

Indonesian migrant workers in Hong Kong exploited and forgotten

Meredith McBride

"I don't think that any country or territory has a good policy on domestic migrant workers, or migrant workers in general. I think we'll always have to struggle to prevent this race to bottom." Norma Kang Muico, Amnesty International.

Nearly six months after the release of an Amnesty International report condemning the widespread mistreatment of maids in Hong Kong, little has changed. The plight of domestic workers in Hong Kong was pinpointed in the report as one of the most severe cases of human rights abuses in the Asian region. Due to the Indonesian government's poorly thought-out policies and lack of oversight, domestic workers from Indonesia are particularly vulnerable to corrupt agencies, outdated laws, and abuse at the hands of their employers in Hong Kong. *Exploited for Profit, Failed by Governments* was released by Amnesty in November 2013 in response to the continued exploitation of Indonesian domestic workers in Hong Kong.

Hong Kong is home to over 325,000 domestic workers, nearly half of whom come from Indonesia. Migration for domestic work is an activity that benefits both sending and recipient countries. Globally, the International Labour Organization lists an official figure of [HYPERLINK http://www.ilo.org/wcmsp5/groups/public/dgreports/dcomm/publ/documents/publication/wcms_173363.pdf?_ga=1.204924880.1168944475.1395744435](http://www.ilo.org/wcmsp5/groups/public/dgreports/dcomm/publ/documents/publication/wcms_173363.pdf?_ga=1.204924880.1168944475.1395744435) 53 million people, primarily women, who are currently undertaking domestic work abroad, but claims that the actual figure is likely closer to 100 million. High levels of unemployment and underemployment at home, together with opportunities for higher wages lead many Indonesian women to pursue opportunities overseas. According to the ILO, domestic work is one of the largest sources of employment for rural women from Indonesia. These overseas migrant workers sent home [HYPERLINK "http://www.iom.int/cms/en/sites/iom/home/where-we-work/asia-and-the-pacific/indonesia.html"](http://www.iom.int/cms/en/sites/iom/home/where-we-work/asia-and-the-pacific/indonesia.html) USD [HYPERLINK http://www.iom.int/cms/en/sites/iom/home/where-we-work/asia-and-the-pacific/indonesia.html](http://www.iom.int/cms/en/sites/iom/home/where-we-work/asia-and-the-pacific/indonesia.html) 7.88 billion in 2013.

To prepare their report, Muico and others at Amnesty International conducted interviews with 97 Indonesian migrant workers in Hong Kong and Indonesia during 2012 and 2013. The researchers specifically sought women who had worked in Hong Kong in the previous five years and had experienced problems during their tenure. The group was chosen in order to better understand the systematic patterns of abuse facing Indonesian women in Hong Kong and the complicit policies of both countries.

Under Article 10 of Indonesian Law No. 39/2004 Concerning the Placement and Protection of Indonesian Overseas Workers, Indonesians seeking domestic work overseas are required to apply through private, government-approved recruitment agencies. Of the 558 registered agencies in Indonesia, the vast majority hold their operations in Jakarta or other major cities. Brokers, or sponsors, are sent into rural areas to find potential recruits, with the result that many domestic workers come from small villages and poor economic conditions. These brokers are paid on commission; their foremost goal is thus to recruit as many women as possible. Over a quarter of women interviewed by Amnesty International claim that their sponsor deceived them with regards to terms of employment such as living conditions or compensation.

The recruitment phase is where problems begin. The Indonesian government requires prospective domestic workers to undergo 600 hours of training, undertaken at facilities run by private agencies. The mandate of these 'Training Centers' is to teach cleaning, cooking, child and elderly care, language skills, and rights and responsibilities as migrants. The tuition fee for the training is payable in full on the first day, regardless of the length of stay, which can be from 10 days to over six months.

Consequently, without even having left their country, potential migrants are shackled in debt. As collateral to pay 'training fees', many women are obligated to hand over their Indonesian ID cards, education certificates or other documents, effectively rendering them unable to leave the training centers. Domestic workers surveyed by Amnesty International had varying comments on the training they received, but overall reviews of living and learning conditions were poor. One interviewee from Semarang claimed "The language training was inadequate because I couldn't communicate in Cantonese when I arrived in Hong Kong. The instructors were not fluent and their pronunciation was bad."

The National Board for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI) exists solely for the protection of Indonesians working abroad; this Board undertakes responsibility for ensuring that agents involved in deception or labor trafficking are held responsible under the law. Under Ministerial Decree No. 98/2012, the Indonesian government must also guarantee that the workers are given a written contract in Indonesian with standard conditions, as well as a receipt for any recruitment fees they have incurred. Despite complaints and proof provided by Amnesty International and other investigatory bodies that Indonesian recruitment agencies were failing to fulfill their duties, Djohar Arifin, Head of the Labour Office in Biltar, revealed that there have been no legal cases brought against agencies recruiting for Hong Kong in his region.

Where the Indonesian government fails is largely in its inability to effectively enforce Law No. 39/2004. Under this law, the government is directly responsible for the Final Pre-Departure Programme (PAP), which aims to provide workers information regarding employment, rights and access to redress, and the laws and policies of destination countries. In a survey conducted by the Indonesian Migrant Workers Union (IMWU), half of the domestic workers sent to Hong Kong reported they hadn't been given an identity card, and a third claimed that their personal information was falsified.

As Indonesian domestic workers arriving in Hong Kong often have fabricated paperwork and know very little about their rights, the Indonesian government completely fails in its mandate to protect its own citizens against preventable exploitation abroad. In the Explanatory Notes on the Draft Bill of Law No. 39/2004, the government recognizes that workers without proper documents would be "in a very vulnerable position to inhumane treatment and other exploitative treatment in the destination country."

The pattern of abuse continues when women arrive for work in Hong Kong. According to the IMWU survey, 60 percent of surveyed domestic workers claimed that their work was different than the terms laid out in their contract. Some Hong Kong placement agencies collude with loan companies and their Indonesian counterparts to ensure the collection of 'training fees'. By routing payments through loan companies, agencies are able to circumvent the legislated maximum placement fee. This results in illegal monthly deductions from domestic workers' paychecks. Over a third of women surveyed by Amnesty International confirmed that they received less than the statutory Minimum Allowable Wage of HKD 4,010.

Moreover, domestic workers in Hong Kong are required to live with their employers under immigration regulations. The law also stipulates that domestic workers be provided with "suitable accommodation with reasonable privacy", but does not define or elaborate these terms. Because of the 'live-in' law, domestic workers are vulnerable to excessive working hours, substandard living conditions in small spaces with little privacy, and even physical abuse. A 2013 survey done by Hong Kong-based Mission for Migrant Workers found that 58 percent of domestic workers faced verbal abuse, 18 percent physical abuse and 6 percent sexual abuse.

Finally, Hong Kong's immigration policy severely limits migrant workers' access to redress. As workers live with their employers, it is very difficult to prove that they are not given rest days, statutory holidays, suitable accommodation, and so on. An additional risk is that if a domestic worker leaves her employer or is fired for any reason, under the New Conditions of Stay, she has two weeks to leave the territory. If a complaint is successfully lodged against an employer, the claimant is then fully responsible for finding housing and food, without being legally able to work. She must pay HKD 160 to extend her visa past the two week limit, and she suffers loss of income while pursuing her case. In other words, she must pay a heavy price to seek justice. Lack of access to affordable legal counsel, inadequate translation services, and lack of funding mean that many women choose to settle out of court rather than fighting for their full legal entitlements in the lengthy court process.

As Hong Kong continues to witness widely publicized cases of horrific maid abuse, the response of the respective governments has been distressingly limited. Even after widespread media attention over the abuse of domestic worker Erwiana Sulistyaningsih in January 2014, the Indonesian Consul-General Chalief Akbar Tjandraningrat claimed that the problem of abuse amongst domestic migrant workers was 'very rare in Hong Kong', despite over two decades of anecdotal and empirical evidence to the contrary. As yet, no action has been taken either by Indonesia or Hong Kong to stop the exploitation of domestic workers.

While the relevant authorities in Indonesia met with Amnesty International to discuss better protection of migrant workers, both the Indonesian Consulate in Hong Kong and the Hong Kong government remain indifferent on the matter. "What's disappointing is the multiple attempts we have made to reach out to the Hong Kong authorities, in particular the Secretary for Labour and Welfare. They've resisted and refused to meet with us," Muico stated. "If they're really, truly committed to furthering the rights of domestic workers, as they say they are, then surely, they would show commitment to meet with us."

It is in both countries' best interests to ensure that workers are fully aware of their rights. The Indonesian government's Final Pre-departure Programme (PAP) and welcome and exit programmes should better inform workers of their rights and duties, including contact information in the event problems occur. Hong Kong could provide compulsory training for domestic migrant workers so that they are aware of relevant Hong Kong customs and laws before they undertake work. The government should also provide them with information such as contact numbers for relevant government agencies, the Indonesian Consulate, helpful NGOs and other important information in their native language.

In Hong Kong, responsibility for effective regulation of placement agencies lies on the Employment Agencies Administration (EAA) Division of the Labour Department. Hong Kong law dictates that agencies should be transparent in their dealings and non-compliant agencies should be fined. In 2013, the EAA received 218 complaints against employment agencies. Of these, only five were given monetary fines by the court after committing offences under the purview of the EAA—less than three percent.

Joining the chorus of international human rights bodies (including the ILO, US Government Trafficking in Persons Report and various UN human rights mechanisms) that condemn the 'live-in' rule, Amnesty International emphasizes that the requirement for domestic workers to live with their employers is one of the foremost causes of exploitation. Although the government requires workers to live with their employers, it provides no mechanism through which domestic workers can file complaints if their living situation is inadequate. The live-in mandate inhibits workers' right to fair working hours, provides little-to-no privacy, and often forces them to accept substandard living conditions.

In its 2013 report, Amnesty International further recommends that the Hong Kong government waive the costs of visa extensions for domestic workers who are seeking remedies for rights abuses through the court system. It is also vital that they have access to support such as affordable legal counsel, housing, and interpreters/translators. "It would be really helpful if the HK authorities, whether it be Immigration, the Police, or the Labour Department, would take a more proactive role in their remit. That means that the onus is not on the workers to produce a mountain of evidence to prove that something happened," Muico explained. "There are enough similar cases crossing their desk that they should take a proactive role. That's clearly not being done in any of the relevant governmental agencies."

The Asian Migrant Centre reports that by allowing its migrant workers to be taken advantage of financially, Indonesia is losing an estimated 48 million US dollars each year in profits that would be sent home by overseas workers. Much of this money would go towards the country's poor, ideally for food and education; it is thus a significant inhibitor to Indonesia's economic growth. Ensuring that this money reaches its' beneficiaries could help the 117 million Indonesians currently living at or below the poverty line.

Moreover, as one of the top cities in the world in which to do business, it is equally important that Hong Kong eradicates the trafficking and mistreatment of domestic workers within its borders. By allowing even one agency to get away with charging excessive fees makes the playing field uneven for all agencies operating fairly; agencies are thus given the incentive to undertake illegal practices in order to remain competitive. Regulating and inspecting agencies is thus an important means of protecting workers and employers from fraud.

If foreign domestic workers were extended equal protection under minimum allowable wage and working condition laws, Hong Kong could prevent abuse before it occurs. Requiring women to leave the territory two weeks after termination ensures that indebted women are forced to remain with their employer, whether good or bad, and prevents them from attaining justice in the court system. To offer safe working and living conditions would encourage the continued supply of badly-needed domestic workers and boost the economy that relies on them.

Despite the lack of cooperation from officials in Hong Kong, Muico remains hopeful. "If Hong Kong, for example, which places a lot of emphasis on economic programs, makes a policy that allows for greater rights for domestic workers, then an economy similar in scope with an emphasis on economics, like Singapore or Taiwan, will look at that and say 'if they can do it, so can we'. That's the positive domino effect we would like to implement."

Meredith McBride is a Hong Kong based journalist and advocate with Hong Kong Helpers Campaign.

Document Actions