

United Filipinos in Hong Kong (UNIFIL-MIGRANTE-HK)
Submission to the Panel on Manpower of the HK Legislative Council

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The problem of paying big amount of money to the recruitment agencies is rampant. Foreign domestic workers coming from the Philippines and Indonesia who comprise the majority of FDWs in HK suffer the most though workers from Thailand, Sri Lanka and Nepali are not exempted from this problem. They are also victims of the unscrupulous recruiters.

1. In the Philippines, there is the POEA Guidelines on Hiring Household Service Workers of 2006 that states that all household service workers (domestic workers, care givers and caretakers) need not pay placement fee to the recruitment agencies. But in reality, applicants are charged from PPHP85,000 to Php120,000 or HK\$15,500 to HK\$22,000.
2. But according to the HK Employment Ordinance, a worker shall only pay 10% of his/her first month salary to the recruitment agencies, which is equivalent to HK\$392 only. But this is not happening. Many if not all are paying more than what is prescribed by HK law.
3. Worst in order to pay the placement fees, recruitment agencies arrange for an applicant to apply for a “loan” with a money-lending agency payable in several monthly installments to be deposited in a designated bank where the applicants are required to open a current account. Once the checkbooks are issued, the applicants are instructed to sign several postdated checks.
4. Another modus operandi is to pay the “loan” in HK to the money-lending agency to be arranged by the HK-based counterpart agency. Upon arrival in HK, the foreign domestic worker stays in the boarding house of the recruitment agency for 2-3 days. During this period, the recruitment agency will either endorse them to a money-lending agency or they are informed to pay their “loan” either thru 7-Eleven or directly to the HK money-lending agency, and the terms and amount of the monthly installment.
5. Agencies instruct employers to make sure that the FDW religiously pays the loan. To ensure this, employers will open an account for the FDW with an ATM card. The employers deposit the monthly wage but withdraw the money using the ATM card and illegally deduct the monthly payment intended for the “loan”. Sometimes, the employers automatically deduct the agency fee from their wages and pay the money-lending agency directly.
6. If the FDW refuses to allow this arrangement, this will lead to termination of their employment contract.
7. This is happening because, from the very beginning, majority of FDWs need to pass through recruitment agencies to work in HK as a matter of policy of the sending governments. The workers are not allowed also to look for an employer on their own once their contract is finished because of the ban of direct hiring. In this process recruitment agencies control the situation and the poor workers have no choice but to comply with the demand of agencies for a very high placement fees. Worst, recruitment agencies are not made accountable to their illegal collection and overcharging practices against the FDWss. These agencies also escape from their responsibility to pay tax to the HK government because they don't issue receipts to the workers.

8. The high placement fee is a concrete example of exploitation and violation of women's and human rights like what happened to Erwiana Sulistyaningsih. This is the very reason why Erwiana was not given help by the agency because she still owes the agency a "loan".
9. During conciliation meetings and court hearings, FDW often loses their claims for illegal deductions of wages because Labor and tribunal Presiding Officers often treat this as a "personal loan" so it is the responsibility of the FDW to pay them back. The Labor and Tribunal Presiding Officers legitimize the collection of payments for the "loan" by the employers on behalf of the recruitment and money-lending agencies.
10. This results to a cycle of debt bondage as the FDWs only work to pay the exorbitant fees that the recruitment agencies charge from each applicant.
11. At the moment, there are more than 12,000 cases of illegal collection filed against recruitment agencies at the Philippine Overseas Labor Office of the Philippine Consulate General. Though there are some victims who are able to get back money from the recruiters, thousands of victims still wait for the resolution – that goes very slow – of their cases.

In these regard, we strongly suggest:

1. To review the Employment Agency Association requirement or criteria to speed up the prosecution of agencies that overcharge workers of placement fees.
2. The Labor Department must not dismiss the agency-related cases simply because they are not in their jurisdiction. Instead, labor department must refer the cases to the EAA.
3. The Labor Department shall strictly implement and monitor the prosecution of recruitment agencies that overcharge workers and never give license to the recruitment agencies that are proven guilty of such offense. They should make sure that the owners do not just change the name of the agency and continue their recruitment business.
4. Strictly implement the issuance of receipt to the workers once they pay the agency fee according to HK labor standard/law.
5. The Labor Department must conduct a progress report from the recruitment agencies on the number of applicants they have and the corresponding fees they collect at least every quarter of the year. A regular check-up/visitation must also be conducted by the Labour Department to check the compliance of agencies to HK laws.

United Filipinos in HK (UNIFIL-MIGRANTE-HK), is an alliance of Filipino migrant organization in HK established in 1985. Our objectives are to consolidate the Filipino migrant workers in Hong Kong and to promote their welfare and wellbeing while working in Hong Kong.