

June 18, 2013

To the Legislative Council Panel on Manpower:

The Hong Kong government must regulate employment agencies that handle entry of foreign domestic workers, and ensure that excessive fees are not charged to either employers or workers.

A policy already exists to protect workers which is that agency fees to workers must not exceed 10% of the monthly salary. Yet currently this is being absolutely ignored and the result has been that both workers and Hong Kong families employing them are suffering. The Hong Kong government is responsible to ensure that the existing policy is fulfilled in practice and in spirit and that agencies serve a genuine need, rather than take benefit from the misfortune of others.

The government is responsible to make sure that all citizens, families and workers in Hong Kong are not exploited but rather are protected and encouraged to have peaceful family lives and smooth working lives. Profits of the agencies should be secondary. They should be allowed to function and profit only to the extent that their activities are legal and beneficial to Hong Kong society. Thus not only should there be limitations to the fees charged to employers but there should be more serious punishments for agencies that deceive employers or workers.

Right now, the excessive fees charged by agencies as well as the difficulty of retrieving illegally charged fees cause huge troubles to both workers and employers and the conflicts and tensions are rising because of the lack of regulation and the agencies' misleading and destructive practices.

The intermediary charges set by agencies to workers and employers are excessive and also agencies often mislead both workers and employers, yet there is no practical recourse to punish those who do so. Taking the agency to court after the fact (after one or both parties have already been deceived and a worker has arrived in Hong Kong) is not enough, because by the time the offense is realized, there is little choice on both sides – one is pressured by circumstances to accept something less than what one expected and agreed to, or else face lost working time and lost income. Service agencies in Hong Kong such as Helpers for Domestic Helpers help to recover illegally deducted fees from the agencies, but this is the responsibility of the Hong Kong government to prevent.

It is impossible for employment agencies to process the applications of domestic workers from countries such as Indonesia and the Philippines to work in Hong Kong without the direct cooperation of agencies in those countries. The government must take action to end irresponsible practices.

Some examples of the troubles for employers:

1) Agencies threaten workers who are in debt and also call the employer at home, which can be frightening and hard to end. These and other agency related problems are not new.

Complaints about agencies for domestic helper employment have been on the rise. The Consumer Council received a total of 260 complaints against domestic helper agencies in 2011, a 21% increase compared to the 214 cases in 2010. In the first 4 months of 2012, 75 cases were received.

Complainants said they were cheated by the domestic helper agencies, which 'did not deliver the persons as promised'. The helpers referred by the agencies were found to be incapable of doing their job, never turned up or after working for a short period of time, they left their employers.

We have not seen substantial action by the government to handle these concerns. This is a serious concern affecting many Hong Kong families and workers.

2) Workers in debt may run away or be overly stressed due to debt, which affects both workers and employers.

3) When agencies cannot get profits from workers they try to get it from employers. But the fees are unreasonably high. A few years ago, it was possible to hire workers directly by doing paperwork oneself. This must be allowed and more of the administration must be taken by the responsible governments.

4) Agencies do not inform employers correctly about their legal responsibilities, and it makes employers learn practices that get them into trouble.

The trouble for workers:

1) The debt bondage of they are scared to speak out when employers go too far, due to their debt. Some workers have even been repeatedly sexually assaulted, and it is because of their agency debt that they do not run away. In a case reported in the news last year, a domestic worker was repeatedly indecently assaulted by her employer and forced to help him masturbate, and when she went to help to her agency, her agency only told her to get evidence of the employer's semen 'next time' that it happened. It is her agency debt as well as social isolation and lack of protection that caused her to be in such a slave-like situation. There is no reason to let such situations grow unmonitored; it is never a real choice of domestic workers to stay in such situations, and as a decent society we should ensure that no women are placed in such helpless and dangerous situations. Ending excessive agency fees would greatly relieve the workers' fear of speaking out to escape danger and abuse.

2) They get unnecessarily cheated out of payment which they should legally get according to Hong Kong law. The government cannot turn a blind eye to this situation. It is a shame to bring workers to Hong Kong by deception and also for agencies to earn money from employers by deception

The government has many tools to crack down on the situation. The welfare of Hong Kong families and Hong Kong workers (including the domestic workers) is at stake. The agencies must not be allowed to grow so freely at the expense of families and workers' welfare. It is overdue for the government to intervene and ensure proper regulation of agencies.

In drafting new legislation to regulate agencies, the Consumer Council, domestic worker unions and service agencies as well as Hong Kong employers should be consulted, as it relates to their welfare and protection.

On behalf of Open Door

(group of concerned domestic worker employers and Hong Kong citizens)

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