

Panel on Home Affairs

Meeting on Friday, 9 February 2007, at 9:30 am in the Chamber of the Legislative Council Building

Convention on the Elimination of All Forms of Discrimination against Women

More than 90% of migrant domestic workers (MDWs) in Hong Kong are women. As such, whatever are the concerns of MDWs are also the concerns of women.

We wish to submit the following recommendations to the Panel on Home Affairs Bureau regarding the present conditions of migrant domestic worker rights protection under CEDAW in Hong Kong.

1. Abolish the Discriminatory Immigration "Two Week Rule"

The HKSAR government should abolish the discriminatory Immigration "two week rule" that stipulates all MDWs must depart Hong Kong two weeks after termination or completion of contract whichever is earlier. The Immigration's "two week rule" penalizes MDWs for premature termination of contract, regardless of which party initiates the termination. For MDWs who encounter abuse or exploitation, the "two week rule" becomes a further punitive measure that discourages seeking assistance due to fear of termination and loss of the right to work (eg. cessation of their work visa). The HKSAR should abolish the two-week rule and abide by international human rights norms. In particular, the ILO recommends that "the loss ...[of] employment should not in itself imply the withdrawal of [a migrant worker's] authorization of residence" and that migrant workers should be "allowed sufficient time to find alternative employment ... [and] the authorization of residence should be extended accordingly."

2. Revoke the Discriminatory Levy and MDW Wage Cut

Although the employer officially pays the levy, it is widely viewed as an indirect tax on the workers because the government simultaneously lowered the minimum wage of MDWs by \$400 per month (the exact amount of the levy pro-rata over a two-year contract) and many employers subsequently reduced the salary. The discriminatory levy is an illegal form of indirect taxation. We call for an immediate increase in the government stipulated Minimum Allowable Wage for MDWs considering the HKSARG's international obligations regarding equal pay for work of equal value.

3. Abolish the Live-In Requirement and Enact Maximum Hours Legislation

The Immigration Department's live-in requirement for MDWs and the lack of legislation setting maximum work hours directly contribute to situations of MDW forced labour or 'modern day slavery' in Hong Kong. Often MDWs work on-call 24 hours a day and some work regularly upwards from 18 to 24 hours a day with no break or weekly rest day.

4. Enact Effective Legislation Against Racial Discrimination

Since 1969 the Hong Kong administration has fallen afoul of its international obligations to legislate against racial discrimination. In the 2004 consultation paper, there are numerous proposed exclusions and exemptions that render it ineffective to protect MDWs who comprise the largest community of ethnic minority women in Hong Kong.

5. Extend Equal Access to Right of Abode for MDWs

At present the exclusion of MDWs from equal access to right of abode in the Basic Law is discriminatory. The HKSARG should extend equal access to the right of abode for MDWs, who are comprised of mainly women from South East Asia. Like other residents in Hong Kong, MDWs should be able to confirm their right of abode upon completion of a stay of seven years and evidence of adopting Hong Kong as their home.

Submitted by:

ASIAN MIGRANT COORDINATING BODY:

Association of Indonesian Migrant Workers (ATKI-HK)

United Filipino in HK (UNIFIL-HK)

Thai Regional Alliance (TRA-HK)

Association of Sri Lankans (ASL-HK)

Fareast Overseas Nepalese Association

SERVICE PROVIDERS:

Mission for Migrant Workers (HK) Society

Asia Pacific Mission for Migrants (APMM-HK)

Bethune House Migrant Women's Refuge