

**Submission to the Legislative Council Panel on Manpower
(Special Meeting 21 February 2014)**

**by The Federation of Asian Domestic Workers Unions and
The Hong Kong Confederation of Trade Unions on
“Policies Relating to Migrant Domestic Workers and Regulations of Employment Agencies”**

亞洲家務工工會聯會 及 香港職工會聯盟
立法會人力事務委員會 2 月 21 日特別會議
“有關外籍家庭傭工的政策及規管職業介紹所” 提交意見書

Erwiana 受虐事件令香港關注在港外籍家務工的遭遇，以至相關的政策，亦令人留意到中介公司對於工人的剝削是何等深重，而香港政府置若罔聞，致令香港淪為「現代奴隸之都」。其實，在此之前，香港並非沒有嚴重的虐待案件，只是政府得過且過，沒有吸取教訓，改善政策。我們認為，Erwiana 的遭遇，不是個別事件，正反映在港外籍家務工求助無援的困境，政府必須正視。

Erwiana's case has raised concern in the local community regarding the life situation of migrant domestic workers in Hong Kong. It has also drawn attention to respective government policies as well as the severe exploitation employment agencies have had on these workers. It has been the ignoring attitude of the government that has rendered Hong Kong “the city of modern slavery”. In fact, cases of serious abuse are never new in Hong Kong. However, the government has always turned a deaf ear and allowed itself to drift along without learning any lesson or making any change to its policies. We believe the ordeal of Erwiana is not a case of exception. It reflects rather the predicaments of the domestic workers lacking help and support and is a situation that the government must look into.

我們認為由 Erwiana 案帶出的外傭困境：

The predicaments of the migrant domestic workers as revealed by Erwiana's case are:

外傭初到香港，的確在機場接收到入境處派發的法例等相關資訊，但中介公司接走外傭時往往立即取走該批資訊。

Although it is true that when the domestic workers first arrive in Hong Kong, the Immigration Department will give them information including Hong Kong laws etc. However, the information is often taken away by the staff of the employment agencies come to pick them up at the airport.

初次到香港工作的外傭(包括印尼、菲律賓、孟加拉等)，部份被帶到香港財務公司借錢，在沒有收到分毫金錢及收據的情況下，被安排首 4 至 6 個月將大部份月薪透過便利店還款。被逼欠債而工作的情況已被國際界定為 “人口販賣” (Human Trafficking)。

Some of the domestic workers who are new in Hong Kong (from countries including Indonesia, the Philippines and Bangladesh etc) would be taken to the loan companies. Arrangements will then be made for them to apply for loans. Despite not being given any money or receipt, these workers will be obliged to re-pay the money via the convenience stores with the salaries of their first four to six months of work. Today, debt bondage is known internationally as a form of slavery.

首 6 個月的還款期，令外傭如 Erwiana 即使遇到僱主苛待或工作條件極差也會啞忍；即使 Erwiana 曾向中介公司求助也因為尚要還款而被送返僱主家中。

As a result of the repayment scheduled for the first six months, migrant domestic workers are often deterred from making any complaint against employers' abuse or poor working conditions. In Erwiana's case, in spite of her appeal for help, she was sent back to her employer's by the employment agency simply because she still had debt to repay.

雖然入境處在批准僱主聘請外傭時，僱主需填寫提供住宿的詳情，但入境處少有作檢查描述是否屬實，導致為數不少的外傭睡在廁所、衣櫃。

Although the Immigration Department requires the employers to fill in details of the accommodation they have for their domestic helpers, it seldom verifies if the employers' claims are true. As a result, many domestic workers have to sleep in the toilets or closets.

因為香港強制外傭留宿僱主家中，外傭沒有自己的居所，被帶到僱主家中工作後，即使受虐亦擔心失去工作，投訴僱主後亦擔心無處容身。

Since domestic workers are obliged by law to live in with their employers, they do not have their own accommodation. If they complain about any abuse, they will risk losing their job as well as their lodging.

為數不少的外傭仍然面對少付工資、沒有每星期休息一天的待遇，但她們一旦投訴，就會失去工作、居所，而中介公司並不會再為其安排新的僱主。故此她們來港工作賺錢的目標便為白費，故此外傭一般不敢投訴。

Many migrant domestic workers still encounter problems of salary deduction or not having a weekly rest day. However, they cannot complain for it. If they do so, they will lose their job and accommodation. While employment agencies are unwilling to get them new jobs, their intention to work and earn money in Hong Kong will be in vain.

去年 6 月 18 日人力事務委員會的會議就外傭中介費曾作出討論，當時我們已嚴正提出需要加強監管中介公司。勞工處的回應相當敷衍，之後更對此要求不了了之。現在回想起來，當時 Erwiana 正受僱主殘暴虐待，曾向中介公司求助卻又被送返僱主家庭繼續受虐，若果當時政府積極改善，或許 Erwiana 已能逃出生天。若香港不想再被冠以“現代奴隸之都”，促請勞福局、保安局及入境處從速實施以下措施，以確保在港工作的外傭的基本權利。

When the Panel on Manpower discussed the agency fees payable by domestic workers on 18 June last year, we strongly called upon the government to regulate these agencies. However, the Labour Department was perfunctory in its reply. The issue was then casually put aside. In hindsight, it was about the same period of time when Erwiana was sent back to her employer by the agency. Had the government been more responsive to our concern at that time, Erwiana might have already been saved from such brutal abuse. If Hong Kong does not want to be branded again as “the city of modern slavery”, we urge the Labour and Welfare Bureau, the Security Bureau and the Immigration Department to defend the foreign domestic workers’ basic rights by adopting the following measures without further delay.

甲) 為外籍家務工設立「勞、資、官」三方會議，製訂相關政策
(A) Set up tripartite meetings of labour, employers and government to formulate policies on foreign domestic workers

現時，外籍家務工的政策透明度非常低，即使 Erwiana 事件發生之後，勞工處和入境處仍然閉門造車，一方面拒絕與工會會面，另一方面卻高調提出無知的政策蒙混過關。而在官方的勞工架構如勞顧會中，亦沒有代表外籍家務工的席位。At present, there is a lack of transparency on policies relating to foreign domestic workers. Despite the uncovering of Erwiana’s case, the Labour Department and the Immigration Department continued to stay in a world of their own persuasion. They on one hand refused to meet with the labour unions, and on the other tried to muddle themselves through by proclaiming some oblivious policies. We would like to highlight that foreign domestic workers are not given any seat in the current official setups on labour issues, the Labour Advisory Board for instances.

勞工處應仿照其他行業，設立「三方會議」，以工會代表、僱主會代表與勞工處為成員，商議相關的政策，提高政策的透明度，亦使政府有收集工會意見的渠道。The Labour Department should take reference from the other trades and industries and establish a tripartite mechanism that will engage labour unions, employers’ associations and the Labour Department for any policy draft. Not only will this enhance transparency, it will also serve as the channel to collect views of the unions.

乙) 規管中介公司：
(B) Regulate employment agencies

1) 勞工處巡查中介公司時，需檢查有否扣起外傭護照，及發出給外傭的中介費收據，以確保中介公司沒有超收中介費。

Labour Department officers should check whether the employments agencies have confiscated the passports of the foreign domestic workers when they inspect these agencies. Receipts issued to the workers regarding agency fees should also be examined to ensure that no overcharge has been made.

2) 加強懲罰，對超收中介費或扣起外傭護照的中介公司不應只罰款、應加入暫停牌照一段時期，以收阻嚇作用。

Strengthen the penalties for overcharge of agency fees and confiscation of workers' passports by imposing license suspension and not just fines.

3) 將被投訴並經勞工處調查屬實的中介公司名稱上載到勞工處網頁，讓作為僱主的消費者可選擇守法的中介公司。

Upload names of the employment agencies onto the Labour Department's website if complaints against them are proved valid by the Department, so that employers can choose the law-abiding agencies as informed consumers.

就外傭一到香港便被中介公司帶到財務公司借貸，在沒有收到任何借款卻被安排首 6 個月還款的個案作嚴肅調查，以了解財務公司與中介公司有否干犯任何商業罪行。

Investigate seriously cases in which domestic workers are forced to apply for loans upon their arrival in Hong Kong and made to re-pay within the first six months of work without them actually receiving any of the loan money. Check if these loan companies and employment agencies have conducted any commercial crimes.

勞工處應主動抽樣，深入調查在港外籍家務工的狀況，而非等待中介公司定時「會見工人」。中介公司一直對外籍家務工受虐的情況視若無睹，甚至是騙取其金錢的機構，依賴他們是本末倒置的做法。

Instead of relying on employment agencies' regular "interviews of the workers", the Labour Department should take initiatives to draw their own samplings and scrutinize the life situation of foreign domestic workers in Hong Kong. The employment agencies have for long turned a blind eye on the abuses suffered by the foreign domestic workers. Some of them have gone as far as to cheat the workers for their money. To count on them is rather putting the cart before the horse.

丙) 保障外傭權利：

(C) Protecting the rights of foreign domestic workers

1) 所有外傭第一次入境時，入境處及勞工處必須提供有工會代表參與的簡介會(不能有中介公司在場)，用外傭的語言解釋香港相關法例，及提供求助電話，確保外傭知悉自己的權利。與此同時，聘用外籍家務工的僱主亦必須接受勞工權益的教育課程，令雙方都得悉其權責。

1) For migrant domestic workers to be familiar with their rights, the Immigration Department and the Labour Department should prepare a briefing session for the workers upon their first arrival in Hong Kong. The session should cover topics including Hong Kong law and the telephone numbers they would need for seeking help. It should

be conducted in the language of the workers and with the presence of the union representatives (but not the employment agencies). Employer to the domestic worker should also be obliged to take course on labour rights and benefit. This is to ensure that both parties know their respective rights and duties.

- 2) 勞工處收到外傭的投訴中介公司後，向有關公司調查時不能透露投訴者姓名，以保障投訴人不會被中介公司報復。
- 2) To protect the complainant from being revenged by the employment agencies, the Labour Department officers should not give away the names of the worker(s) filing the complaint.
- 3) 在外傭經常聚集的公園如維園、九龍公園等，劃出少量地方讓外傭工會設置諮詢及求助攤位，讓遇到問題的外傭能找到信任的組織尋求協助。
- 3) In where migrant domestic workers usually gather, the Victoria Park and Kowloon Park, for instances, space should be allocated for unions of the migrant domestic workers to set up booths to provide assistance and consultation services to workers in need.

丁) 為遭到苛待的外傭提供支援

(D) Provide support to abused foreign domestic workers

政府資助外傭組織/工會成立有足夠宿位及設施的庇護所，並同時設立 24 小時求助熱線，並聘請各個操不同外傭語言員工當值接聽。

The government should financially sponsor unions or NGOs for migrant domestic workers to set up shelters with sufficient places and facilities. There should also be 24-hour hotlines for help to be operated in the different languages of the domestic workers.

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