

Legislative Council Panel on Welfare Services July 20, 2015

Sub-committee on Strategy and Measures to Tackle Domestic Violence and Sexual Violence

**Presentation of the Coalition of Service Providers for Ethnic Minorities (CSPeM) on the Support Servicers for Foreign Domestic Helpers (FDH) who are victims of Violence (including sexual violence ) in domestic setting**

**I. Introduction**

We, the Coalition of Service Providers for Ethnic Minorities are a registered organization with the Society's Ordinance since March 2010. We are composed of eight (8) Non-governmental Organizations who are committed to assist the most vulnerable ethnic minorities, migrant workers, displaced migrants and human trafficking victims in Hong Kong.

**CSPeM Membership**

Members are The Diocesan Pastoral Centre for Filipinos (DPCF), DWXI (El Shaddai) Prayer Partners Foundation International Ltd; International Social Service Hong Kong Branch (ISSHK) Migrants Programme; Jesus Is Lord (Hong Kong); Mission for Migrant Workers (MFMW); New Beginnings Christian fellowship (Hong Kong); St. John's Cathedral HIV Education Centre and The Bethune House Migrant Women's Refuge Limited.

**Services**

Each member NGO provides a combination of services including but not limited to emergency shelters, counseling, legal advice, practical assistance, and interpretation and escort services. The Coalition conducts trainings, various advocacies and inter-country casework referrals through a concerted effort of resource sharing, cross referrals and network development with consulates, NGOs, church and advocacy groups.

**II. Foreign Domestic Workers : Victims of Violence in Domestic Setting**

The term Foreign Domestic Helpers in itself carries a defined legal status as their visas are limited and ruled by an employment contract for two years and is not at all transferrable to carry out other employment status nor qualify them for residency in Hong Kong despite the long years of residency.

They are required to live in with their employers, are not at all allowed to live out. Even with specific employment conditions on the provision of a place to sleep , food or allowance for food, one rest day per week and basic salary levels stipulated in the contract, the entire employer-employee relationship is in the home setting where there are no defined working hours or limitations of workload; where the condition of the workplace is in the hands of the employer; **where the recourse for any safety net in case the employment contract is violated does not explicitly define the ground rules or redress available should one's basic right as a human being is violated.**

The risk of abuse is great in a home environment especially since the performance expectations are ruled by employers' preferences, expectations, cultures, family values and beliefs. Given the differences in cultures between the helpers and employers and the imbalance of power as one is subservient to the other,

the inhumane treatment of foreign domestic helpers as experience shows is almost expected even with employment contracts.

The 2 weeks rule where the Foreign Domestic helpers are given only two weeks to seek new employers if their employment contracts are terminated does not give anyone a realistic chance of finding an employer. This rule sets a condition that failure to do so means they have to return to their countries of origin. For employers who try to get their every dollar's worth of service, this has been used as a convenient threat when they want to get more from their helpers.

The fact is helpers fully know that filing complaints, not following their employers' desires and proactively defending ones' rights may result to early termination of contracts, not getting full benefits, being counter sued by employers and not allowed to seek employment while they have court cases.

The only safety net is the one provided by the NGOs and churches and friends which are not enough as resources are limited and not comprehensive as the needs can be very complicated. Even the recruitment agencies and Consulates have been found wanting in their inability to help or seek immediate redress and employment.

**Foreign Domestic Helpers sacrifice for the greater good of their families. When their income is affected, their entire family is affected in their home countries.** They would sadly learn to tolerate being discriminated, verbally abused even continuously harassed if only to keep their jobs.

#### **Burden of Proof**

When people shake their heads asking why they did not ask for help earlier or why they tolerated the abuses, they fail to see the tolerance they are stretching for their families. This is compounded by the sheer knowledge that the burden of proof is on them. What does one use to prove prolonged verbal abuse and ill treatment? How does one show the physical abuse was intentionally done to her and not an accident? How does one prove that there was continuing hostility and exposure to sexually hostile videos and language before one was sexually violated? And even when raped, how does she prove that she is a victim and not a willing participant in the sexual act?

**All these concerns affect their ambivalence, seeming lack of desire, courage and ability to report their abuses or more accurately why there is a rampant underreporting of the abuses even at the onset. When they finally get the courage to report and become a witness, again who provides the safety net for them to pursue their cases and how do they sustain themselves? How do they feed their families?**

#### **Where is the safety net?**

It is very easy to classify Foreign Domestic Helpers as a population that is covered by their employment contracts and are within the purview of the Labor Department's responsibilities. **The care, protection, well-being and welfare of contracted foreign helpers cannot be relegated to the employment contracts or as a responsibility of employers, recruitment agencies and Consulates alone.**

The rule of law fails when the spirit of the law is forgotten. Systems, policies and procedures are created and can be changed if there is a political will to ensure and safeguard the rights of every human being first and foremost.

**Hong Kong as a host country has invited these Foreign Domestic helpers because they can help sustain their families and its economy. No one forced Hong Kong to take these Foreign Domestic helpers. Hong Kong society needs them. As invited workers, they came with skills, expertise and willing hearts to be of help because in the process they too can help their families. Reciprocity and mutual benefits should be hinged on respect and perseverance of human dignity and trust.**

**As NGOS, we are driven by our compassion to serve the most vulnerable and be an available resource as we are on the ground closest to where we feel the pains and hear their agonies. Yet, we are not government, we also cannot perform what roles the government of Hong Kong has to fulfill to protect and safeguard the interests of the foreign domestic helpers who serve the Hong Kong families most.**

**Recommendations:**

- 1. Employers should be provided a general cultural orientation of the culture of their hired FDH to facilitate mutual understanding and respect.**
- 2. Create a direct hotline service for Domestic Helpers Victims of Abuse with Police, the Social Welfare Department and Labour Department with interpretation service.**
- 3. Provision of funds and assistance to support the food, shelter, counseling, visa extension, medical services, transportation and other practical needs through a defined government agency .**
- 4. Creating help desks/assigned officers for FDH who are victims of abuse in Police , Hospitals and Outpatient Clinics via the medical social services and in the Labour Department.**
- 5. Creation of a Mechanism for FDH to report abusive employers to the HK Immigration Department. Creation of HK Immigration Department Blacklist of Abusive Employers to prevent recurring abuses of same employers as a deterrent and protection mechanism.**

Distinguished ladies and Gentlemen, we submit these views to you as a Coalition of NGOs who believe that the Government of Hong Kong should commit to the care, protection, safety and well-being of Foreign Domestic Helpers because only in doing so will it reflect the moral fiber of Hong Kong society whose dignity and integrity is hinged on its respect for human rights. Thank you and Good morning.

\*\*\*\*\*

Prepared By: **The Coalition of Service Providers for Ethnic Minorities (CSPeM)**

Adrielle M. Panares – Chairperson

Sr. M. Felicitas Nisperos, RGS – Vice Chairperson

Ms. Cynthia CA Tellez - Secretary

Pastor Danilo Borlado

Ms. Edwina Antonio

Pastor Edgar Robles - Treasurer