

The Indonesian Migrant Workers Union (IMWU), Hong Kong ORGANISING INDONESIAN MIGRANT DOMESTIC WORKERS IN HONG KONG TO COMBAT OVERCHARGING AND ILLEGAL COLLECTION OF AGENCY FEES

HONG KONG S.A.R., CHINA

MIGRANT DOMESTIC WORKERS IN HONG KONG

Hong Kong is the destination of around 400,000 Migrant Domestic Workers (MDWs) coming from the Philippines, Indonesia, Thailand, Sri Lanka, Nepal, India, Bangladesh and Burma/ Myanmar. Indonesian MDWs rank as the second biggest group, with an estimated total of 177,570 workers, after the Philippines¹. Indonesian migrant workers are mostly women, who perform a wide range of domestic jobs such as caretakers. They serve as the pillar of economic growth, sustaining the care economy and enabling more than 110,000 residents, mainly women in Hong Kong, to participate in

1 The Hong Kong Government. (2021). Statistics on the number of Foreign Domestic Helpers in Hong Kong. Retrieved from: <https://data.gov.hk/en-data/dataset/hk-immd-set4-statistics-fdh/re-source/063e1929-107b-47ae-a6ac-b4b1ed460ac3>

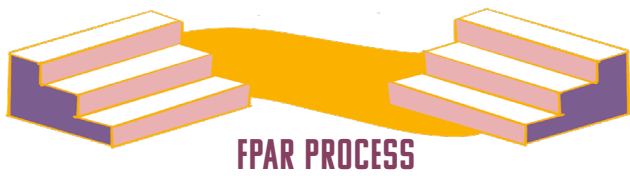


the workforce². Due to the increase in the ageing population and the shortage of affordable care services, the number of MDWs filling these gaps in care positions continues to rise.

The MDWs have partial legal protection: they are covered by the Employment Ordinance and Employees' Compensation Ordinance, which legally requires rest days, annual leave and compensation, but they are excluded from the Minimum Wage Ordinance and social security. Due to the weak implementation of the law, MDWs still experience various types of exploitation and human rights violations including illegal agency fees, excessive recruitment fees and debt bondage by private agencies and employers.

2 Carvalho, R. (2019, March 6). Migrant domestic workers prop up Hong Kong's economy, so why are they excluded? South China Morning Post. Retrieved from: <https://www.scmp.com/week-asia/economics/article/2188754/migrant-domestic-workers-prop-hong-kongs-economy-so-why-are-they>





The Indonesian Migrant Workers Union (IMWU) conducted the Migration Feminist Participatory Action Research (FPAR) on Overcharging and Illegal Collection of Agency Fees. The FPAR aims to investigate and collect evidence of overcharging and illegal agency fees among Indonesian migrant domestic workers. The data was collected through case complaints reported through IMWU's paralegal group, focus group discussions, interviews and observations between March 2020 and December 2020.



Manipulation of the recruitment agencies before departure

Recruitment agencies use various insidious ways to trick migrants into entering the migratory scheme. Most of the interviewees worked as farmers, factory workers and housewives with extremely low or without wages. One interviewee, Lin, was a cashier with a monthly salary of USD 89 in Indonesia. She found that being a migrant domestic worker was the only solution to fulfil her family's basic needs. Recruitment agencies targeted women workers like Lin by offering "allowance money" as a pre-departure fund, to deceive them into working abroad. Eighty-one per cent of the interviewees received the allowance money, ranging from USD 68 to 689, without the knowledge that they needed to repay the allowance with high interest through salary deductions. Before their departure, many MDWs reported that they faced maltreatment in the training school. These experiences included forced contraception injections, signing unknown documents and confiscation of identity documents. For some migrants who are not eligible to work abroad due to underage or health conditions, the agencies will manipulate or even falsify the documents to ensure the migrants are able to depart.

Overcharging and lack of cost structure transparency

Under Hong Kong Law, recruitment agencies are prohibited from charging domestic workers more than 10 per cent of their first month's salary, which is equivalent to around USD 60 in placement fees. However, the FPAR findings reveal that migrant domestic workers were charged approximately HKD 9,000 (USD 1,156) to HKD 24,948 (USD 3,206), which is much higher than the stipulated cost. To impose additional fees and overcharge the MDWs illegally, the recruitment agencies use a complicated repayment system without providing a detailed cost structure. For instance, the placement fees are divided into three various types of fees: basic fees, secondary fees and third fees. Indonesia MDWs are required to repay the basic fee by deductions from their first 6-12 months of salary. The FPAR findings show that 41 per cent of MDWs are required to pay an additional second fee in the first six months of employment. Twenty-nine per cent are also made to pay a third fee prior to their departure to Hong Kong. The total monthly payment varies from HKD 1,662 to 3,300 (USD 213 to 424), while the standard monthly wage is HKD 4,630 (USD 594).

Overcharging led to debt bondage

The extortionate recruitment cost of migration that has transformed into a loan agreement with a high interest rate leads migrant domestic workers and their families into debt bondage. It is facilitated by collaboration between the Indonesian recruitment agencies, Hong Kong agencies and loan companies through manipulative and illegal ways such as legal document forgery, signing the documents under duress, confiscating passports and other personal documents and tricks in employment contracts. Migrant domestic workers can retain their passports and documents only when their debts are fully settled. Also, MDWs who cannot repay the loan on time will receive intimidation and threat from both recruitment agencies and loan companies in Hong Kong and Indonesia. Some MDWs reported that their employers and families in Indonesia had received threats through continuous messages and calls

to pressure them to settle the payment. There are also MDWs who lost their jobs after their employers received calls from loan companies at their offices.



WOMEN'S ACTIONS THROUGH FPAR

Pushed into the chain of poverty

MDWs need to repay the high amount of the placement fee every month, making the remaining disposable income of MDWs inadequate for them and their families to survive. One MDW said she could only send around USD 65 per month to her family in Indonesia, which is far from enough. Her family can only take loans to cover their needs. Another MDW only has USD 13 left each month to cover her food, sanitary pads and toiletries after those 'deductions'. Some of the MDWs can only eat one meal during the day off to save money for the loan.

Barriers and restrictions in accessing justice and seeking remedies

As the overcharging and extortionate agency fee is associated with two different jurisdictions-Indonesia as an origin country and Hong Kong as a destination place, it is challenging and complicated for MDWs to file complaints and seek justice through the existing legal channel. Also, MDWs reported that language barriers, difficulty in providing evidence, power imbalance with their employers and recruitment agencies, and identity documents being detained are significant barriers to stop MDWs from reporting the cases and seeking remedies.

Capacity Building Through FPAR, IMWU has increased organisational capacity and skill building for committees and members through the various training conducted, such as fundamental principles and mechanisms for handling overcharging cases, training on migrant workers rights, training on policy advocacy particularly on the cost structure regulation and public speaking skills.

Support the Victims of Overcharging IMWU and the Network of Indonesian Migrant Workers (JBMI) have delivered the services to 227 migrant domestic workers who experienced illegal charging agency fees and extortion by assisting in lodging the complaints to the Indonesian government and providing further legal assistance.

Advocacy: IMWU has organised several dialogues and consultations with the Indonesian government institutions such as the Indonesian Consulate, the Indonesian Migrant Workers Protection Agency (BP2MI) and the Ministry of Labour to demand a fair and accessible mechanism for Indonesian MDWs in Hong Kong.

Movement Building: IMWU also effectively expanded the network and allies among migrant workers in Hong Kong and other destination countries. Moreover, the support also comes from different organisations from various backgrounds that joined the campaign and mobilised against illegal agency fees and extortion.





RECOMMENDATIONS

The Government of Indonesia should:

- Consistently implement Law No. 18 in 2017 concerning the Protection of Indonesian Migrant Workers, particularly Article 30, paragraph one concerning zero cost of labour migration.
- Remove all unnecessary and irrelevant fees in the cost structure of migration to minimise overcharging and conduct regular dialogues with migrant groups to jointly combat overcharging and uphold access to justice for victims.

The Government of Indonesia and Hong Kong should:

- provide integrated legal and redress mechanisms toward overcharging and illegal agency fees practice to resolve the issues, deliver access to justice for migrant domestic workers and their families, and prevent the perpetrators' recurrence and impunity.

The Indonesian Consulate General should:

- cooperate with the Hong Kong government to conduct mandatory orientation and dissemination of information regarding the official agency fees stipulated for Hong Kong employers.

The recruitment agencies in Indonesia and Hong Kong should:

- The recruitment agencies in Indonesia and Hong Kong should develop a customer-based complaint mechanism, which allows MDWs to complain directly to the Association of Employment Agencies regarding its performances and acts of violence, if any.

About IMWU - Hong Kong

IMWU is dedicated to empowering and developing the capacity of Indonesian migrant domestic workers to defend their basic rights through education, training, advocacy and campaigning, cultural activities, paralegal services, shelter references, outreach and solidarity programmes. IMWU was the first Indonesian migrant domestic workers union registered in the Registry of Trade Unions (RTU) Hong Kong in 1999.

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About APWLD

The Asia Pacific Forum on Women, Law and Development (APWLD) is the region's leading network of feminist organisations and individual activists. For 35 years, we have been carrying out advocacy, activism and movement-building to advance women's human rights and Development Justice. This FPAR is part of APWLD's Migration Programme. APWLD worked with and supported seven partner organisations from six countries to conduct Migration FPAR in Asia and the Pacific between 2019 and 2021.

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This publication was produced with support from the Norwegian Agency for Development Cooperation (Norad), Swedish International Development Cooperation Agency (Sida) and Foundation for a Just Society (FJS). Its contents are the sole responsibility of APWLD and IMWU - Hong Kong.

