

Mission for Migrant Workers Limited (MFMW Ltd.)

Submission to the LEGCO Panel on Manpower 12 February 2014

On the Immigration Department's Mandatory Live-In Policy

In April 2013, the MFMW Ltd. conducted a survey among more than 3,000 foreign domestic workers composed of Indonesians, Filipinos, Thais, Nepalis and Sri Lankans in Hong Kong to determine the effects of the Hong Kong government's immigration policy, implemented in 1 April 2003, requiring foreign domestic workers to live in their employer's residence.

The study fully established that the Mandatory Live-in Policy increases female foreign domestic workers' (FDWs) vulnerability to various types of abuse. The survey showed that 58% (1,719) experience verbal abuse in the form of name-calling, insults, criticism of work, accusation, threats, or other types of verbal abuse; 18% (520) experience physical abuse in the form of poking, hair pulling, slapping, shaking, pinching, kicking, or other types of physical abuse such as throwing items on the FDWs; 6% (182) experience different types of sexual abuse ranging from sexual innuendos/slurs, touching or fondling of body parts to rape in the residence of their employers. These abuses are perpetrated within the privacy of homes and remain largely unreported.

The case of Kartika Puspitasari, an Indonesian FDW who was forced to wear a diaper and was tied to a chair by her employers without food and drink while the employers' family went on a five-day holiday in Thailand in August 2013, is a living testament that modern-day slavery of FDWs exists in Hong Kong.

Early this year, another Indonesian domestic worker, Erwiana Sulistyaningsih's pictures shocked the world as yet another victim of modern day slavery - wounded, battered, bruised and abused.

Definitely, the live-in policy has brought about isolation and seclusion that make FDW's more vulnerable to various types of abuse. Even worse, the economic power an employer has over the FDW gives the employer a sense of entitlement to do such abuse without fear of repercussions.

For many migrant domestic workers, to be forced in a live-in arrangement is to be forced to be on-call for 24 hours a day and to be forced to accept any sleeping arrangement the employer can provide. It also means being forced to surrender their privacy, health, security and safety.

The MFMW Ltd. strongly recommends the following actions to the HK government:

1. Repeal the mandatory live-in policy and make live out an option for foreign domestic workers;
2. Create mechanisms that will look into the living and working conditions of the migrant workers so that they are more grounded in the policies they implement;
3. Strictly implement the guidelines set on the Employment Contract's schedule of accommodations especially on the proviso on "suitable accommodations and reasonable privacy";
4. Provide further moral, financial and structural support to initiatives that promote understanding and harmony in Hong Kong, and the inclusion of all ethnic minorities in all aspects of the Hong Kong society; and
5. Create a more enabling environment for the effective participation of community organizations concerned with ethnic minority affairs on policy making, implementation and monitoring.

On Recruitment Agencies

The vulnerability of FDW's to maltreatment by their employers is closely linked to the malpractices of private recruitment agencies.

As of the third quarter in 2013, the MFMW Ltd. handled more than seven thousand (7,000) cases of foreign domestic workers (FDW's) that mainly include Indonesians and Filipinos. These include walk-in clients, mobile and telephone counseling and residents at the Bethune House Migrant Women Refuge.

It is quite alarming that more than 65% of the cases of Filipino domestic workers involve illegal collection of excessive placement fees from employment agencies in Hong Kong (from HK\$18,000 to 28,000) with no official receipts given to foreign domestic workers. Usually, the employment agencies force desperate job seekers into signing loan contracts with lending companies that require them to pay 4 to 7 months of their wages.

The modus operandi of recruitment agencies involves a lending or financing agency where FDWs are forced to sign a loan to cover the payment of their placement fee. In the Philippines, for instance, other employment agencies refer them to a bank that allows opening of checking/current accounts by departing FDWs. They are then forced by financing agencies/lending companies to sign blank cheques and the same companies take hold of the remaining checkbook.

In Hong Kong, despite a regulation to charge only 10% fee from the basic monthly salary of the migrant domestic worker, employment agencies charge an excessive amount. To ensure the full payment of the placement fee, the worker is forced to enter into a loan with a financing agency.

To make matters worse, the employment agency confiscates the migrant worker's

passport and employment contract to ensure the payment of the loan. Cases of harassment, verbal abuse and even death threats were also reported in relation to the collection of loan payments by lending companies.

Such is the case of Erwiana Sulistyaningsih whose recruitment agency is more concerned about the protection of its profits from placement fees rather than the security and safety of the FDW.

The HK government through the Labour Department and the Employment Agencies Administration has not been effective in curbing malpractices of agencies such as overcharging, forcing MDWs to take out loans, and confiscating documents of MDWs. These practices either force MDWs to endure abuses - due to debts owed - or choose silence for fear of retribution.

MFMW strongly maintains its recommendations to the Hong Kong government to:

1. Review the role and authority of the Employment Agency Administration (EAA) to give it more power to actively pursue cases against erring recruitment agencies.
2. To come up with procedures and mechanisms which would make EAA more accessible for FDWs victimized by these unscrupulous agencies.
3. Create mechanisms for the regular discourse between the EAA and FDW organizations and service providers as a means of feedback on problems and matters related to employment agencies.