

**Submission of the Indonesian Migrant Workers' Union (IMWU)
to the Hong Kong Legislative Council**

12 February 2014

Hong Kong's Occupational Safety and Health Ordinance should cover MDWs

Last January 22, an Indonesian migrant domestic worker fell to her death while cleaning windows from the 27th floor of the flat where she worked in Wong Tai Sin. In August last year, an Indonesian MDW and her 18-month-old charge fell to their deaths from a 19th-floor flat in Yau Tong. That same month, another Indonesian domestic fell while cleaning windows in a flat at Bayview Terrace, Tuen Mun. In February 2011, another Indonesian MDW fell out of a 22nd-floor flat while cleaning a window in a Sha Tin flat.

This and other similar occupation-related deaths or injuries among MDWs of different nationalities have been peppering the pages of Hong Kong newspapers since the territory began taking in MDWs, begging for policies that will prevent or at least mitigate the recurrence of such accidents. And yet the reality is that MDWs in HK are not even covered by HK's Occupational Safety and Health Ordinance (Chapter 509) that would have obliged employers to abide by standards of workplace safety.

What currently applies to MDWs by way of safety nets for workplace injuries is the Employment Compensation Ordinance, a reactive package of compensation entitlements that serve to ameliorate injuries or deaths that have already occurred. There are little or no preventive measures availing for MDWs such as what local workers in HK have. Ironically, local "domestic helpers" are included in the coverage of Chapter 509, which tend to enhance the perception among MFWs that they are being subjected to discriminatory legislation and social exclusion.

The ILO Domestic Workers Convention (C189) stipulates that domestic workers should be provided with the same level of protection as regards occupational safety and health issues. Its Article 13(1) states thus:

"Every domestic worker has the right to a safe and healthy working environment. Each Member shall take, in accordance with national laws, regulations and practice, effective measures, with due regard for the specific characteristics of domestic work, to ensure the occupational safety and health of domestic workers."

Although China has yet to ratify C189, the Indonesian Migrant Workers' Union (IMWU) believes that ILO conventions generally should be the yardstick of the HK government in the promulgation of laws even for MDWs. In many ways, Hong Kong already recognizes that domestic work is work through its inclusion of the right of migrant unions to represent cases in the Labour Tribunal. And yet, laws and policies still exist that are not consistent with this recognition, and in the spirit with which ILO labour statutes are enacted. The non-inclusion of MDWs in the Chapter 509 ordinance is one such inconsistency.

We therefore request the Legislative Council (LegCo) to address this concern and amend the Occupational Safety and Health Ordinance to include coverage of MDWs. IMWU also considers it but fitting for this august body to recommend to the national government of China to start the process of ratifying C189, which will further institutionalize the protection of MDWs in all aspects of their employment in Hong Kong. #