



Head Office: 4/F., New Horizons Bldg., 2 Kwun Tong Rd., Kln., H.K. Tel: (852) 2382 3339 Fax: (852) 2362 0046

Domestic Helpers and Migrant Workers Programme:

4/F Lee Kong Commercial Building, 115 Woosung Street. Kln, HK Tel: (852) 2739 6193 Fax: (852) 2724 5309

Clerk to Panel on Manpower
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

URGENT BY EMAIL (kyyeung@legco.gov.hk)

Attn: Miss Lulu Yeung

26 February 2014

Dear Miss Yeung,

**Submission on “Policies relating to Foreign Domestic Helpers
and Regulation of Employment Agencies”**

Please kindly find below our views on the captioned subject for consideration by the special meeting to be held on 27 February 2014.

Background

Christian Action is a Hong Kong registered charitable organization (Charity no. 161383), established in 1985. Our mission is to serve those who are poor, disadvantaged, marginalized, displaced or abandoned, aiming to give them hope, dignity and self-reliance. Our clients include the unemployed adults and disadvantaged youths, new arrivals, ethnic minorities, refugees, asylum seekers and migrant domestic helpers, orphans and abandoned children in Qinghai. We also provide social enterprise services.

Our Hong Kong based Domestic Helpers and Migrant Workers Programme (“DMW”) provides access to justice, empowerment and educational training to disadvantaged migrant workers. These workers, the majority of whom are female foreign domestic helpers and predominantly from Indonesia, the Philippines, Sri Lanka, India and Nepal, form an integral part of the labour population of Hong Kong and without their contributions, much of Hong Kong’s labour force would not be able to go out to work. The majority of our assistance is provided to nationals of Indonesia and Sri Lanka.

Policies relating to Foreign Domestic Helpers

1. There are about 450,000 ethnic minorities in Hong Kong, and a significant portion (around 320,000) are foreign domestic helpers (FDH), and approximately half of the FDH population are Indonesians.
2. Many of them come from primitive communities and choose to work in Hong Kong to secure a better living for their families, and to work diligently and live with dignity. Coming from male-dominant societies, they are generally obedient and subservient and they work hard to please their employer, agent and those who could help make their dreams come true.
3. Because of the lack of education, they are happy to have people with more knowledge handle things on their behalf. While there are some employers and agents who truly appreciate these qualities, many take advantage and mistreat them. And since they are generally of low self-esteem and place their trust readily in others, they usually end up believing whatever their agent and/ or employer tell them to do. They do not know and are not informed by their employer or agent regarding the protection they are entitled to under the laws of Hong Kong.
4. Even if they do find out either through friends, NGOs or the like that they have been cheated or



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mistreated, many times they do not wish to pursue a claim or take any police or legal action out of the fear of losing their job. They need to support their families back home and repay the loans or debts they had to get in order to come to Hong Kong. They are unable to afford paying another set of agency fees when changing employer. Further, if they took any action, they fear not being able to find another employer easily. In cases of sexual abuse, they are also afraid of being ostracized by their community back home while some of those who experience physical abuse feel that they must have done something wrong to deserve that kind of punishment. They are therefore caught in a very unfortunate and helpless situation. So how do we assist these FDH? The main thing is they need to be educated about their rights and the relevant protection mechanisms and procedures in Hong Kong.

- (a) The government could set up designated places at the airport for FDH to attend a short briefing on their rights, the necessary community resources and information about the protection mechanisms and procedures they need to know, immediately upon their arrival in Hong Kong.
- (b) Alternatively, all first-time helpers could attend compulsory training within one week of their arrival in Hong Kong free of charge. The government could impose this on the employer and monitor to ensure that the employer has followed this.
- (c) The government should employ appropriate Indonesian and Filipino personnel in its departments that deal with FDH – Labour Department, Labour Tribunal, Minor Employment Claims Adjudication Board, Immigration Department Foreign Domestic Helpers Section and Extension of Visa Section, police, Legal Aid Department, Duty Lawyer Service offices at the Magistrate Courts, etc. so that if FDH have any concerns they can approach authorities who speak their first language without hesitation. There would be less miscommunication.
- (d) Strict enforcement of the law is important in that the government should pursue and implement seriously the sanctions imposed against employers and agencies who abuse and breach the relationship of trust between FDH and them.
- (e) The law enforcement agencies in Hong Kong should provide better support and protection to FDH against unscrupulous employers and agents so that FDH are more ready to report misconduct. Currently, some FDH have cited the reason that law enforcers in Hong Kong do not do much to protect them and therefore there is no point reporting misconduct by employers or agents.
- (f) Although there is no guarantee of eradicating abuses against FDH, the government should review the live-in policy and two-week rule. We believe that if FDH are given more time to find a new employer after termination of a contract, they would be more inclined to come out and report abuse and mistreatment. As for the live-in rule, the government could consider making it optional instead of the current compulsory live-in regulation. Consultations, especially with the FDH community and the employers, should be conducted.
- (g) There is a growing phenomenon of FDH whose employment contracts are prematurely and unlawfully terminated by the employer because of notice of a medical condition. FDH while in employment can get free medical treatment but once they are terminated, they do not. Even though it is not their fault, they are left trying to get medical treatment, which is only available if they can afford the non-subsidized medical fees at public hospitals. The government should come up with a system or an insurance scheme whereby FDH can enjoy subsidized medical fees until the employer is able to prove that the termination of the contract had nothing to do with a medical condition.



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Policies relating to regulation of employment agencies

5. Indonesian FDH are required to use employment agencies to secure a job in Hong Kong or “buy an employer”. They are required to pay significant fees to these agencies of over HK\$15,000 . When they arrive in Hong Kong, in order to ensure they get their fees, some of the local Hong Kong agencies confiscate their passport upon arrival and retain it until they pay the fees. They also encourage FDH to get loans from finance companies for those fees. FDH then make monthly repayments from their wages. Many FDH receive no money for the first seven months of their employment in Hong Kong.
6. Some agencies are also known to encourage early termination of contracts by employers or FDH so that they can make more money by charging more fees from FDH to handle their change of employment. Due to the Indonesian government policy that FDH are not allowed to change their agency unless they have worked for the same employer for the two-year contract or there are exceptional circumstances, FDH feel bound into servitude. This therefore forces FDH to be more tolerant of the abuses by their employer and the misconduct of their agency.
7. Many agencies are known to be unhelpful towards FDH in advising them of their rights and entitlements while some refuse to assist FDH with retrieval of their belongings and documents from their employers. Some even fail to assist and turn a blind eye to cases of continuing abuses and mistreatment.
8. What can the government and related parties do?
 - (a) The consulates and related authorities need to do more to investigate and prosecute fraudulent and disreputable agencies and pursue strict enforcement of the law.
 - (b) The government should make it compulsory for agencies to provide more training and/ or ensure that agencies are doing their job of monitoring the conditions of FDH and advising them of their rights and entitlements instead of forcing them to sign documents depriving them of the same.
 - (c) The government should impose sanctions against agencies for overcharging of fees.
 - (d) Agencies who unlawfully retain passports of FDH should be penalized so that FDH are not threatened to pay huge amounts of money to have their passport returned.
 - (e) Agencies should not be allowed to partner with finance companies to offer loans to FDH.
 - (f) Make the licensing requirements of the employment agencies more stringent.
 - (g) Monitor, regulate and revoke the licence of unscrupulous agencies and ensure that the Consulates and relevant departments are properly informed of such.
9. It is important to engage community stakeholders of different ethnicities, from different fields of expertise, relevant government departments, agencies, employer associations, NGOs serving FDH to form a Specialized Committee or Working Group and to meet regularly to advise the government on appropriate policies and regulations to be adopted and implemented.

We trust our views and observations gathered from our valuable experiences serving the FDH community since 1993 are helpful.

Should you require any clarification or further information, please do not hesitate to contact Ms Leesha



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Khemlani, Assistant Manager or Dr Wayne Palmer, Senior Client Advisor of our Domestic Helpers and Migrant Workers Programme at 2739 6193.

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Christian Action