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### **Promote social justice, equality and social inclusion, Include All Foreign Domestic Workers in the Statutory Minimum Wage & Working Hours Regulations**

*A submission to the Panel on Constitutional Affairs*

*21 July 2014*

The United Filipinos in Hong Kong is glad to be here in the Legislative Council to hear the “Third Report of the HKSAR to the United Nations Convention on All Forms of Discrimination against Women” and present our views and position regarding major issues and concerns of foreign domestic workers in Hong Kong.

Majority of foreign domestic workers are women and as such, we are facing a lot of problems and concerns while working in Hong Kong. We are always in a very vulnerable situation while working inside and outside of our employers’ house. In addition, we experience problems not only because of the treatment of our employers, but more than that, the essence of our vulnerability to abuses and exploitation is from the policies of the HK government that are implemented by its different agencies and departments like the labor and the immigration.

For this meeting, we would like to focus our submission on two major concerns of FDWs: 1) Exclusion from statutory minimum wage (SMW), and 2) The regulations of working hours.

For the SMW, though it has been more than three years since it was passed, it is our firm belief that a single legislated rate for minimum wage should be applied universally to all working people in Hong Kong. We don’t believe that because we are live-in workers, then we can never be included in the SMW.

#### **1. FDWs must be included in the statutory minimum wage**

- a. This should be applied to all working people whether they are local or foreign and live in and 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 the ILO Convention No. 189 (Domestic Workers Convention of 2011) is a testament to the international recognition of domestic work as work.

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.
- c. We too are workers. We deserved to be treated equally and enjoy the benefits that any other workers in HK are entitled for. This, in essence will give us the recognition that we are part of the HK society and should not be discriminated or socially excluded.

Furthermore, exclusion to the SMW constitutes a violation to ILO conventions. Our exclusion to the SMW proposal is manifest discriminatory and contravenes conventions of the International Labour Organization (ILO) regarding wage and other related matters.

## **2. On the issue of the working hours, FDW's working hours must be regulated.**

- a. In HK, FDWs do not get enough rest on their work. Many FDWs work for a minimum of 12 hours and are on-call for 24 hours. We cannot say NO to the employer because it might lead, or most likely will lead to the termination of the contract.
- b. To be able to fulfill our work with quality, we need a good time of rest that is not happening with the current working conditions. An FDW must have a rest of no less than 11 hours, which would mean 8 hours of sleep and some more time to do their other personal things.
- c. Sometimes because the worker does not have enough rest, they may commit mistakes that can lead to some arguments with the employers.
- d. Though the application of working hours varies in different kinds of work, this should not lead to the non-compliance to give rest to any worker.

## **3. As a conclusion**

- a. 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. 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.
- b. The regulation of working hours will benefit not only the workers but also the employers who hired a worker.
- c. Giving these entitlements, workers may contribute more to the progress of any society.
- d. That giving these entitlements adheres to the ILO convention on domestic workers rights.