



FILIPINO MIGRANT WORKERS' UNION (FMWU)

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RTU Reg. No.918

Promote social justice, equality and social inclusion, Include All Foreign Domestic Workers in the Statutory Minimum Wage

A submission to the Panel on Manpower of the Legislative Council of Hong Kong SAR

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A. FDWs must be included in the statutory minimum wage

1. It is our firm belief that a single legislated rate for minimum wage should be applied universally to all working people in Hong Kong.
 - a. This should be applied to all working people whether they are local or foreign, or live-in or live out for that matter. Essentially there should be no discrimination in applying the SMW to all working people.
 - b. There should not be a separate legislated minimum wage rate for different work categories, especially for FDWs. The SMW should be across the board as what the HK government originally envisioned.
 - c. Domestic work is work and its value should be remunerated as any other kind of work. The mere fact that FDWs are required to have employment contracts with their employers attests to this. The adoption of the International Labour Organisation (ILO) of Convention No. 189 (Domestic Workers Convention of 2011) is a testament to the international recognition of domestic work as work.

2. Currently, wage of foreign domestic workers (FDWs) who are the majority of live-in domestic workers is determined by the Minimum Allowable Wage (MAW) policy.
 - a. Under the MAW, the wage of FDWs is very vulnerable to instant adjustments. In fact when the time for the MAW review comes – and it is done every year – our wage becomes more insecure.
 - b. We believe that the process of MAW determination is non-accountable, non-transparent and arbitrary.

MAW is decided only by the Executive Council in a closed-door review. Because it is administrative, the legality of the decision on the MAW cannot even be challenged. Thus, the government cannot even be compelled to justify its decision for the wage adjustments it will do to the MAW.

Government's 'basket of indicators' is also not clear in the process. It changes all the time and what is worse is that FDWs only get an idea of what criteria were used in the MAW review only AFTER the decision has been taken. That is, if they even bother to explain their decision.

FDWs are not even informed when it will be reviewed. All the time, FDWs have to approximate the period of its review and prepare submissions. While the government accepts submissions, it is not clear what they actually do with them.

- c. With the SMW, at a certain extent, there will be a level playing field in the determination of wage that we can also take part in. Unlike now where only the ExCo decides our wages in closed door meetings, the inclusion will give us and our advocates the chance to lobby the LegCo, attend public consultations and discussions in the legislative body and witness deliberations the same way that our employers can.



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3. We too are workers. From our value in households to the general HK society, no one can, and should, deny the part FDWs have played and still are playing in Hong Kong. If FDWs are excluded from the SMW that is meant to be for ALL workers, it means that we are not considered as workers and such is an injustice to us.

Neither are FDWs a “social welfare” of the government to employers. We are not items with “ON SALE” tags. Our worth and dignity as workers and as human beings should be acknowledged and should not be cheapened just so others can “afford” us.

B. Exclusion to the SMW constitutes a violation to ILO conventions

1. Our exclusion to the SMW proposal is patently discriminatory and contravenes conventions of the International Labour Organization (ILO) regarding wage and other related matters.

According to ILO Convention No. 97 Migration for Employment Convention (Revised), 1949 which the Hong Kong government signed in January 22, 1951:

Article 6

6. (1) Each Member for which this Convention is in force undertakes to apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of the following matters:

*a) in so far as such matters are regulated by law or regulations, or are subject to the control of administrative authorities-
(remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age)*

C. Conclusion

1. The inclusion of all FDWs to the statutory minimum wage will be a positive step towards social justice for the more than 300,000 migrant workers, mostly women, in the domestic work sector.
2. The inclusion of the FDWs in the statutory minimum wage would also promote the message of equal treatment and social inclusion of one of the most vulnerable and insecure sector of Hong Kong's workforce.
3. The inclusion of FDWs in the statutory minimum wage will be in line with Hong Kong's aspiration of being an international city that respects core international labour and human rights standards and against any form of discrimination on the grounds of race, sex and profession.