



Asian Migrants' Coordinating Body 亞洲移居人士聯盟 (AMCB)

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Submission to the Panel on Manpower of the HK Legislative Council

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Protect Foreign Domestic Workers from Overcharging by Hong Kong Agencies

1. Hong Kong employment agencies are regulated by section 57 of the Employment Ordinance (Cap 57) and the Employment Agency Regulations (Cap 57A). The employment agency may lawfully charge a commission of no more than ten percent (10%) of a foreign domestic worker (FDW) first month's salary, which should be HK\$392.00 currently. An employment agency that charges more than this is liable upon conviction to a maximum fine of HK\$ 50,000.

2. Despite these provisions, FDWs experience rampant problem of overcharging not only to new arrivals but also for those already working in Hong Kong – especially for those renewing contracts or changing their employers. Overcharging is done through various modus operandi that skirt the law and unfortunately, there is no effective mechanism or process in place to monitor the practices of employment agencies, ensure their adherence to existing laws, and prosecute offenders.

3. Overcharging is done both to newly arrived migrants and those who are already in Hong Kong and are renewing their contract with their employer, or signing a new contract after finishing the previous one or after the premature termination of contract.

With newly arrived migrants, it is done in collusion with their counterpart agencies in the country of origin – Philippines and Indonesia mainly. Upon arrival, FDWs are immediately taken to a financing agency to force them to take out loans that are collected by the recruitment agencies.

FDWs are then left with the loan that they have to pay monthly and with Indonesian migrants, they pay HK\$3,000 per month for seven months. Systematic collection of payment for these loans is done through the employers who deduct this from the FDW's wages. Oftentimes, the amount left from the loan payment is barely enough to sustain the FDWs' basic needs in Hong Kong like food.

3. FDWs whose contracts are prematurely terminated bite the bait of HK employment agencies to pay excessive fees as high as HK\$15,000 in order to get a job. No receipts are issued for these overcharged payments.

4. To ensure the collection of excessive fees, Hong Kong based-employment agencies confiscate the FDWs' documents like passports and employment contracts upon their arrival in Hong Kong and use these as collaterals for loan applications in money-lending agencies. FDWs, in effect, become hostages as the lack of official documents on their possession makes FDWs vulnerable and discourages them from taking actions against the recruitment agency, the finance agency or the employer.

5. Although the Hong Kong government has acknowledged that overcharging is a problem among HK employment agencies, little or no action has been done to solve this despite the existence of laws and policies to protect the FDWs.

The Employment Agency Administration, under the Labour Department, is tasked to administer Part XII of the Employment Ordinance and the provisions of the Employment Agency Regulations.

However, victims of overcharging among FDWs feel discouraged in pursuing complaints against an employment agency. In the experience of migrant organizations and migrant-serving NGOs, complainants are usually required to produce evidence in the form of receipts as proofs that they have been overcharged.

But the modus operandi of recruitment agencies is that they do not issue receipts that reflect the real amount that FDWs pay them. In order to skirt the law and avoid prosecution, they commit fraud by not putting in official documents the actual amount they collect from FDWs.

Since FDWs are forced to go through employment agencies – by policy of their respective government – they do not have a choice but accept whatever the employment agencies tell them or instruct them to do.

6. We therefore urge the government to:

- A. Give due diligence in investigating complaints of overcharging and effectively prosecute those found guilty of such act. Reforms should be done to make it more conducive for complainants to air their grievance;
- B. Investigate and prosecute money lending agencies and other entities that connive with these employment agencies to ensure their collection of excessive fees; and
- C. Institute a mechanism for regular consultation on the implementation of policies government employment agencies of FDWs. This regular consultation should be transparent and should involve migrant organizations and migrant-serving NGOs.