

# 臺灣外籍家事勞動者的 勞權規範發展觀察 ——評析家事勞工保護法草案相關版本\*

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## 摘 要

本文回顧臺灣家事勞動規範政策演變，另就家事勞工保護法草案相關版本進行評析。對於未來發展，本文建議宜依照以下幾個基本觀念來處理。首先，臺灣的外籍家事勞動基本上是公共政策產物，家事勞動的供給具有一定的公共性，於相關規範機制中應適度彰顯、落實此等公共性。其次，資本主義社會中的勞工會處在弱勢狀態，是整個經社體制的結構性因素所造成。順著問題的前因後果，其解決方案除了從結果端提供保護措施之外，也要適度從源頭端檢視設想改變體制結構的可能性。最後，家事勞動保護立法的倡議

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\* 本文原稿為「家事勞動的父權批判、人權思想與勞權規範——評析家事勞工保護法草案」，2019 年發表於國立交通大學文化研究國際中心、國立交通大學科技法律研究所、國立交通大學社會與文化研究所、亞際文化研究碩士學位學程（台聯大系統）主辦之「法律與社會之對話——移工勞權保障與政策研討會」，國立交通大學管理二館 3 樓人文電影館，2019 年 11 月 17 日。在此，特別感謝匿名審稿人在本文內容上所提供的諸多寶貴意見。

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投稿日：2020 年 2 月 4 日；採用日：2020 年 5 月 27 日。

討論停留在草案階段，已有多年，然政策思考的環境背景已物換星移、時過境遷，臺灣未來的外籍勞工政策以及規範思維，有無須要與時俱進、改弦更張，亦值得併予檢討。

關鍵詞：家事勞動者、家事勞工保護法草案、勞動基準法、工作時間

Cite as: Special Issue, NCTU L. REV., December 2020, at 93

# **Observation and Reflection on the Development of Taiwan's Foreign Domestic Worker Rights Regulations — Comment on the Relevant Version of the Draft Domestic Worker Labor Protection Law**

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## Abstract

This article reviews the evolution of Taiwan's domestic labor regulations and policies, and reviews the related versions of the draft Domestic Worker Labor Protection Law. For future development, this article suggests that it should be handled according to the following basic concepts. First of all, Taiwan's foreign domestic labor is basically a product of public policy. The supply of domestic labor has a certain degree of publicity, and it should be appropriately manifested and implemented in relevant regulatory mechanisms. Secondly, the labor in a capitalist society is in a weak state, which is caused by the structural factors of the entire economic and social system. Along with the cause and effect of the problem, in addition to

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providing protection measures from the result side, the solution should also appropriately review the possibility of changing the institutional structure from the source side. Finally, the discussion on the proposal of Domestic Worker labor protection legislation has been in the draft stage for many years. However, the environmental background of policy thinking has changed. The Taiwanese foreign labor policy and normative thinking need to keep pace with the times and change its course. It is also worthwhile. And review.

**Keywords:** Domestic Worker, The Draft of Domestic Worker Labor Protection Law, Labor Standards Act, Working Time