contract without working for this person. Nevertheless, having a fake working permit or visa will not guarantee a safe stay in Malaysia. The part time employed MDWs I

spoke to all manage to arrange their visa in this particular way and they managed their jobs through their social network. Anne from the NSI explained another way how part time MDW can manage their jobs. She told the story of cleaning companies/agencies: *“They (MDWs) stay at the agency and are called temporary workers. If an employer needs a cleaner they are send to the employer. Like maybe they work two days etcetera...What else is illegal, the agent and the employer are two different entities. The agent becomes an employer. Then they say today you go to this house. They are publicly advertising. Tell call it part time. There is an app for them also. Two hours cleaning, three hours cleaning. I'm sure Malaysian will not `come and do the cleaning.”*

The most important advantage of being part time employed was according to the respondents the salary. They were able to ask for a wage per hour, whereas the full time employed MDWs get a salary per month. This wage per hour is relatively much more than the wage per month according to the respondents. One lady had a job the day before the interview and mentioned that she had earned 20 ringgit per hour for babysitting, which was in total 190 ringgit for the night. Whereas the minimum wage in Malaysia is set on 1000 ringgit per month (Tradingeconomics.com, 2016), 190 ringgit for one night babysitting is very high for the MDWs. Furthermore, working part time also comes hand in hand with more freedom. This was evident in the interview with an Indonesian part time MDW: *“But I come here, I don't want to work... Stay in with employer. Because I know how it feel, work hard, when you stay in. No time for yourself. But now like a part time we have time self for our, after like seven or six you finish work you come back to your house you have your own time like that.”*

Due to the fact that as a part time worker you can schedule your own working hours, most of the part time workers make sure that they are free in the evening (unless they have a babysit job) and on one of the weekend days. From this, one can conclude that working hours such as break, holidays and days off are more flexible for part time MDWs than for full time MDWs. Moreover, part time respondents mention the ability of relying on their other jobs when a employer moves to another place or when they get fired. This is due to the fact that part time MDWs often have different jobs where they work a few hours per week, per day or per month.

However, as already mentioned working part time is not only full of positive aspects according to the respondents, because the risk of deportation is high. The immigration police in Malaysia is very strict on Visas and other immigration documentation. As earlier mentioned, part time workers obtain a Visa for Malaysia in an illegal way, therefore the risk of getting caught is high. A migrant in Malaysia should always keep their passport with them and the employer should be reachable at any moment, to check the validity of the working permit.



## **BOX 2 The story of a MDW**

*"... And also employer often angry to her... Yeah, and beat her also. And then she ran away. But she ran away to the wrong person. To the wrong person. This employer is.....even worse*

*I just asked her: why did you stayed there until 8 years. When the employer treat you like that. But you can run away from the first employer in only 1 month. Angry and beat you. And then she said because with the first employer, she still can go out. Still can go out, still can go to cut hair and everything. But this employer cannot. This employer she locked her up at home. Even if throwing garbage, she will, they will wait in front of the door. And in five minutes she has to be back. So she cannot run away... This employer keep the ehh... the keys. Early in the morning when she wake up she saw the keys hanging there in the back of the kitchen. In the back of the kitchen. The employer forget to keep. Then she saw the keys, and everybody still sleeping, she took the keys and she run away. Actually she already planned the escape. And then one of the neighbor already telling her to run away because almost all the neighbors know that this women habit is beaten the worker, the housemaid. They hear it and they saw it. Actually nobody came approach to warn her, because maybe they don't want to be visible. So they just keep quit and approach her, the maid. And ask her to run away. So they already planned. She would, view clothes and shoes in a plastic bag and the house is not. It is a flat, so has five storage. Four storage sorry. When she throw garbage downstairs, she already plan. Put the clothes in plastic bag and put near to the garbage. And then ehh... The neighbor say if you have the opportunity to run away, just run away from the employer house and come to my house... Because the employer always angry. Every night. And then beat her, and then she run away. Because she have a chance to run away.*

*The employer mother gives her pocket money, every month, 50 ringgit, to buy soap, toothpaste for her needs only. 50 Ringgit every month. But never give the salary. Employer never gives from 2007 until now.*

*She actually protect herself in like running to her room and lock the door. She did tried to protect herself, by running and going to her room and locking the door. And sometimes she hide also. But still, the employer came in. Because the employer smashed the door... But even she shouting, nobody can approach. They all afraid. This employer you know, she is an educated person. She works in a bank. Husband and wife... Three children, five year old girl, four years old and one year old. Second one is a boy, and the first one and the youngest one is a girl. And when they, If the husband and wife want to do the action, they will ask all the children, go to your room and lock your room. And they will do the action. To beat her. The 'entertainment'...If the eldest one want to help her, to help her from the mother who she beat her. The eldest one try to help her. But then the mother also beat her. With a stick...The source of problem come from the employer. The partner has a problem in the office, than he bring the problem to the house. And the maid and the son and the daughter become victims. They beat them. Because their emotions. Exploitation happen. Cases like this."*

During a dinner party at the house of one of the Indonesian respondents they complained about “razia”, which can be translated into raid. After checking background information on raids, one can conclude the following. The force, “rela” or the people’s volunteer corps, performing the raid consists of volunteers who are trained in two-day sessions. Their main objective is the following: To serve national security and maintain peace and wellbeing among the Malaysian society and therefore to diminish undocumented immigrants (Chin, 2013). The group of Indonesians showed me the photo in figure 4. The lady on the photo is one of their flat mates, with an age of 55 years old, who got beat up by the “rela” when she was



Figure 4 Photo of a women who got beaten up during a raid

not able to find her passport right away in the middle of the night when the raid was happening. Another respondent told the story of a man who died of a heart attack during a raid. One can conclude that having more freedom by living by yourself and working part time comes hand in hand with living in constant fear of getting caught by police or the “rela”, and eventually put into jail. So by taking control over protecting their labor rights, part time domestic workers risk losing human and migrant rights.

The risks of deportation continues to be high for full time employed MDWs as well, due to corruption of agencies or other actors in the process of migration who gave them a fake Visa. Simply, also because of the fact that rights are often violated and the visa is linked to the employment. Hence, when a MDWs is running away, from that moment she is illegal and undocumented and can get caught by the immigration police.

The salary of MDWs differs, whereas some MDWs did not get any salary, others are treated really well by their employer (according to themselves). One extra ordinary case was an Indonesian lady who worked for a movie star from Hongkong and received every month a good salary. Furthermore, her employer bought her gifts such as handbags and clothes and give her two days off in the week. One the other side of the fence, the Indonesian lady who ran away to the shelter at the Indonesian Embassy did not get salary for six years (see Box 3). The only salary she got was during a time when she had to take care of the mother of the employer and it was only 50 ringgit per month. For MDWs the salary is often underrate and it is common that employers deduct the salary for whatever you can think of: *“Seven months no salary, for.... for... For processing my passport, flight, everything. Three months for deposit for when you will go back to Indonesia.”*

Besides, underrate salary and living in constant fear, working conditions are often from a low standard for MDWs. Going to the St. Johns Church on Sunday mornings, showed me the gathering of Philippine migrants in Malaysia. Most ladies from the Philippines have a day off on Sunday, but not all Philippine ladies get that day. One lady was obliged to go back to her employer when the mass was finished. Therefore, she did not have a lot of time to talk to me. But talking to her, showed me that not all Philippine MDWs have better working conditions than the Indonesian MDWs. She started crying when I asked my first question and did not stopped when she needed to go home. Life was hard back in the Philippines and live is hard here in Malaysia, she explained.

Not all MDWs have a day off every week and working hours are hard to control when living in with the employer. Most of the full time employed respondents work more than 8 hours per day, because they have to wake up before the rest of the household wakes up and they can go to sleep after everyone else sleeps: *"Ehh I work, I start from six in the morning until twelve in the nights."* Breaks between the works are not always given by the employer, but are not always mentioned by the MDWs. This shows the ignorance of MDWs about their contracts and terms and conditions of their employment. Having a contract is not common among MDWs and understanding seems to be even rarer.

The problems of not having your own passport did not occurred often among the sample of this research. Only three out of 19 respondents experienced problems with not keeping the passport with them. One of them told the story of her previous migration to Malaysia, when her employer kept her passport. Therefore, at that time she did not have the ability to leave the household, but, after two years of living with her employer, she was allowed to go on a holiday and that was the moment she got her passport back and never returned to the household. Nevertheless, part time employed respondents did not face the problem of an employer keeping the passport.

Both full time employed respondents and part time employed respondents faced medical issues. One full time employed respondent ran away from her employer, because she was forced to continue working while having a back injuries. On the one hand, full time employed respondents are facing challenges of employers who not let them have medical help. On the other hand, part time employed respondents are facing problems of not getting paid during illness. One can conclude that both part time and full time employed MDWs face challenges about their medical issues.

The tasks of MDWs in Malaysia are very broad, from taking care of children to cooking and cleaning or even taking care of the dog. One can conclude that employers thinks of MDWs as all-round house-keepers and –carers. Naturally, the tasks of part time employed MDWs is more specified into cleaning, babysitting or cooking or so on.

Furthermore, not every employer fulfills the right to information for the MDWs. This right, or simply said the right of having an easily understandable contract, is often violated by employers. Moreover, there was no evident difference found between part time and full time employed MDWs.

As described in this chapter, challenges for the protection of the rights of MDWs are partly caused by their working conditions. The rights can easily be violated by their employers, although there are also many cases in where the employer treated the MDWs well. A difference in working conditions occur when having a look at part time employed MDWs and full time employed MDWs. It seems that MDWs choose for part time employment as a strategy to gain more autonomy and freedom to protect their labor rights by themselves, but with this they are risking protection of other rights. The consideration is, consequently, how much protection does the MDW wants and how much sovereignty does she wants. The challenge for the protection of the rights of MDWs is how to control the working conditions, when MDWs often live-in with their employer. The next challenge about the Malaysian culture and perception on MDWs will continue on the way MDWs are seen by employers and judges according to NGO experts, Embassy officials and MDWs. This challenges the protection of the rights of MDWs, because it is deeply rooted.

### 5.3 The perception on MDWs

As already mentioned in the theoretical framework, Malaysia is a country with a long history of migrants and a high cultural diversity among the population. Due to the cultural diversity in the country Malaysians themselves sometimes state they think and judge in stereotypes. With the Bumiputera as favored part of the population, MDWs and overall blue collar migrants are frequently not treated equally. This raises a challenge in the protection of the rights of MDWs, which was firstly raised during interviews with NGO officials who face this challenge in their everyday work. Later on, the challenge was confirmed after analyzing and interpreting the interviews with MDWs. This chapter will, primarily, describe the Malaysian culture on prejudices. Secondly, the occurring perception on MDWs will be elaborated which consists of seeing MDWs as family. Thirdly, the weak civil society of Malaysia will be addressed with an empirical deepening of the inability of raising human rights problems.

*"...every person is different but people just see their ethnical background. The culture here is very complex."* (Lainey, WAO).

Lainey from the WAO mentioned the reality of people in Malaysia who are thinking and talking in stereotypes openly. According to her, some people in other countries definitely think like that, but are not saying these things openly. She states that Malaysia is really racist, furthermore, because of

the fact that people who live in Malaysia for generations are still seen as outsiders. She is wondering how this is still so normal in Kuala Lumpur which supposed to be modern, and sees it as hierarchical thinking:

*"It is so hierarchical: women are definitely lower, migrants are lower, white and dark skin. So the worst thing here is if you are a migrant dark skinned women. People then say bad things about you."*  
(Lainey, WAO)

Adrian from the NSI continues on this with stating the following: *"Things like, ohh you are healthy, because you are fat. It is stupid, it is really stupid."* In this statement he is referring to MDWs who report abuse, stay in a shelter, get enough food over there and a year later the case is handled in court and a judge say nothing has happened, because they now look healthy. A social worker at the shelter at the Indonesian Embassy also mentioned this kind of thinking by the judge: *"Lawyer says: You are an abused victim, why are you now so healthy. So... You know. What kind of question is that. Some of them we already trained , if the lawyer, or judge anybody ask you why you are now so clean and so healthy you tell them that the Embassy treated me well. They feed me. They give me stability. Sometimes they treat them like that. They will understand how to answer. Because we cannot go there to help them in the trial."* These quotations are examples of NGO officials and Embassy officials who face prejudices expressed by judges and by citizens of the Malaysian society. This is challenging for the protection of the rights of MDWs because if a judge thinks through prejudices, justice cannot be done. If someone, a judge, who has to defend rights is judging through prejudices, how can rights be protected.

Another challenge for the protection of the rights of MDWs in Malaysia is caused by the fact that some employers see MDWs are part of their family. This is concluded after interpretation of the interviews, and employers are in this challenge the actor who can violate the rights of MDWs. For the respondents being treated as a family member felt positive, but the first counselor at the Indonesian Embassy also emphasizes the downside: *"In some part that is good, because we do not discriminate, we eat together, we pray together, but it is also a risk for exploitation. Because we regard them as a family and then we pay just a little money and not in accordance with the minimum salary. Because you see them as family."* Seeing your maid as family is also rooted in Malaysian culture, nevertheless, the first counselor thinks this can be changed if people view domestic work as proper and specified work. When people realize domestic work is proper work, they will be able to see their DW as an employee and will realize they do not need them 24/7. For the first counselor the moment of change came when he was on a mission in Geneva and saw his Western colleagues surviving without a domestic worker: *"if they can survive we can also survive without a maid. So during our stay in*

*Geneva we never used a maid.”* Back in Asia he just hires a DW for a few hours per week. But it did not become clear from the interviews if other employers also think like this. Therefore, it is unable to conclude that Malaysian citizens think they need their DW 24/7.

The challenge for protecting the rights of MDWs in a weak civil society was especially raised by Anne and Adrian from the NSI, a grass root NGO which tries to push for political change by activism from the bottom. One of their biggest problem is the lack of public space for raising human rights in Malaysia: *“...there is no public space for human rights discourse in Malaysia. From the 80s NGO busting and Union busting has been very hard until now. So once you raise an issue it will fall under five or six security acts. In this country to discuss human rights it is very difficult. What more for migrant workers. For them it is only more difficult.”* Furthermore, Anne and Adrian state that within the civil society there is no one who stands up for leadership, NGOs have to compete for grants from the governments and therefore, there is in the end no conventional goal.

## 5.4 Rights

*“Migrants they do not know their rights.”* (Lainey, WAO)

The fourth challenge people face when aiming to protect the rights of MDWs is about rights itself and the knowledge of MDWs on rights. This chapter will therefore address first of all the lack of knowledge MDWs have on rights. It will be elaborated where MDWs would go for help, and hence elaborates their knowledge on NGOs and Embassies. The second part of this chapter demonstrates the difficulties for organizing MDWs and the knowledge of MDWs on Trade Unions. The last part of this chapter focuses on challenges with the law in Malaysia, the immigration police and challenges with Visa's.

### 5.4.1 Lack of knowledge

During the interviews it became clear that especially Indonesian MDWs do not have a lot of knowledge on their rights as a domestic worker, on human rights or on contracts. This chapter will therefore address the agency MDWs have, since they do not have a lot of knowledge on rights. Respondents from the Philippines mentioned that they do know things about their rights, but most of it is mentioned in the labor contract. This means that MDWs from the Philippines are more likely to have a contract than Indonesian MDWs. Asking about human rights showed the lack of knowledge by both sample groups. One of the respondents answered that she did know a lot about her rights, but she keeps quite if someone violates her rights.

Going somewhere for help was for some ladies not important, since the MDWs are in many cases independent women who want to take care of their own problems. However, the Indonesian

Embassy was for the Indonesian MDWs a popular place if they were in need of help, but friends and family are for all the respondents even more popular. I talked about the Embassy as being a source of information as well, but this was not known among the MDWs. Moreover, MDWs are sometimes scared of going to the Embassy: *“No. no. I do not want trouble. If you go to the Embassy, they will report and you have to stay here. You cannot go home.”* But MDWs are also being deterred from going to the Embassy: *“But last month she know the Embassy, but when she keep asking everybody: how I can go to the Embassy. All of them are telling her, the other side of story. You don't go to Embassy, if you go there. Do not go there, if you go there you cannot go back to Indonesia. They will return you to the agent. You know. That's why she keep outside for 15 days. She go to woods, and hiding there. Just now she telling me. Hiding in the woods. And still if she asking how, someone to help her bring her here. They say: Nooooo.... do not go there.”* In the end this lady found someone who promoted the Indonesian Embassy and when I spoke to her she was very happy that she finally went there. At the moment of interviewing, social workers are taking care of her in the shelter at the Indonesian Embassy. The first counselor of the Indonesian Embassy sees three reasons why people are not coming to the Embassy. First of all they do not know the Embassy, secondly they do not want to make a report and do not want official interference and finally they are not allowed to go to the Embassy.

NGOs and other organizations who offer help are just as Embassies not well known among the MDWs. Only one respondent from the Philippines talked about an organization in Hongkong, where she used to work, and guesses that there are similar organizations in Malaysia. None of the other respondents could name an organization.

Concluding, one can state that MDWs often lack knowledge about their rights and about organizations that help them. This lack of knowledge creates a lack of agency, because they are unable to make choices with knowledge on rights in their mind. They can only choose on the basis of what they know, and since they do not know a lot about rights their choices are lacking. Eventually, violation of their rights can now be partly attributed to lacking agency. MDWs are, therefore, not only the ones that should be helped in protecting their rights, but are also the ones who could help.

#### **5.4.2 Trade Unions and organizing MDWs**

Questions about Trade Unions occurred to be a bit problematic. The first respondents did not know these organizations and also after explaining what they do and why it would be helpful to join an organization like this, the respondents were still confused. Therefore, the questions on Trade Unions were, unfortunately, skipped in the other interviews. Another important factor for this was the confusion about being allowed to join a Union or a labor organization. Adrian from the NSI explains



this: *“But another problem they have is that in their contract it is stated that they can join a Union. But immigration policy is that you cannot join any association. This is the problem, it says association, it does not say Union. Union is a workers, labors organization. But people try to use this word in a different manner. They make the workers think that they cannot join a union. Sometimes the contract really says you cannot join a Union.”*

Organizing MDWs remains difficult due to their working conditions. NGOs aim to gather MDWs for meetings, round table discussions etcetera, but for many MDWs the only possibility to go out of the house is on Sundays. Furthermore, it is difficult for NGOs to meet the workers because they all have a different workplace. For instance, factory workers work with 1000 workers at one location and are therefore easy to meet. A MDW lives solely in a household and have at most one co-worker, quotes Adrian in the following statement: *“They need a specific act, because it's a private entity. It is a whole different situation than factory workers for instance. We do not know what will happen. In a factory there are other workers, maybe at most there are two domestic workers. So it is very difficult and you need a really specific act for domestic workers. You cannot put it under the normal act.”* (Adrian, NSI).

Due to the fact that the workplace situation of MDWs is totally different than for other workers, it will be valuable to create a different act. Furthermore, MDWs are not allowed to form a Union, but they are allowed to form an association. Nevertheless, MDWs often face the fact that it is prohibited by their employer who state this in their contract. Current Unions are according to the interviewed NGOs pro-employer and therefore the Unions are not fighting for a different act for MDWs. They state that all workers can fall under the same employment act, but the NGOs do not agree with this: *“Either they are lazy or they are stupid or they do not want an holistic solution for migrant workers.”* (Adrian, NSI).

## 5.5 Policies

This chapter will described the challenges in protecting the rights of MDWs in Malaysia that occur due to policies and laws. Regulations and laws in the Employment Act in Malaysia and MoUs between sending and receiving countries will be discussed first. The second part will go deeper into the topic of immigration police and fear by MDWs for the immigration police. Due to policies in Malaysia, MDWs are not allowed to have more than one job and this is strictly monitored by the police. The last part of this chapter summarizes the challenges occurring due to obtaining and maintaining a Visa.

### 5.5.1 Law

According to the experts in the field, the employment act for all employee's in Malaysia is overall “pretty good”. The challenge is on the one hand the lack of law enforcement. This is visible for



example when looking at the minimum wage which is only regulated for the formal sector. On the other hand the challenge is that domestic work is still not seen as proper work and therefore, people think that MDWs do not fall under the employment act. The NSI states that there is no protection for the formal sector, due to these two facts.

Although the Philippines have more comprehensive regulations for MDWs than Indonesia, this does not mean that the situation for MDWs from the Philippines is better. Nevertheless, the Philippines have a blacklist of agencies which are corrupt or mistreated their clients in any way. On paper Filipino's should earn at least 400 dollar a month wherever they live. But, according to the NSI not all workers receive this amount. The first counselor of the Indonesian Embassy states that the problem of the rights of MDWs is a multi country problem. Memoranda of Understanding (MoUs) between countries should improve this situation. But Lainey from the WAO doubts whether these are an actual improvement: *"The MoU is really good, when it is actually doing the right thing. When the government practices the true and to protect people from being trafficked. And bring them over legal and bring them through the right procedure."* Regulations and laws can create a basis for improving the protection of the rights of MDWs, but it can also be seen as a challenge for protection when regulations are not clear and are not enforced accordingly.

### 5.5.2 Immigration police

The ladies I spoke with were often in danger of getting caught by the (immigration) police, even when they have a legal Visa. Like earlier mentioned, the government of Malaysia acts against illegal Visa holders during the raids. These raids were especially mentioned by Indonesian MDWs during the interviews. For Filipino MDWs another reason to fear the immigration police was often mentioned. Many Filipino respondents mentioned that they have a small business besides their domestic work; they have footstalls or sell clothes on Sunday or they have a part time beauty salon job. To make this more understandable the following quote is an example of a MDW who got caught with a second job: *"Yes, like my friend she has a legal permit to stay. But she works in the stall. In the permit it says maid. You will always be working in the house, so if you work outside the house. This is illegal. so I have many friends being caught already. Last, last week. My work in Kota Raya, doing pedicure/manicure, they are gone already. I asked why the shop is closed, and they told me that the police caught them. But they have visa but the visa is maid. We are maid working in the salon. That is not possible."* MDWs aim to earn more money and create a more stable livelihood with this money, are facing extra risks. Their rights can be taken away by the immigration police, if they have second jobs. Hence, by aiming to create more sovereignty, they risk to lose protection of other rights, as well as when MDWs choose for part time employment instead of full time employment.

### 5.5.3 Visa

Almost all respondents faced problems with obtaining and maintaining the right Visa. First of all problems occur when agencies make the MDW pay lots of money for the Visa's. Second of all problems occur when the agency makes a referred mistake or when a MDW themselves gets a fake Visa. In the first case, when a MDW wants to solve this problem they often need to pay a lot of money. Third of all, problems can occur when MDWs run away from the employer, because the visa of MDWs is dependent on their employment. One of the respondents got in a fight with the mistress of the employer and therefore ran away, but because she did not want to go to the Embassy of the Philippines, she is now forced to leave Malaysia. This is due to the fact that when the employer or the employee breaks the contract, the Visa of the employee is not valid anymore. The risk of violation of rights is high when the Visa is bonded to employment. Vulnerability of MDWs is with this problem in the hand of the Malaysian government who made this regulation. It creates a challenge for protecting the rights of MDWs, when MDWs are forced to stick to their employer or get deported if they do not.

Due to different policies in Malaysia and between sending and receiving countries, challenges in protecting the rights of MDWs are made. Laws, the immigration police and the bonding of employment to the Visa make it hard to protect the human rights of MDWs in Malaysia. Obtaining and maintaining a Visa is seen as a problem for MDWs and makes them vulnerable for getting caught by the immigration police, at moments they want to build their agency and protect their own rights.

## 6. Possibilities

After having demonstrated the challenges in protecting the rights of MDWs, this chapter will address the possibilities for protecting the rights of MDWs in Malaysia. From the thematic interviews and chats with experts in the field of MDWs in Malaysia, possibilities have been sorted out and divided into three topics: interventions on the national level, interventions on the international level and empowerment. Interventions on the national level will firstly be demonstrated in this chapter, the next part elaborates interventions on the international level and finally the concept of empowerment is discussed. Table 6 shows the link between the challenges, discussed in chapter 5, and the up following possibilities discussed in this chapter.

Topic	Challenge	Possibility
5.1 On the move	Agencies making use of ignorance	G to G migration, empowerment
5.2 Working conditions	How to control the working conditions	Domestic workers act (comprehensive framework), empowerment
5.3 Perception on MDWs	Seeing them as family	Domestic workers act (comprehensive framework)
	Discrimination	Raising awareness
	Weak civil society	Cooperation between NGOs
5.4 Rights	Lack of knowledge	Empowerment through [DW]app
5.5 Policies	Law, immigration police and Visa	International law enforcement

Table 6 Challenges and possibilities in protecting the rights of MDWs

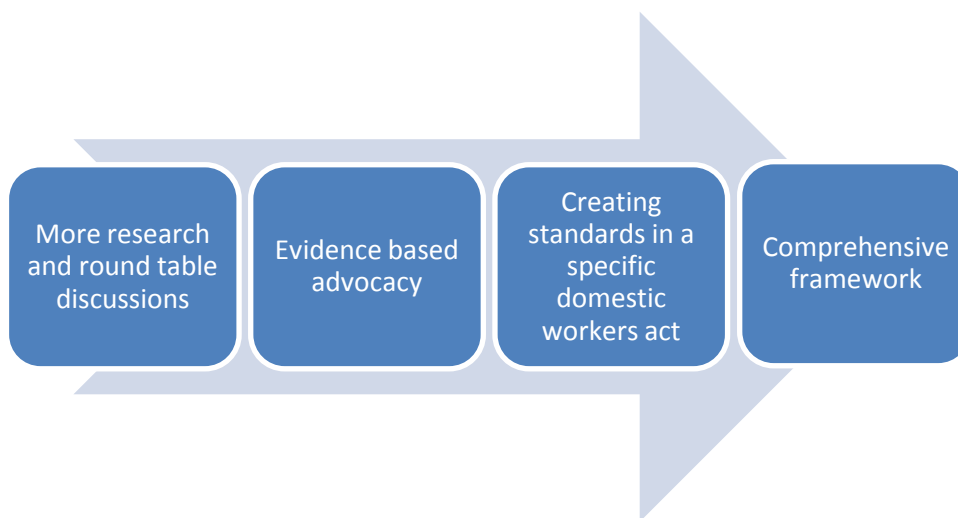
### 6.1 Possibilities on the national level

Possibilities on the national level are sorted out from the interviews with stakeholders into five topics. First of all the possibilities for law enforcement to ensure the rights of MDWS will be discussed. Later on, the conceptual scheme that has been settled after interviews with NGOs will be elaborated and interpreted. This, so called ‘comprehensive framework’, is first shown in figure 5 and afterwards explained per part of the scheme.

#### 6.1.1 Law enforcement

*“But I think the easiest, most important thing is to enforce the law.”* (First counselor, Indonesian Embassy)

According to the first counselor at the Indonesian Embassy, Malaysia has a relatively good employment act and also the MoU with Indonesia is in the right direction. The biggest challenge for him is the law enforcement in Malaysia. *“They actually have a good law and they have a strong immigration law and strong anti human trafficking law. But the problem is the enforcement. The enforcement should be consistent.”* The counselor sees himself and the Embassy as a messenger to both employer and employee with saying: *“Do not break the law...if you hire illegal, you will get a fine, or maybe even jail.”* Nevertheless, Adrian and Anne of NSI do not see law enforcement as the biggest possibility, because Adrian mentioned the absence of a domestic worker law, since the convention 189 has not been signed by Malaysia. Anne stresses, however, that the law in sending countries has to be more strongly enforced. The WAO, Tengaganita and NSI all see a more comprehensive plan as possibility for the protection of the rights of MDWs. This plan includes improved law enforcement, but solely law enforcement will not solve the whole problem since there is no specific domestic worker act. In figure 5 the comprehensive framework for the protection of MDWs according to the NGOs is created. The upcoming parts will discuss this scheme step by step, starting with the first block; more research and round table discussion.



**Figure 5** Scheme for improving the protection of the rights of MDWs according to NGOs

### 6.1.2 More research and round table discussion

The first step in creating a comprehensive framework is doing more research and more round table discussions. Local NGOs, such as the NSI and WAO, are aiming, with the little money they have, to continue researching this topic. Although both organizations do not solely focus on MDWs, NSI focuses on *“extremely marginalized groups”* ("About – North South Initiative", 2016) and WAO on abused women and children, they already have a lot of data on MDWs, but are in constant need for more data for their advocacy work. They stress the importance of quantitative data and qualitative data, the latter they obtain from round table discussions, interviews and so on. Especially the NSI

continues to emphasize the importance of round table discussion with all the actors in the field of MDWs. Therefore, they plan to have meetings with employers, employees, agencies, Embassies, other NGOs and government officials. Obtaining and analyzing data is at the base of the comprehensive framework the local NGOs want to achieve. The next step is evidence based advocacy to influence politics and create standards in a specific domestic workers act.

### 6.1.3 Evidence based advocacy

If the data is analyzed evidence based advocacy could start. According to the NGOs, governments are still paying too less attention to the problem of MDWs in Malaysia. With the use of evidence based advocacy, politicians at local, national and international level can be motivated to, in cooperation with NGOs, implement prevention policies. Evidence based advocacy has never been used in Malaysia before, but it just started to be used more actively by NGOs. The interviewed NGOs stated clearly that they have to handle too many cases of abuse, especially at the WAO, and therefore do not have time to create interventions to prevent cases of abuse or other violation of rights of MDWs. With the grass root expertise of the NSI, they try to influence policy from the bottom. Cooperation between NGOs and each datasets, evidence based advocacy would be made easier and stronger and with that, politicians can be convinced to start the next step; creating a specific domestic workers act. But furthermore, awareness among the society can be raised and this can also result in politicians are forced to take the next step.

### 6.1.4 Specific domestic workers act

Influencing policy is valuable because of the fact that there is still no specific law for domestic workers in Malaysia. On the one hand they fall under the regular employment act of Malaysia, but on the other hand they are not recognized as proper workers, since the convention for domestic workers has not been signed by Malaysia and many other countries. For example Anne from the NSI stated the following: *“Employers are saying, how can we give 8 hours for domestic worker. When employer goes out, the domestic worker can do what they like. This is what the employers say.”* This quote can be interpreted as showing that employers have a lot of power over their employees, no one is controlling them at the moment because there are no standards for MDWs. Anne gave another example of this later on in the interview: *“A women’s group stated that they must guarantee eight hours rest. But then the other 16 hours, you should work? The employers are saying, the nature of work is different so we could not do eight hours only. Nobody is pushing for a law.”* Grass rooted NGOs as the NSI are therefore pushing to get a specific domestic workers act in Malaysia.

Because the nature of domestic work is different than other workers, it does not mean that the government cannot come up with standards and cannot promise protection, according to Anne.

When a specific domestic workers act is created through evidence based advocacy, all actors in the field of MDWs can hold on to this. This will make sure that NGOs, labor organizations, government institutions, the police, the employers and all other actors can contribute to a comprehensive framework, because they have an act on where they need to guard and on which to adjust their strategies and policies.

### 6.1.5 The challenges of a comprehensive framework

In the end, a comprehensive framework needs to be established to make sure the protection of MDWs can be assured through interventions on national level. Nevertheless, some things need a little more attention if one wants to achieve real protection of the rights of MDWs. The following three things should be taken in to consideration, to prevent failure of the comprehensive framework.

First of all, a major problem mentioned by all the NGOs is the low grants from the governments for NGOs. NGOs in Malaysia are therefore competing against each other, instead of collaborating. The situation is that NGOs are not willing to share their data with each other which Adrian calls: *“NGO politics...it becomes not healthy”*. Hence, Adrian also stresses the following: *“But rights based NGOs are afraid to take the money, because you are compelled to certain restrictions...And also sometimes, if it comes to migrant workers, you cannot give so much information about them. Because they are part of the system.”* It is therefore hard for NGOs to survive without these grants and they try to find other ways to survive. For example, the NSI does not compete for grants from the government, because they are fully voluntary and are able to survive through renting their office space. Therefore, they are not dependent and also not influenced by the government. Eventually, this is an important fact because they are not felt as competition for other NGOs, hence, they are able to cooperate with them more easily. If more NGOs would operate in the same way, cooperation between them would be made easier.

Secondly, the civil society plays an important role when it comes to sending a message. In the interviews it became clear that Malaysia has a weak civil society because there is no space for human rights issues. NGOs, regional governments and returning migrants should take the role of messenger and warn prospective migrants for the risks of unofficial agencies and illegal migration. Reaching communities and families in remote areas with this message will, *“hopefully”*, according to the first counselor of the Indonesian Embassy, promote the legal route of migration or even hold back domestic worker migrants. A stronger civil society in where there is space for social justice and human rights problems would create space for raising awareness and space for policy influencing.

Furthermore, it is also important to show the good stories as well. In box 4 the handbook for employers is briefly explained. Having contact with Susanna George, the writer of the book, showed

that she tried to implement good stories of employee-employer relations as well. She did this to show how the relationship should be, instead of only showing how it not should be. This is a valuable addition for the comprehensive framework, because it can prevent the challenge explained in the chapter on the perception on MDWs. In this sense it will motivate employers to have a good relationship with their employee.

### **BOX 3 GUIDELINES AND TIP FOR EMPLOYERS OF MIGRANT DOMESTIC HELPERS**

Susanna George, in collaboration with the Ministry of Human Resources (MOHR) and the ILO, are currently (2016) busy with creating a final draft of the handbook for employers of MDWs. A handbook in which employers get tips and guiding on how to recruit a helper, which tasks the helper should do, how to create a contract, but also how to cope with cultural differences and how to behave to your helper. According to Adrian from NSI this initiative is valuable to give a set of standards for employers and it can be used as an inspirational guideline for a future domestic worker act in Malaysia. Furthermore, this kind of creation is valuable because it works from bottom to the top, whereas a consultant, Susanna George, gives advice to the ministry and the ILO, who come up with the actual guidelines. The handbook also demonstrates some of the stories in which the employer and employee had a good relationship in the form of quotations by employees. These good stories are a way of stimulating employers to handle their employee right.

## **6.2 Possibilities on the international level**

Since the possibilities on the national level are discussed, it is just as important to elaborate the possibilities on the international level. For the creation of a comprehensive framework it is valuable to make sure that governments of sending and receiving countries cooperate. In this chapter possibilities for reaching this are analyzed on the hand of interviews with stakeholders and broadened with background information. The first two interventions are already done and will be analyzed in this chapter. Although these two interventions are not seen as possibilities for protecting the rights of MDWs, they are being placed in this chapter due to the fact that it shows the effort made on international level aiming to improve the protection. It is valuable to state these two interventions, because people can learn from these attempts. The second two interventions are about what can be done on the international level and are actual possibilities for the protection of the rights of MDWs.

### **6.2.1 United States Trafficking in Persons Report**

A topic that was mentioned by several respondents was the US TIP, which is a US government tool for anti-trafficking policy implemented in the whole world. Raising wrong promises to MDWs before they leave their country of origin and forced labor makes MDWs victims of human trafficking (Kangaspunta, 2015). Therefore, this report and government tool has been broadly discussed during the interviews. With the TIP report the US aims to create a clear picture of the current status on

trafficking in all nations (Weiter, 2015). A country is categorized into three 'tiers' based on their policy attempts to eliminate human trafficking each year. Countries with a Tier 1 ranking are making the biggest effort to eliminate human trafficking, thus, it does not mean that these countries have a low human trafficking number. Nevertheless, the placement of a country into a Tier has consequences for the trade relations between that country and the US. Countries in Tier 3 are getting the worst circumstances for trading with the US, whereas countries in Tier 1 are getting the best circumstances. The fact that the US is also feeling these consequences makes the tool controversial. Adrian mentioned the willingness of the US to categorize countries with a large trading relation with the US in Tier 1, to make sure this relation is not affected.

Nevertheless, it is interesting to discuss the categorization of Malaysia for the analysis of this intervention. According to the latest report in 2016 Malaysia is categorized in Tier 2: *"Countries whose governments do not fully meet the TVPA's minimum standards, but are making significant efforts to meet those standards."* (Trafficking in Persons Report, 2016). In other words, Malaysia has established the MAPO (Council for Anti-trafficking in Persons) consisting of government agencies and NGOs to monitor and control human trafficking. But although this criteria has met, the situation remains problematic and the NSI stated the following about it:

*"One of the criteria for the US that Malaysia should create MAPO, therefore we are now in 2. But actually when you do not upgrade to tier 2 you cannot sign the trade agreement. The US will not sign it....We call this symbolic pressure. So when they upgraded us we were furious, because the situation did not changed."* (Adrian, NSI)

From this statement it follows that NGOs were angry due to the fact that the people who are victim of trafficking are not helped, but the US can still sign trade agreements with Malaysia because of the upgrade. Therefore, it becomes clear that this worldwide intervention is might helping a little, but eventually it is just to the interest of the trade relations and not to the interest of the victims. The WAO endorses this in the following quote:

*"Last year they brought in Law reforms and change a bit of the policy. The changes took place end of last year but they got upgraded in the middle of last year. And then just before the report came out, it was discovered that the problem is still so so bad. So why did we got upgraded if there is no recon of improvement. Of course in the US Embassy, I spoke to them, Malaysia is improving and I was like no..... It is all about the TIP and the trade agreements. So we find that it is quite critical, but it also works till a certain extent."* (Lainey, WAO)



It is clear that this international intervention is sometimes uncontrollable for local NGOs and sometimes even frustrate them. The US TIP influences these NGOs, but they cannot make a strong voice against them. Although the US TIP responses in some 'positive' changes, it does not make a real change in the situation for MDWs who have been trafficked.

### 6.2.2 Memoranda of Understanding

MoUs, Memoranda of Understanding, are bilateral agreements between, in this case, governments of sending and receiving countries. Indonesia has, since the in 2009 started and in 2011 ended stop on sending migrants to Malaysia, a MoU with Malaysia about worker protection. In the eighties Indonesia also had a MoU with Malaysia, but the WAO states the following about this MoU: *"In the eighties MoU in Indonesia when it was quite dodgy. MDWs can come here, and the employers can keep their passports of the employees. That was in the MoU."*

The Philippines does not have a MoU with Malaysia on labor agreements or worker protection, but they have some regulations that concern both countries in the ASEAN. NGOs are still wondering if these bilateral and multilateral relations in the sense of MoUs are really doing the right thing. Adrian from the NSI quotes the following: *"Are they doing this to protect the people. Or are they doing this for profit. Because someone is profiting a lot from people coming in."* Besides having negative regulations in MoUs (according to the WAO) and wondering who really profits from MoUs (according to the NSI), Wilma Roos of Mondiaal FNV questions another aspect of MoUs the following: *"Maar de vakbeweging heeft geen inzage in de MoU gehad, dus die hadden ook zo iets van ja ehh... We mogen hem niet eens inzien. Dus we vertrouwen er ook niet op dat daar goede informatie in staat."* In this quotation she states that the international Trade Union (Mondiaal FNV) has not had access to the MoUs. Therefore, she questions if MoUs have decent information and regulation. In short, these three arguments for questioning the MoUs are making MoUs not the ideal solution for the protection of the rights of MDWs. Nevertheless, the next topic will elaborate other government to government strategies between sending and receiving countries.

### 6.2.3 Government to government

This topic was especially discussed with the Indonesian Embassy who really saw a solution in government to government strategies. G to G is in contrast with private to private strategies a way to control the sending of migrants through government regulation. Because MDWs are often recruited by private agencies, the government of both sending and receiving countries does not have sight on the way in which migration happens. Private agencies have, other than governments, as main goal: making profit. The first counselor of the Indonesian Embassy confirms this in the following quote: *"They want to make profit out of those people. Because lack of check and balance. Therefore they can*

*exploit, even the middleman in Indonesia can exploit. If they get one potential Indonesian maid, they ask the details, the data, and even from the data they can sell that. For five million, to Malaysian agencies.”* When migrants are sent through government institutions the costs they have to pay can be regulated and controlled. This idea is as well agreed by the NSI stating the following: *“Yes, that will be better. Especially the sending country has to play a bigger role. They have to make sure the agency is right. You do not need a license to become an agency.”* The possibility of better protection for MDWs through government to government strategies, therefore, has potential to become a positive strategy. Although, it remains a case of law enforcement by international institutions to make sure governments are making effort for their people and are not making effort to make profit. This is seen in the Philippines, where migration policies are facilitating out migration, because remittances are a large part of the national GDP. The Filipino government aims to have good cooperation between them and the receiving countries, but the laws are not well enforced (as seen in the lacking salary of MDWs). The question is therefore, if they just want to make profit as a country or if they really want to make effort for their people.

#### **6.2.4 International Labour Organization**

The policy of the ILO has been analyzed after contact through email with their spokesman. The ILO takes action in several ways to improve the rights of MDWs. They aim to create better working conditions through organizing workers and through raising awareness, which is their general operating strategy. The ILO focuses in Asia on the prevention of exploitation of migrant women, from which the largest part are domestic workers (ILO, 2016). Therefore, the ILO aims to promote convention 189 discussed in chapter 2.3, and to get domestic work labeled as decent work. Until the time of interviewing (2016) the implementation of the convention and the recommendation 204 has, according to the ILO themselves, created space for social dialogue and organizing workers.

Nevertheless, according to the ILO there is a lot of work to do to improve the situation. Therefore, they have launched a project in cooperation with the Australian Government and ASEAN. This project focuses on three possibilities for MDWs. Primarily, the project aims to increase the access of stakeholders to knowledge and research on this topic. Secondly, with this project the capacity of official agencies should be built, as well as the capacity of government regulations. Thirdly, the ILO aims to increase the assembly of MDWs to improve the space for social dialogue and raise awareness for the current situation of exploitation among MDWs. These three action points match the comprehensive framework explained in the previous chapter, only the ILO aims to create an international framework, whereas the NGOs are more focused on changes at the national level. Cooperation between the two is already there, but should be extended to make a more clear link between national and international. Improved cooperation between national NGOs and the ILO

would create more possibilities for the comprehensive framework explained in the previous chapter and is therefore a possibility for protecting the rights of MDWs on an international level. The next chapter will elaborate the concept of empowerment, which is a valuable possibility for the protection of the rights of MDWs.

## 6.3 Empowerment

*“We believe in empowering the workers, before the shit hits the fan.”* (Adrian, NSI)

One of the main challenges in the situation of MDWs in Malaysia is the lack of knowledge among MDWs, as demonstrated in chapter 5. Education and unionization can increase the knowledge of MDWs and will improve their autonomy and self-government, or in other words, improve their empowerment (Briones, 2013). In this chapter possibilities for increasing the empowerment of MDWs are discussed, starting with educational methods. Secondly, the possibilities for creating a mobile application are demonstrated.

### 6.3.1 Education

*“We always try to educate our people.”* (First counselor, Indonesian Embassy)

Education is a way to increase the knowledge of MDWs in Malaysia. Effective education can be given before migration, by embassies and agencies, and during migration, by NGOs, embassies and agencies. The first counselor of the Indonesian Embassy quoted that it is important to educate their nationals on the differences and consequences between taking the legal channel or the illegal channel before they have migrated. Nevertheless, the first counselor did not have concrete examples of education given to migrants, besides sending a text message to all people with an Indonesian sim-card who cross the border with Malaysia. In this text message they receive information on the Indonesian Embassy in Malaysia with the address and phone number in case they need help. Furthermore, he did mention the way in which returning migrants should tell their story in the community to de-motivate future migrants. The first counselor aims, therefore, to let Indonesian citizens think about long term and short term pros and cons. He also aims to influence the (wrong) expectations many future migrants have.

Although, education is also (sometimes) given through training by agencies before migration, it became clear in the chapter on challenges that it did not significantly improve the knowledge of MDWs. Training given by agencies mostly consists of learning work tasks and sometimes consists of learning the language. The agencies do not focus on knowledge on rights or labor contracts.

Therefore, all NGOs aim to give training to MDWs to educate them and to increase empowerment. Nevertheless, some NGOs with shelters are having a hard time combining trainings and handling the

cases in the shelter. NGOs that have the time should focus on giving training and transferring knowledge about:

1. How to read a contract
2. Labor rights and security rights
3. Social and cultural aspects in Malaysia

*“They do not know their rights. So how do they even know they are exploited.”* (Anne, NSI)

This quote shows the critical situation of MDWs and the need of improving their knowledge on rights. If MDWs do not know their rights are being violated they will never report this. Cases should be reported to create more public awareness and influence policy. Giving MDWs more training is on the basis of improving the situation for MDWs, nevertheless, it remains hard to organize MDWs due to their working conditions. Without organizing MDWs it is hard to educate them, therefore, the possibility of organizing MDWs in a new way will be discussed in the next part.

### **6.3.3 Smartphone application [DW]app**

After analyzing the possibilities on empowerment and knowledge education, it became clear that it remains very hard to organize MDWs in real-life. But there are currently other possibilities for organizing MDWs in a virtual way. Therefore, the idea of organizing MDWs through their smartphone came up in this research. Reaching MDWs through their smartphone can be done in several ways namely: phoning, texting or more general through a mobile application. As already mentioned in the previous paragraph on education, the Indonesian Embassy already text their migrated citizens. Taking this as a starting point, it would be interesting to create an application for MDWs specifically. An appropriate name for the application is the following: [DW]app, which is easy to remember and easy to find. This chapter will describe ideas, problems and how this idea is further going to be elaborated. Four functions of the mobile application will be discussed and afterwards, two challenges will be described and refuted.

#### ***Function 1: Source of information***

The application should, first of all, be a source of information to spread knowledge on rights, working conditions and so on. This information should have a clear lay-out and should be organized, so information can easily be found. Providing MDWs will help them to get more conscious and with this it might help them to stand up for themselves. Like Anne from the NSI also mentioned, MDWs do not know their rights, so how do they know that their rights are being violated. It is therefore really valuable to provide MDWs, through their smartphone, with information. Next to information on rights the application should have a focus on reading and checking labor contracts. MDWs admit in the interviews that they sometimes do not have a contract and if they have one they often do not

understand it. Reading and checking your labor contract before signing is really valuable for MDWs, because with a wrong contract they easily get exploited.

Besides information on the rights of MDWs and on labor contracts it will be valuable to add information on the culture of Malaysia, information about the country and information about organizations committed to MDWs such as NGOs and Trade Unions. Eventually, this function, a source of information, is to strengthen the MDWs' agency and finally, to empower them. As already mentioned, it is hard to organize MDWs in real life to transfer knowledge and therefore, this function will transfer knowledge through an alternative way for which you do not have to organize MDWs in real, but online.

### ***Function 2: Alarm number***

The second important function of the application is an alarm number of a shelter. It would be ideally to cooperate with willing NGO who has an alarm number for violence and abuse. The idea of creating an application is presented at the NSI and WAO and both organizations were enthusiastic about it. The alarm number functions as a last way out for MDWs, when their rights are being violated. Because MDWs did not know to which organizations they could go for help, it is also likely that they do not know an alarm number in case of help. Hence, it is helpful to provide the MDWs with an alarm number and provide them with information about the organization.

### ***Function 3: Help line***

The third function of [DW]app is a help line, which MDWs can call anytime for general advice on their situation. From the interviews it became clear that many respondents did not really have any idea of what they should do if anything happen to them. Therefore, this help line will provide MDWs the possibility to ask for advice. Function 3 is as well a source of information, which can eventually give MDWs more agency and build their empowerment.

### ***Function 4: Anonymous report service***

The fourth function the application should have is an anonymous service where the MDWs can report any violation of their rights. Some of the respondents indicated that they have been physically abused, but do not want to report this due to the fact they think that the juridical process takes a long time and during that time they are unable to work in Malaysia. Although they are unable to work in Malaysia during that time, they have to stay in Malaysia until the end of the process. One respondent therefore concluded that it is not profitable to report such cases. Still, it is important that cases are being reported, so that the NGOs or other organizations who lobby at the government for better protection of MDWs have a stronger case for evidence based advocacy. As mentioned in

chapter 6.1 it is valuable to have more data on the situation of MDWs and this function can help in obtaining data for organizations.

### *Challenges*

Two challenges exist for the creating of the application and the successful implementation. The first challenge is how to get this application in the picture by MDWs. Although almost all of the MDWs have a smartphone, so they can install the application, it will be hard to make the MDWs really do that. Well-willing agencies, embassies and NGOs should provide MDWs with information on [DW]app and provide them with the application. This might get hard at first starting point, but when the first MDWs have the application it is likely to be transferred through snowball effect to other MDWs. The most important challenge is, how to reach the most vulnerable cases through this method. The case in this research of the MDW who could not get out of the house for seven years (See Box 2) will not get notice of this application. Although, this might not helped her situation, it will help the situation of many other MDWs in trouble. Therefore, the creating of this application should not be hold back by the idea of not reaching all MDWs.

## 7. Conclusion

This thesis describes the situation of MDWs in Malaysia and the challenges and possibilities to protect their human rights. The main question is consequently:

*What are the possibilities to protect the human rights of migrant domestic workers in Malaysia?*

In the contextual framework it is stated that the human rights of MDWs consist of labor rights, migrant rights and human rights. Labor rights and migrant rights both fall under the overarching human rights (Donnelly, 2016). Therefore, the main question of this research is what are the possibilities to protect the human rights, which includes the protection of labor and migrant rights. To answer the main question, this research is divided into four sub questions, which are answered in chapter 5 and 6. It is valuable at scientific, social and developmental level to answer the question of this research. First of all, as shown in chapter 1, there is a gap in the literature on MDWs, because a rights based approach has not been used in research before. Secondly, because MDWs are a vulnerable population, it is also valuable to research them and to understand how the protection of their rights can get improved. With having a worldwide trend of more migrating women independently and an increase of migration for care (Piper, 2008), it is important to understand how the protection of the rights of these migrants can be secured. Thirdly, migrants are able to contribute to the development of their home country by transferring capital in the forms of financial, material and intellectual (Adams & Pages, 2005). It is, consequently, relevant to answer the main question and to contribute to the development of the countries.

The first sub question: What are the challenges for the protection of the rights of MDWs, focused on the current situation of MDWs in Malaysia. This question is answered after interviews with MDWs from the Philippines and Indonesia and stakeholders in the field of MDWs. Four main challenges were sorted out through data analysis; migration channels, working conditions, the Malaysian perception, rights and policies. The first challenge, migration channels, describes the creation of expectations by MDWs before they have migrated. The expectations are based on recruitment agencies making false promises, the recruitment payment and stories of peers, mostly, in their village. Especially agencies are the abusers of the rights at this moment, because they make use of the ignorance of many MDWs. The possibility for protecting the rights of MDWs at the moment of migration is government to government migration, and empowering the ladies through transferring knowledge to build their agency and to prevent ignorance.

The second challenge, working conditions, demonstrated that rights can get violated by the employer and by the agency at this moment. This chapter also showed the differences in working conditions

between full time employed MDWs and part time employed MDWs. Although there are many differences, both employment conditions creates challenges for the MDWs. Part time employed MDWs seems to choose for protecting their rights by gaining more autonomy and freedom, but at the same time they are risking protection of other rights, since they are now illegal citizens of Malaysia. Full time employed MDWs seem to choose (or do not now the 'possibility) for protection of rights by being legal, but are sacrificing their freedom and sovereignty. A specific domestic workers act, created through a comprehensive framework starting with gaining more data and followed by evidence based advocacy, would protect the rights of MDWs. National and international NGOs should cooperate and lend datasets to one another, to strengthen their evidence based advocacy.

The third challenge, the perception on MDWs, describes the situation of how Malaysian people view MDWs, how people in Malaysia often think in stereotypes and the weakness of the civil society in Malaysia for raising human rights issues. MDWs are often seen as part of the family, which causes challenges, because a person is likely to treat their family different then they treat their employee. A specific domestic workers act in Malaysia, would contribute to erasing this perception by stating that domestic work is real work. The ILO aimed this already with establishing convention 189, but only a few countries have signed this convention. Therefore, the convention has not been able to make a worldwide change in the view on domestic work. A specific domestic workers act in Malaysia would create a framework where all actors can hold on to. Another challenge in Malaysia is that judges often think in prejudices and stereotypes. To prevent this, it is valuable to raise awareness and, again, the steps of the comprehensive framework should be taken. This is as well important, since it seems that the Malaysian society does not have space for raising human rights issues. Cooperation between NGOs and by creating a stronger evidence based advocacy should raise awareness among the society (Ignatieff & Gutmann, 2003). The common strategy of human rights activists also ensure they achieve their goal through advocacy and campaigning (Lauren, 2011), which is seen as a possibility for protecting the rights of MDWs.

The fourth challenge, rights, describes the (lack) knowledge that MDWs have on rights and organizations that could help them. The most valuable outcome of this challenge was the lack of knowledge MDWs have on their rights, on organizations who can help them and on Trade Unions. To protect the rights of MDWs it is valuable to build up their agency and to improve their empowerment by transferring knowledge (Rappaport, 1981). Like already mentioned, if MDWs do not know their rights, how can they know that their rights are being violated? The possibility for empowering MDWs has as main conclusion that it can be done best by creating a [DW]app, a smartphone application. This is due to the fact that for giving training in real life, MDWs should organize and since not all MDWs have days off this is hard to accomplish. It is furthermore hard to organize MDWs due to the



fact that one (or at most two) employees work at a single location. Therefore, this research aims to show the possibility for organizing MDWs via a smartphone application. This application organizes MDWs through their phones instead of face-to-face. This strategy would ensure that knowledge get transferred without real life contact. The smartphone application should ideally be created in cooperation with a NGO or another organization with a shelter. Furthermore [DW]app should have four functions: a source of information, an alarm number, a helpline and an anonymous report service. These four functions should improve the protection of the rights of MDWs by improving their agency and empowerment and by improving their possibilities in case of help. This was also mentioned in the conceptual framework, where it was demonstrated that empowering people needs transfer of skills and knowledge (Rappaport, 1981).

Finally, the last challenge in protecting the rights of MDWs was due to policies. MDWs face problems due to regulation and laws in the employment act and MoUs and furthermore face the fear of getting caught by the immigration police. Obtaining and maintaining a Visa seems to be very hard for MDWs in combination of making sure that their rights are being protected. The possibility of preventing these problems would be better international law enforcement and the creation of a specific domestic workers act. Improved international law enforcement can be accomplished by raising awareness among international organizations, which comes back to the fact that more data should be collected and evidence based advocacy should be done at international level.

After answering the four sub questions in the part above, some further conclusions can be made. Drivers of migration for care are often economic and drive independent women to migrate (Kaur, 2007). The strategy of MDWs is earning more money to protect the rights of the family back home by ensuring their basic provision. But by migrating, they are risking the violation of their own human rights. Because migration of blue collar migrants cannot be hold back through restriction policies, it is valuable to empower the women who migrate by [DW]app and to accomplish the comprehensive framework, discussed in chapter 6, to protect their human rights.

Furthermore, protection of the rights of MDWs has a developmental relevance for both sending and receiving countries. The sending countries can increase their development if remittances are being sent and spend on investment (Hugo & Stahl, 2004). The receiving country, Malaysia, can continue their economic growth with the help of MDWs, because MDWs can fulfill the demand for domestic workers in the country.

Concluding, the most valuable possibilities for protecting the rights of MDWs are empowerment through [DW]app and creating a comprehensive framework. These possibilities have a developmental relevance for sending and receiving countries. Protection of the rights of MDWs is

furthermore valuable, because feminization of migration is increasing and outsourcing domestic work is also increasing in Malaysia. By risking some of their own rights, MDWs aim to protect the rights of their families back home. With the possibilities stated in this research, it can be ensured to protect the rights of MDWs themselves and helping them to protect the rights of their families.

## 8. Critical reflection

This chapter will, finally, outline the reflection on this research and the chosen methodology and give recommendations for further research. The chosen research design and methods, seem to be the right one for answering the main question. A rights based approach was used to understand what the rights of MDWs are, how much they knew about their rights and how these rights can possibly be protected. This was the perfect approach for finding the possibilities for protection of the rights of MDWs. Interviews with the respondents gave them space to tell their story and to show how much they knew about rights.

The interviews with MDWs had three 'starting' places, the Indonesian School, the St. John's Church and the Indonesian embassy. Because there were only three starting points and from there respondents were found through sampling via the snowball effect, the respondents are connected to each other. This might have influenced the research results, but it is important to notice that both good and bad stories were told by the MDWs. Some of them had 'good' employers and some of them had 'bad' employers, but an overarching conclusion on their rights is made, since all of them were lacking knowledge. Furthermore, it is valuable to notice that the results of this research are not generalizable over the whole population of MDWs. But again, because both good and bad stories have been shown, the recommendations are still valuable.

Another aspect what should be taken in mind is the fact that the interviewer did not speak the language of the respondents. Speaking their language would, first of all, increase the trust between the interviewer and the respondents. Secondly, this would have ensured the use of the first interview scheme (Appendix 1) and expectations and experiences would have been more clearly segregated.

Although the answer of the main question is comprehensive, it would have been valuable to interview more NGOs to see if their strategies accord with the outcome of this research. Background information and strategies were found through internet search, but this information could not be discussed with these NGOs. It would have been valuable to discuss the strategies with more NGOs.

Eventually, the recommendations for further research will be discussed. Primarily, it would be interesting for further research to test [DW]app and see how it works and how it is received among the population. If this application has the outcome it aims to have then it would be really helpful for empowering MDWs. Furthermore, it would be valuable to research the differences between part time and full time employed MDWs more deeply. Because all the previous literature and research described full time employed MDWs solely, it would be an addition to research part time employed MDWs more since they are a large part of the MDWs population.

It the year 2016 rights should be respected for everyone. This research has therefore shown what the possibilities are for the protection of the rights of a highly vulnerable group in Malaysia; MDWs. Women who sacrifice their own rights in order to protect the basic provision of their families in their home countries, should build more empowerment through the comprehensive framework and through the implementation of [DW]app.

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## Appendix 1 Interview scheme MDWs 1.0

### Concept 1: Expectations

- Journey
  - How to establish the journey
  - Recruitment agencies
- Work conditions
  - Hours of work
  - Rest periods
    - Days off
    - Break between work hours
  - Tasks
    - Mental demands
    - Physical demands
  - Living situation
  - Remuneration
- Employer and the household
- Rights
  - What are the rights
  - Where can I go for help
    - Trade Unions
    - NGO's
    - Other stakeholders

### Concept 2: Experiences

- Drivers of migration
- Journey
  - How did respondent establish the journey
  - Recruitment agencies
- Work conditions
  - Hours of work
  - Rest periods
    - Days off
    - Break between work hours
  - Tasks
    - Mental demands
    - Physical demands
  - Living situation
  - Remuneration
- Employer and the household
- Rights
  - What are the rights
  - Did respondent need help because of exploitation
    - Trade Unions
    - NGO's

## Appendix 2 Interview scheme MDWs 2.0

- Drivers of migration
- Journey
  - How did respondent establish the journey
  - Recruitment agencies
- Work conditions
  - Hours of work
  - Rest periods
    - Days off
    - Break between work hours
  - Tasks
    - Mental demands
    - Physical demands
  - Living situation
  - Remuneration
- Employer and the household
- Rights
  - What are the rights
  - Did respondent need help because of exploitation
    - Trade Unions
    - NGO's

## Appendix 3 Theme's interview stakeholders

- Current situation (cases)
- Their strategies
- International strategies
- Local strategies
- Vision on other NGOs and organizations
- Protection of rights
- (Mobile application)