



# Invisible Chains

A Study on Agency-Related Debt Bondage  
Among Foreign Domestic Workers in Hong Kong



Asia Pacific Mission for Migrants  
December 2014

**APMM**



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**Ramon Bultron**  
*Managing Director*





# Abstract

**THIS RESEARCH STUDY ON THE** indebtedness of foreign domestic workers (FDWs) in Hong Kong is a qualitative one, and is impelled by the need to substantiate with ground-based information ongoing migrant advocacy campaigns against overcharging and illegal collection of recruitment fees. It also sought to look into the following problems: overcharging and illegal fee collection occur not only in sending-countries like Indonesia and the Philippines, but even in Hong Kong itself; placement agencies use deceptive and coercive methods to ensure payment of recruitment fees; and that loan companies both in Hong Kong and in their countries of origin subjecting FDWs to debt-bondage to pay off concealed placement fees.

In conducting the study, APMM used focus-group discussions (FGDs), key informant interviews (KIIs) and secondary materials to gather evidences on overcharging, and found out that Hong Kong-registered agencies are at the center of overcharging operations, in collusion with sending-country agencies and going to the extent of using coercive methods in ensuring payments of company loans that act as guarantees of settlement.

The study makes the conclusion that the governments of sending countries have relegated a large portion of their regulatory role to private recruitment agencies in implementing labor export programs, putting a premium on profit-making to the neglect of migrant human rights. This makes it all the more improbable that decisive measures will be undertaken by these governments to address FDW debt-bondage in Hong Kong, as such measures might “kill the goose that lays the golden eggs”. This also ensures that existing policies to regulate placement agencies are inadequate and ineffective, and reflect the lack of any desire from governments to regulate these agencies.

Lastly, it forwards recommendations that aim to clip the mandate and influence of placement agencies, as well as point out the need to reorient labor migration in Hong Kong towards the rights-based approach as opposed to the current profit-oriented one.

# Introduction

**THE PLACE THAT** foreign domestic workers (FDWs) occupy in Hong Kong society is simultaneously visible and invisible. There are over 300,000 FDWs who are currently working in the city and many come out on Sundays to congregate in public spaces. Yet they are marginalized and discriminated against by mainstream Hong Kong society, perceived as second-class workers who are also Asian foreigners. The recent case of Erwiana Sulistyaningsih in mainstream media has profiled the plight of FDWs in Asia. Even though Miss Sulistyaningsih's case is a dramatic one, at the micro-level foreign domestic workers in Hong Kong still face injustices and violations of their rights on a daily basis. In the past three decades, FDWs have established support networks through grassroots community organizing. This development has helped the migrants' rights movement, encouraging governments to introduce some reforms and amend policies about the welfare of FDWs.

However, there has been little policy reform regarding the exploitation of domestic workers by their agencies in both Hong Kong and the sending countries. The most pressing issue involved in this arrangement is how agencies force recruits to pay illegal agency fees (in the form of recruitment fees). These fees are extremely high, thus indebting the worker to the agencies and making her vulnerable to exploitation. Studies and researches surrounding this subject have demonstrated the mental and emotional impacts that this unequal power relationship has on FDWs and their families. In theory, agencies serve to act as job facilitators between employer and employee. The reality is that domestic workers are like chattels of the agency, under their complete control.

In 2013, APMM and the Mission for Migrant Workers (MFMW) collaborated on a research project looking at the spending

habits of foreign domestic workers. The results of this project revealed that the average FDW spent at least 13.3% of her wages on paying off loans and debts (APMM, 2013). Although the questionnaire used in the data gathering process did not always specify the type of loan, it can be assumed that many of them were for placement fees imposed by their agencies. The most telling result was from the Indonesian FDWs who had stayed in Hong Kong for less than a year had indicated that they paid 3,000HKD or less. This statistic informed APMM researchers that this was in fact a monthly installment for 21,000HKD placement fee that they were required to pay.

The high level of indebtedness amongst FDWs discovered in the wage survey was a strong point of interest for APMM. The significant toll that agency payments put on monthly wages (on top of remittance and other living costs) limits the amount of remittances that FDWs send and prevents them from putting away savings. Despite the new increase in the Minimum Allowable Wage (MAW, which only applies to FDWs) from 4,010HKD to 4,110HKD, the current wages are not enough to compensate or solve the issue of indebtedness.

The excessive placement fees that FDWs have to pay to the agency puts them in a difficult situation, where they are obliged to continue to work whatever the working conditions. In some cases, their indebtedness allows them to be exploited even more by their agencies.

This research project seeks out to compare the experiences of FDWs and agency-related overcharging between the most populous groups of FDWs – Filipinos and Indonesians.

## Background: Labor Laws in Hong Kong & Sending Countries

**PERHAPS THE BIGGEST ISSUE** concerning the practice of charging agency fees is that it creates loopholes and grey areas that agencies can use to their advantage, in order to extort money from domestic workers. The following is a table illustrating the regulations surrounding recruitment fees in comparison to the fees typically charged by placement agencies.

**Table 1 – Government Policies Concerning Fees for FDWs**

Country/Region	Government Policies on Agency Fees
Hong Kong	Only 10% of the first month's wages can be taken by the agency.
Philippines	Zero Placement Fee Policy of 2006 -- deems that any placement fee as illegal. However, this excludes other forms of agency fees such as medical or training fees.
Indonesia	Ministerial Decree No. 98/2012 -- For workers going to Hong Kong, they are required to pay the set amount of 13,436HKD over 5 months, once they have reached their destination. This is a one-time payment. (domestic worker must pay the same amount for reapplication).

The Employment Ordinance and Employment Agency Regulation in Hong Kong law states that employment agencies are allowed to charge “an amount not exceeding a sum equal to ten per cent of the first month's wages received by such person after he has been placed in employment by the employment agency” (Cap. 57A). Otherwise, any other form of exaction is illegal under Hong Kong law.

Before 2009, FDWs were hired directly by their employers. However, many go through recruitment agencies and are required by the agency to pay placement fees. According to the Asia Pacific Forum on Women, Law and Development (APWLD, 2011), Philippine labor laws originally allowed agencies in the Philippines to deduct a month's worth of wages from an employee's salary. However, in 2013 the Philippine Overseas Employment Administration (POEA) issued a policy ruling that Filipino FDWs will no longer be charged for placement services.

Likewise in Indonesia, Article 10 of Indonesian Law No. 39/2004, requires workers seeking domestic worker overseas to apply through private, government-approved recruitment agencies. Prospective domestic workers are also required by law to undergo 600 hours of training in "training camps" of agencies in Indonesia, to prepare them for work in Hong Kong and Macau (although there is no formal FDW deployment agreement for the latter), including teaching them to speak basic Cantonese.

## Statement of the Problem

**APMM AND THE MISSION** for Migrant Workers (MFMW) conducted a research in 2013 regarding the wage expenditures of foreign domestic workers in Hong Kong, and the results were quite revealing on the extent of their indebtedness to many loan and placement agencies. It shows that among Indonesians and Filipinos at least, the loan and fee payments deducted from their monthly wages averages 13.30%.

Through previous experience with FDWs, APMM and MFMW know that in many cases an agency will force a migrant to obtain a loan to pay for recruitment fees from lending agencies referred by recruitment agencies. Thus, we can assume that in many cases their payments for “company loans” are essentially payments for agency fees.

Hong Kong’s Indonesian domestic workers are even more heavily dependent on their country’s placement agencies, which are empowered by the Indonesian government to exact even higher fees. Unlike their Filipino counterparts, Indonesian domestic workers are paying the same amount of fees for subsequent contracts and through the same placement agency that initially hired them, even when being rehired by the same employer.

For Filipino domestic workers in Hong Kong, illegal and exorbitant charges are imposed by placement agencies mainly during the initial overseas contract. Fees as high as 120,000PHP (equivalent to 21,200HKD) are being charged by placement agencies in the Philippines, which are then often paid through salary deductions to counterpart agencies in HK by Filipino domestic workers in the first 7-10 months of their contract.

Last year's wage expenditure research highlighted the need for an extensive study on agency fees as it relates to FDW indebtedness. Paying off recruitment fees during the first year of employment, which take up around 13.3% of the respondents' local expenditures, represents another form of debt bondage. There is a need to understand the extent of this circumstance among the FDW population in Hong Kong, and come up with policy recommendations that aim to improve the regulation of placement agencies and effectively address their abusive practices.



# Hypotheses

**THIS PROJECT INITIALLY** set out to prove that the illegal practice of charging additional fees from recruitment agencies occurs in both Hong Kong and in countries where FDWs are recruited. According to migrant organizations in the territory, the Hong Kong government has allegedly denied that local agencies are involved in overcharging and has directed the blame on agencies in sending countries (Mandap, 2014). The term “agency fees” in this project will be used to address not only recruitment or placement fees, but other fees including those imposed by the sending government.

The second hypothesis assumed that recruitment agencies in both the receiving and sending sides systematically use deceptive and coercive methods to extort money from FDWs. These methods include giving false information or purposely withholding it, employing scare tactics, threats over the FDW’s employment status and harassment from money collectors.

Thirdly, amounts that FDWs borrow from lending companies are in fact agency fees that dissociate the agencies as holders of the debt. In many cases, agencies recommend or directly order FDWs to take a loan from a specific lending company that they are in fact colluding with.

During the actual research project, it was in fact revealed that these hypotheses did not completely capture the full scale of the situation of agency-related indebtedness. It was found, particularly in the FGDs, that issues surrounding overcharging, illegal collection and indebtedness to the agency were in fact extremely complicated and intersected with other issues in, such as tensions with the employer and with family connections back at home. This will be further discussed in the synthesis and analysis of results.

# Methodology

**THIS RESEARCH PROJECT** combines primary and secondary sources that reveal the issues involved in overcharging. For the data gathering process, five (5) focus group discussions (FGDs) and ten (10) key-informant interviews (KIIs) were conducted. Both of these were carried out over the course of two months.

The FGDs had both Filipino and Indonesian participants from migrant worker organizations, including United Filipinos in Hong Kong (UNIFIL-HK), Association of Concerned Filipinos (ACFIL), Asosiasi Buruh Migran Indonesia (ATKI-HK) and Persatuan BMI Tolak Overcharging (PILAR). These sessions were done during Sundays, when FDWs had their day off. A total of four discussions were conducted, two for Filipinos and two for Indonesians. Ideally, there would have been three discussions for Indonesians but there were conflicts in scheduling that arose. Each sampling group consisted of eight or more main participants.

They were asked questions from a facilitator who was able to speak in either Pilipino or Bahasa Indonesia, to make sure they were comfortable about speaking about their situation as well as being to articulate their answers more clearly. For the Indonesian FGDs, there was a translator who was able to simultaneously translate answers. Although the presence of APMM researchers may have encouraged some to attempt and speak in English, participants were encouraged to speak in their native language. They were also told that they would remain anonymous in order to protect their privacy.

These discussions were recorded and later transcribed. For the data analysis, the FGDs between the two nationalities were compared, to identify the key similarities and differences between agency practices and other issues related to

overcharging and indebtedness.

The aim of the KIIs was to collect expert opinions on the matter. There were ten respondents for the KIIs who were interviewed during July to August 2014. Six out of the ten were migrant organizers who worked as volunteer caseworkers; chairpersons of migrant worker unions and organizations; the director of Bethune House Migrant Women's Refuge and the manager of the Mission For Migrant Workers. APMM is confident that these respondents, who directly work with domestic workers, can provide valid details and accounts of their experiences. The other interviewees included the Labor Attaché from the Philippines Consulate in Hong Kong at the time, Deputy Commissioner of the Employment Agencies Administration, a representative of the Hong Kong Catholic Commission for Labour Affairs, and a local Hong Kong social worker from the Diocesan Pastoral Center for Filipinos. Representatives from the Labour Department in Hong Kong were approached for interviews but they either declined or did not respond to the requests.

Academic literature and publications from other non-government organizations relating to indebtedness amongst FDWs in Hong Kong were also utilized in this study. This will be discussed in the Literature Review section.

## Limitations

This project experienced several limitations that prevented a thorough investigation into the situation concerning agency-related indebtedness amongst FDWs. Physical restraints encountered in research included limited staff who were able to work on the research and the short two-month time frame of the data gathering process.

For this project, there was a heavy focus on the initial placement fees that a domestic worker makes rather than other forms of overcharging. Other forms of agency payments, such as excessive medical or boarding fees and the payment incurred when switching employers were not as thoroughly investigated. As demonstrated by the FGDs, only in some occasions was overcharging and agency-related debt found amongst post-initial contract workers. A follow up research on this is apparently needed to accommodate these particularities.

## Literature Review

**THERE HAVE BEEN** various articles and reports published by non-government organizations and academic research that have investigated, or at least touched upon the problems surrounding overcharging. Many of these reports reached out to FDWs for interviews or for questionnaires, as their primary research. They have all emphasized the major role that both agencies in Hong Kong and sending countries play in coercing domestic workers to pay onerous fees.

However, more recent publications have focused on Indonesian domestic workers like those of Amnesty International (AI) and the Hong Kong Catholic Commission for Labour Affairs (HKCCLA). APM's research is interested in comparing the differences and similarities between Indonesian and Filipino experiences with overcharging in Hong Kong.

Recent literature concerned with issues of indebtedness amongst FDWs have used the term "debt bondage" to describe the labor relationship that FDWs engage in with their agencies. This conceptual framework has been used extensively in the migrant advocacy movement. The International Labour Organization (ILO) identifies debt bondage – otherwise known as debt slavery – as a "feature of contemporary forced labour situations" (Lee, 2006). This concept depicts the relationship formed between the worker and her agency as one of inequality, where the worker offers her labor as security for the "debt" that she owes her agency. The "debt" in this case refers to the placement fees that the agencies impose on the worker. Both Lee's article "Forced Labour and Debt Bondage in Hong Kong" (2006) and the APWLD's article "New Slave in the Kitchen" (2011) emphasize how FDWs engage in forced labor and their indebted relation to the agency.

Our project also seeks to expand upon this picture, by looking at other stakeholders and involved in the relationship between the worker and agency. The HKCCLA's recent survey on Indonesian workers and their conditions includes interviews from both the workers and employers. By including the voices of the employers, HKCCLA was able to flesh out the exact role they play within the relationship between the agency and worker. Although this project does not include employers as a significant part of the gathering process, this research is interested in how indebtedness affects not only the workers themselves but also their families and other individuals in the home country.

## Synthesis of the KIIs and FGDs

**BOTH THE KIIS AND FGDS** revealed a more complex picture on the issue of indebtedness amongst FDWs, in comparison to what was assumed at the beginning of the project. This synthesis will identify major themes found during research and will draw on the voices of domestic workers who attended the FGDs, as well as background information from KII interviewees. Documenting the opinions and the experiences of domestic workers will demonstrate the wide variety of measures that agencies utilize in order to extract fees from workers.

At the beginning of the project, it was assumed that the typical FDW was charged by both agencies in Hong Kong and in the sending country for recruitment fees. KII respondents confirmed that this occurred. For Filipinos, not only do they have to pay their placement fee in their home country (ranging from 80,000 to 150,000PHP, the equivalent of around 14,148HKD to 26,528HKD) but also have to pay another lump sum when they arrive in Hong Kong. The FGD respondents confirmed, that in their own experiences, the latter amount would range from 1,000HKD to around 11,000HKD in monthly installments.

However, the FGDs showed that being charged twice was not as commonplace as previously thought. For Indonesians, payments they were required to pay in their country by training centers can range from 16,000-18,000HKD. Some KII interviewees who also work as domestic workers in Hong Kong recalled not needing to pay for any particular fees during their time at the training center. The most pressing fee that they faced was in fact the one they were required to pay in Hong Kong.

Prospective Indonesian workers, on the night before they fly

to Hong Kong or immediately after their arrival, are made to sign a loan agreement without completely understanding its terms. In other cases, workers are simply told that they need to pay the fee as compensation for the training center and the agency. Despite the lowering of the legal placement fee amount to 13,436HKD maintained in Indonesian labor laws under Ministerial Decree No. 98/2012 (typically rounded up to 13,500HKD in practice), there are still agencies that charge over the set fee. It should be noted that most of the women who were in the Indonesian FGDs came before the passing of the new decree.

### **Struggles Involved With Paying Off Debts**

When FGD participants were asked how they managed to pay for their fees, many described the obstacles they encountered when attempting to pay off their debts. With Indonesians, since their major debt was charged during their time in Hong Kong, most paid off their fees through salary deduction hence it is rare that they borrowed money or were required to sell their own property to pay off the debt. However, there were a few respondents who were anomalies to this pattern. One Indonesian worker recalled borrowing money through a bank in Hong Kong, while paying interest. Another participant mentioned that she had to borrow money from her sister during the salary deduction period.

During their initial months in Hong Kong, many complained about how the monthly fees made their lives difficult and elaborated on how they struggled to scrape by. Saving up for their statutory holidays was particularly difficult, since they had to personally cover transportation and food costs and could not send remittances back home. Even so, there were a few workers in the FGD who chose to still send remittance to their families despite making barely enough for themselves.



Filipino FGD participants echoed similar sentiments, in terms of the struggles they faced when attempting to pay off their agency fees. But unlike the Indonesians, Filipino workers had to find ways to pay recruitment fees. A Filipino worker described her experience using her property as collateral for a loan, including her house and land property in the Philippines, in order to pay her first and second placement fee. Another FGD respondent brought up the fact that she had to sell the family's carabao (water buffalo, used mainly for plowing ricefields) to pay the recruitment fee. Otherwise, many of the Filipino FGD respondents borrowed money from their families or from several individuals in order to pay off their placement fees.

There are instances where despite having their contracts terminated by their employers and having no source of income, FDWs are still forced by their agencies to pay their fee installments or pay even more than what was initially required. For first-contract workers who experienced an early termination of their contract, paying off the fees can be especially difficult. A Filipino FGD respondent, who had only been in the city for two months, had been terminated by her employer. Despite termination on her employer's part, the agency still has her passport and she still owed a "loan" of 3,500HKD.

It was also discovered in the Indonesian FGDs, that one respondent was asked by her agency to pay 3,000HKD in order to work for a new employer despite finishing her contract. She consequently changed agencies in order to avoid the bogus fee and instead paid 10% of her first month's earnings of her new contract.

Another Indonesian was asked to pay an arbitrary fee after her contract was terminated after three (3) months on her first contract. She had to pay an extra 21,000HKD over seven (7)

months for her second contract at another agency. The agency justified the payment by claiming under Indonesian law, a worker cannot change agencies during the first contract. The agency also vaguely explained to her that they had to “open an online system” at the Consulate to confirm the change and she had to pay for it -- an arrangement that the domestic worker did not understand. Out of desperation for work, she agreed to the arrangement. This meant that her fees totaled over 30,000HKD, more than double the legal limit mandated by the Indonesian government.

### **Multiple Charging**

There are other instances where domestic workers were forced to pay even more agency fees, even if they did not experience early termination and had already paid off her initial agency fees during the first contract. One Indonesian FDG participant was asked to pay 6,000HKD over three (3) months during her next contract, which the agency justified because she was the one who terminated the contract but not the employer. Another Indonesian respondent was charged three times, as she had been terminated thrice. She paid 2,500HKD in cash, before being required to deposit 6,000HKD in to the agency’s bank account over two months and to pay additional penalties (around 50HKD per day) for late payments.

Multiple charging (more commonly known as overcharging) also occurs with Indonesians who return to their country and set out to work overseas once more. An Indonesian FDW who returned home after finishing her contract, was asked by her agency to pay 2,000HKD as “down payment” so she could apply again for overseas domestic work through them. After a year, when she applied again, the FDW was asked to pay 12,000HKD despite already going through the mandatory training scheme. They claimed that the fee covers visa and passport processing and airfare despite her having already paid 2,000HKD as down

payment. The agency made another offer of payment terms amounting to 3 million Indonesian rupiah or IDR (1,920HKD) if she paid the new legal requirement of 13,500HKD over six months and chose to stay in the training center. In the end, the FDW rejected the offers and paid the 12,000HKD instead.

There are other forms of multiple charging that FDWs are subjected to. One such example is paying for boarding, even at the accommodation provided by the agency. One Indonesian worker who came to Hong Kong during 2014 stayed at the agency accommodation for three (3) days and was required to pay 4,010HKD as compensation. A KII interviewee, a social worker from the Diocesan Pastoral Center for Filipinos (DPCF), echoed that this was common practice. The clients of the DPCF worker had to pay 5,000 to 6,000HKD for accommodation in Macau arranged by the agency (where they were required to go while their visas were being processed).

### **Payment Methods As Required By The Agency**

The other two hypotheses made at the start of the project were primarily concerned with the deceptive methods used to profit from domestic workers. The second hypothesis assumed that agencies use systematic and coercive methods to extract payments from workers. The third presumed that most loans taken out by workers from money lending companies were in fact agency fees. Informants for the KIIs confirmed these assumptions by detailing the various methods that is used on Filipino and Indonesian domestic workers to pay their placement fees and other overcharging payments. There were also FGD participants, whose accounts who backed up the explanations.

Agencies go through great lengths to disguise these fees as personal payments or loans that the migrant worker has to pay. The most common form of paying is through 7-Eleven

stores. Both Indonesian and Philippine workers are given a customer card with their name and customer number. The card does not include the name of the placement agency. This particular form of payment ensures that a worker can pay anytime, rather than going directly to the Hong Kong agency on their days off. It also ensures that there is minimal paper trail that will lead to the concerned placement agency.

It was also revealed in the FGDs, that there were cases where domestic workers were brought directly or referred to money lending companies by their agencies. There were differences in the systematic methods behind “company loans” as a form of placement fee payment between nationalities. The collusion between loaning companies and agencies was clear in the experiences of Filipino workers in the FGDs. Five Filipino workers in the group explained how they were directly taken to loan companies by agency staff. One woman described how the lending company she was brought to in the Philippines was locked all day and was only open when someone set an appointment with them.

Another Filipino worker recounted her experience with lending companies in Hong Kong. She was brought to a lending company located in Admiralty by a staff of the agency with other domestic workers. The company gave the workers 9,600HKD in cash by the company. Nevertheless, the agency staff member soon confiscated the money, informing them she will bring the money to the agency, presumably as payment for their placement fees. KII respondents explained that the immediate confiscation of the money was common. The worker only briefly holds the money before handing it over to the agency and is made to believe that she has a loan to pay. Thus this “personal loan” is more of an “imaginary loan”, as one KII respondent aptly described the situation.

Banks play a prominent role in money extortion along with money lending companies. In the Philippines, there are Filipino agencies that encourage the use of post-dated checks. This method typically involves the agency or moneylender bringing the worker to the bank to open a checking (current) account and then are given a checkbook with several checks. The prospective worker then brings it to the lending company, where she is made to sign a number of blank checks based on the number of monthly installments she owes. However, as Edwina Antonio, Executive Director of Bethune House Migrant Women's Refuge (BHMWR) explained, domestic workers are unaware of how the arrangement works. The anti-bouncing check law in the Philippines (BP-22) implicates not only the receiver but also the worker, when there are insufficient funds in the account. Domestic workers can become increasingly indebted, as the lending companies increase the interest on these "loans".

However, in the FGDs, there was only one worker who used checks to pay off her fees but instead of signing the checks, her mother was the guarantor. After paying her placement fee of 87,000PHP (around 15,404HKD) in the Philippines, the Filipino agency asked her to continue loan out an extra 18,000 pesos from the same lending company, to be paid over seven months. This was arranged through post-dated checks that her mother signed, after the domestic worker sent the money back to a Filipino bank. She was successful in seeking legal redress for her case, however, only because she was able to provide photocopies of the checks which had the name of the placement agency on them.

The use of banks amongst Indonesian agencies was not as elaborate as the post-dated check process. Eni Lestari, chairperson of the International Migrants Alliance (IMA), who is a domestic worker herself talked about how agencies worked with national banks in Indonesia willingly gave out

loans to prospective workers, which was corroborated by one FGD participant who took out such a loan. There were some Indonesian participants in the FGDs who have experienced this scheme with banks in Hong Kong. One participant had to pay her fees directly, depositing the fees to her agency's account at DBS Bank. Another woman was brought to a small bank in Tai Po and was forced by her agency to loan out the total amount for the fees, rather than the individual monthly installment. The lump sum was handed to the agency and the worker had to pay off the loan to the bank.

The relationship between agencies and moneylenders was found to be less prevalent amongst Indonesians during the research process. It can be assumed that loaning companies catering to Indonesians operated on a smaller scale in comparison to their Filipino counterparts. Almost none of the FGD respondents had any experience with moneylenders. However, KII participants confirmed that there were loan companies that operated in both Hong Kong and Indonesia. The DPCF social worker mentioned that loan companies working in tandem with agencies is not a well-known phenomenon in Hong Kong. When following her clients to the companies, she observed that the staff in fact spoke Bahasa Indonesia rather than Chinese. She suspected that these companies and employment agencies are "within the same gang". The social worker also confirmed that her own clients and agency staff have told her that some employment agencies would hire money collectors. If they failed to collect the money, the collector themselves would harass the domestic workers to make them pay the loan.

As evidenced by the successful case of the Filipino domestic worker who was able to settle, receipts and other proofs of payment put the agency at risk of exposure and persecution. Thus, agencies are careful not to leave a paper trail for these payments. The manager of the Mission for Migrant Workers,

in her interview, elaborated on the pitfalls of paying through 7-Eleven stores. Not only do receipts exclude the name of the agency or money lending company, but the material itself quickly wears out over time. Thermal paper is the material used for 7-Eleven receipts, which quickly fade out after several months. Even for some domestic workers who keep the receipts are unaware of this consequence and do not think of keeping photocopies of the receipts. FGD participants who had paid through 7-Eleven either kept the receipts themselves or had it kept by their employer. When asked if they were given receipts from non-7-Eleven transactions, only a few replied in the affirmative.

### **Coercive Methods – Agency Threats and Harassment**

Perhaps the most common form of coercion agencies carry out is the confiscation of the domestic worker's identification documents. These documents may include the domestic worker's passport and her employment contract. These documents serve as a form of collateral, forcing the worker to pay the fees. Although this did not happen to all FDWs, KII respondents who worked with migrants confirmed that this was frequently practiced amongst agencies. Workers in the FGDs, both Filipino and Indonesian, also confirmed that they had their own passports taken by their agency. For workers who defaulted on their payments, they were constantly harassed by their agency through the telephone. Lestari discussed how money collectors who called were particularly aggressive, as they insulted the domestic worker with slurs such as "pig" or "whore".

Indonesian agencies also seemed to collaborate with Hong Kong agencies, particularly when an FDW failed to pay her installment on time. In drastic cases, the family of the worker would be harassed by the agency to remunerate the fees that she failed to pay. KII respondents familiar with the situation in

Indonesia, explained that Indonesian debt collectors use scare tactics or threats on the family to extort money.

These methods include harassing the family (i.e., sending debt payment letter to families, sending recruitment agency representative or local police officer in Indonesia to family house demanding payment, or threatening to sue the family), slandering the migrant worker's reputation and threatening to confiscate their property. In extreme cases, the agency involves the family as guarantors of the migrant's "debt". To ensure their payment, the agency or bank involved confiscates original copies of crucial documents, such as marriage or land ownership certificates. These various forms of pressure on the guarantors and family members invokes fear, thus causing them to immediately react by paying the fee themselves or encouraging the worker to finish paying. One FGD participant told researchers how her family was confronted by the police at their house, in order to pay the installment that she refused to pay to the bank.

Wiwin Warsiating, a domestic worker who volunteers as a case worker for BHMWR and interviewed for the project, recalled a client she worked recently with, whose family was threatened by money collectors. The agency demanded that the migrant worker pay the remaining placement fee of 10,000,000 IDR (6,381HKD), claiming that she "ran away" from her employer, when she was in fact fired by her employer. The domestic worker claimed that her family in Indonesia was approached by the agency and were also asked to pay the 10,000,000 IDR. If the family failed to pay, they "would never see their daughter again". The migrant worker finally decided to pay the 10,000,000 IDR even though she was still living in the shelter and had no source of income.

When asked by Wiwin about where she found the money, the FDW confessed to having borrowed from individuals to pay off



the fees. The latter cited her fears about what could potentially happen to her family as the driving factor in her decision. The case was finally resolved when the shelter asked the Indonesian Consulate to compensate the 10,000,000 IDR to the FDW's family in Indonesia, which was received by her husband. This anecdote not only illustrates the immense pressure that both the worker and family face but also the strong collaborative ties between the Hong Kong and Indonesian companies.

Another common method practiced by agencies to ensure that workers would pay the high fees was by involving the employer. KII informants spoke about how some agencies, in order to deal with non-compliant workers, directly approach the employer through the telephone and ask them if they were interested in terminating their current domestic worker and replacing her with another "for free". This deal threatens the job security of the domestic worker, which forces her to pay off the remaining fees. There were participants of both nationalities in the FGDs who experienced this. One Filipino's employer rejected the offer, telling the agency that the unpaid "loan" was not between her and the worker. Another Filipino's employer accepted the offer and terminated her the contract.

Employers are also harassed by the agencies, if the domestic worker fails to pay her installments. Lestari of IMA described how agencies, banks or money lending companies can put pressure on the employer by calling the employer at home or even at the workplace. This tactic induces the employer to also pressure their employee to pay the overdue fees. Two FGD participants from both nationalities confirmed that this happened to their employer. The Filipino worker described how her employer was harassed by the agency "every five minutes" before resorting to unplugging the telephone. One Indonesian respondent experienced agency representatives paying a visit to the employer's home to talk directly with the employer about the worker's refusal to pay the fees.

## Difficulties in Challenging Agency Fees

Typically, when paying agency or training center fees, FDWs were unaware of the purpose of these payments and were completely unaware whether the amount they were paying was legal or not. Only one Indonesian FGD participant received a vague answer of “training and processing”, when she asked why she had to pay once she arrived in Hong Kong. Other Indonesians recalled that agency stated that the fees were simply “the rule” or even claim that the high fees were in fact required by the law.

Only in a few cases did FGD participants supposedly receive a breakdown of the training fees. These breakdowns would explain what types of training the worker would undergo. However, some FGD respondents claimed that the reality of the training scheme differed vastly from what was written on paper. For example, the breakdown stated that prospective domestic workers would learn how to cook full meals but in reality the workers would only learn how to peel vegetables. In one extreme case, an FGD respondent did not take any of the classes since she was asked by the agency to work at the owner’s shoe store but was still charged for the classes.

There was unanimous agreement amongst all the KII respondents that most FDWs are too afraid to challenge their respective agencies for imposing placement fees or charging them over the legal amount. The most significant reasons were the lack of information concerning about their own rights and the potential consequences workers faced if they refused to pay the fees. One KII respondent noted that Filipinos who applied for jobs as FDWs typically anticipate the payment of placement fees beforehand, asking “how much” the fee would cost them. This observation demonstrates how embedded the concept of placement fees is in the minds of aspiring domestic workers, despite the payments being illegal practice.

The few FGD participants who attempted to challenge both agencies over the payments came out with little success. The Filipinos were relatively more successful and were able to receive financial compensation. However, none of the Indonesians were able to settle or prosecute their agencies.

All workers who participated in the FGDs confirmed that when they applied to the agency, they were unaware of the purpose of the placement fees. If they questioned the purpose or complained about the high cost, they were told to keep quiet and not “ask questions”. If either an Indonesian or Filipino worker refused to pay, they would be refuted with threats of not processing their documents for visas, or even cancelling their flights. The caseworker for Bethune House spoke about one client after whose contract was terminated approached the Consulate to receive back her passport and contract (which was presumably under the agency’s possession). The agency soon bought her a ticket back to Indonesia and the Consulate justified the action by explaining to her that she had in fact not finished with salary deductions.

### **Role of Hong Kong Labour Department and Consulates**

There are also legal implications and consequences that come with challenging overcharging, in the Consulates as well as the Hong Kong Labour Department.

The legal structure in Hong Kong does not recognize placement fees on the part of the Hong Kong agency unless the domestic worker can prove that the fees are connected to their agency or a Hong Kong-based lending company. As a result, workers have to redirect their complaints to their respective consulates. The Labor Attaché at the Philippine Consulate during the time of the interview explained that there were efforts in the Consulate to provide services for FDWs that would make the reclamation process easier and more efficient,

such as providing forms required for filing a case in the Labour Tribunal. Yet, KII respondents from migrant organizations averred that the Consulate merely served as a mediator between the agency and domestic worker, rather than acting on the illegal practice of overcharging. The Consulate does, on the other hand, provide endorsement letters. One Filipino FDG participant took advantage of this service to pursue her case and got some of her money back.

The Philippines Consulate also offers “hands on conciliation” and “mediation” as services to migrants who pursue their claim. Surprisingly, the Hong Kong agency would act as the representative for the Philippine agency in these reconciliation meetings to arrange a settlement. The KII interviewees who work as organizers and were active in the migrant advocacy movement, criticized the Consulate for tolerating as agencies were rarely prosecuted or punished. The only exception where agencies were in fact closed down was when there were multiple complaints, as one FGD confirmed with her own case. The Labour Attaché stated that only when an agency receives multiple complaints, that the agency will be suspended and revoked of their license. There was a common sentiment amongst Filipino FGD respondents that once an agency closed down, they “will just change the name and the same people will be operating [the new agency]”.

There were also mixed opinions amongst KII respondents about the services that the Indonesian Consulate provided for workers who complained about being overcharged over their placement fees. Caseworkers commented on the seemingly paradoxical position that the Consulate seemed to have concerning placement fees. They noted that the Consulate was able (in some cases) to claim back the money for the worker. However, there were times were the Consulate would side with the agency, criticizing the domestic worker for not paying her fees. There have been few successful cases where

the worker was able to reclaim the full amount of money she gave to her agency.

There have been cases where the agency was willing to waive the fees for the worker under particular circumstances. The social worker from the Diocesan Pastoral Center for Filipinos recalled a case she worked on, a Filipino worker terminated her contract because her employer had sexually assaulted her. The agency in Hong Kong pressured her to pay off the remaining six to seven months worth of placement fees.

According to the social worker, the FDW responded angrily to the agency staff:

“How can I return you the money? I have already called the police and filed a sexual assault case. I am unemployed, so how can I get you money? When I asked you to call the police to help me it but you did nothing and made me call them alone. Do you want me to die?”

It was only after several disputes between the agency and the migrant worker, said the social worker, that the agency finally agreed to waive the remaining payments. Even though there are instances that the agency was willing to waive fees, it only seems that in extreme or special cases that an agency would be willing to let go of the payment fees.

## **Illegal Recruitment**

Both FGD and KII respondents also brought up the issue of illegal recruitment. Both Indonesian and Philippine governments require prospective domestic workers to be recruited through local agencies in order to work overseas. This requirement has created scams in sending countries, where fake and unregistered agencies trick prospective FDWs in to giving money. Both Indonesians and Filipinos in the FGDs

have encountered unregistered and fraudulent agencies. A Filipino worker recalled how she was scammed twice by two “agencies”. She was asked to pay the lump sum upfront, and once she did, she never heard back from them and was unable to get her money back.

### **Involvement of Employers**

Another major factor that came through discussions and interviews was the role of the employer in debt bondage relationship. As mentioned before, employers were also harassed by agencies. Nonetheless, the FGDs revealed that some employers were willing to help their domestic workers with covering their debts or agreeing to lend money to them while they were paying off the fees. There were also employers who supported some FGD participants’ decisions to pursue their complaints against the agency.

On the other hand, there were cases where the employer chose not to support the FDW or challenge the agency fees. One Indonesian in the FGD, whose employer was called by, decided to “ignore” the situation and not support the employee. There have been studies by various Indonesian migrant organizations in Hong Kong that have identified employers underpaying employees as being linked to agency fees. One FGD participant confirmed that in her experience, her employer underpaid her. She was only given 700HKD out of the monthly 3,740HKD as her salary without being told by her employer why. The remaining 3,000HKD was in fact given to the agency by the employer as to compensate for the monthly installments.

### **Organizations and NGOs as Resources**

The role of migrant organizations and services was crucial in helping workers understand that being overcharged was illegal. The women in the FGDs who decided to challenge the

agencies were informed of their rights through counseling from NGOs and their organizations. This observation emphasizes the significant role that migrant organizations and services for FDWs play in helping these women retaliate against their agencies' malpractices.

# Analyses

**WHILE THIS PROJECT** was constrained by several important limitations, it was able to provide enough corroborative evidence to validate the three main hypotheses.

The existence of multiple and illegal charging is clearly established among the FGD participants, although there is a wide variety of methods with which these exactions occur, and also vary significantly across countries involved. In the Philippines, local placement agencies are enabled by transactions with Hong Kong agencies to extract fees from FDWs that are in fact have already been paid by employers, which amounts to double or multiple charging that are formally considered illegal. In Indonesia, placement agencies have greater leeway in extracting fees, and even money collectors in Hong Kong to whom payments are made.

In both cases, Hong Kong-registered placement agencies would appear to be a “lynchpin” that plays a direct role in, or creates the necessary preconditions for, fee exaction on both ends. While outright collusion between sending and receiving agencies are harder to prove because of the astonishing lack of paper trail, it is clear from the narratives in the FGDs and KIIs that Hong Kong agencies are far from being innocent bystanders in the misdeeds of their partners in Indonesia and the Philippines. This is further borne out by cases documented by MFMW, wherein Hong Kong-based agencies themselves “refer” first-time FDWs to money-lending agencies in the territory, and payment is guaranteed by withholding their passports and other travel documents.

The difference in modes of payment and coercion is determined by differences in the migration laws and policies of each sending-country, which either limits or promotes the



role of placement agencies in regulating the flow of FDWs to and from Hong Kong. These provide the agencies with coercive leverage for enforcing payment through a wide range of options, whether through the families of migrants in the sending countries or the FDWs themselves at the other end.

Differences notwithstanding, both the FGDs and the KIIs in the research indicate that placement agencies have been able to circumvent limits set by laws in the three countries included in the scope of this research. This point applies to both the legal mandate to charge fees and the amount of fees to be charged, a situation that points to possible corruption and/or ineffective regulation of placement agencies at both ends of deployment.

Respondents in the research have pointed out institutional weaknesses in the monitoring and prosecution of abusive placement agencies that make it exceedingly difficult to pin down and penalize them. But the problems go beyond these loopholes, as the completely privatized nature of FDW deployment in Hong Kong itself makes the system difficult (if not impossible) to regulate with any degree of effectiveness, and the virtual monopoly that these agencies enjoy continues to impose an oppressive, exploitative and legalized form of debt bondage on migrants and their families in so many ways.

# Conclusions and Recommendations

THE EXCEEDINGLY POWERFUL and largely unregulated role of placement agencies in the deployment of FDWs to Hong Kong have led to a situation of wholesale debt bondage for most migrant workers in the territory. While further researches will undoubtedly be conducted in the future on the issue of migrant workers' indebtedness in Hong Kong, it has already exposed enough qualitative evidence to conclude that the operation of placement agencies in the three areas covered is the principal reason behind high levels of indebtedness among FDWs in Hong Kong.

Given the foregoing situation, this research report makes the following advocacy recommendations to states involved:

## Hong Kong

### **1) Be more proactive in monitoring and prosecuting abusive placement agencies.**

Rather than waiting for FDWs to come forward and file individual complaints, the Employment Agency Administration (EAA) should operate on the premise that there are malpractices occurring among HK-registered placement agencies and conduct a thorough investigation on their business practices of HK-registered placement agencies. This also involves lowering the evidentiary requirement for complaints to be investigated on, from records of financial transaction to the simple filing of a sworn and notarized affidavit by the complainant. Even if the complaint were later proven to be unfounded, this approach would already serve as a deterrent to wrongdoers and encourage FDWs to report agency abuses and thereby seek redress.

## **2) Renegotiate the terms of FDW deployment from Indonesia and Philippines to include the option for direct-hiring.**

Receiving countries generally have a greater control over the mode of migrant deployment through bilateral agreements with sending countries, and Hong Kong laws allow for direct-hiring arrangements. All parties to current agreements on the sourcing of temporary foreign workers in Hong Kong can assert a preference for direct-hiring (or its combination with third-party hiring), But for this to happen, the governments of Hong Kong, Indonesia and Philippines all have to recognize that overcharging on both ends of the migration flow, and that the current regulatory regime for placement agencies in the territory are insufficient and/or inefficient.

## **3) Scrap the two-week rule.**

Obliging FDWs whose contracts have been terminated to exit Hong Kong for 14 days exposes them to further exploitation by placement agencies who usually impose new or recurring fees, resulting in overlapping loans that may take several years to pay off, further deepening debt bondage for some. The victimization is especially severe among Indonesian FDWs, whose government fully entrust their welfare to placement agencies far more than among Filipino domestic workers. This “two-week rule” and the financial burden it entails has such a terrorizing effect on FDWs in general, that many are forced to suffer in silence and discouraged from filing cases against overcharging and illegal collection.

## Indonesia and Philippines

### **1) Make direct-hiring an option.**

As two of the main sending-countries for FDWs in Hong Kong, the Philippines and Indonesia both have laws that require HK job applicants to go through placement agencies, essentially empowering the private sector to exact fees for a wide range of services. The governments of these two countries should consider making direct-hiring an option or the principal mode of deployment, as a first step in eliminating chronic indebtedness among FDWs in the territory.

An oft-cited government argument for utilizing placement agencies has been their supposed role in reducing dependence on sending countries' foreign missions to handle cases of abuse of migrants. But this is no longer true for Hong Kong, as it has a very effective migrant service sector (NGOs and grassroots migrant organizations) that have been attending to the welfare needs of distressed FDWs. At any rate, experience has shown that placement agencies are now the main cause of debt-bondage of migrant workers in Hong Kong, and this makes them the problem – not the solution – to the FDW rights and welfare situation in the territory.

### **2) Increase penalties on erring placement agencies.**

Although Indonesia and the Philippines have different laws governing the operations of placement agencies, both seem to be averse at curtailing what is apparently a lucrative sector of the economy.

While the Philippine government has set a policy of not charging placement fees to all Filipinos deployed as domestic workers abroad under the POEA Guidelines of 2006, this

research makes it apparent that FDWs are still being charged fees by the agencies, which simply call the fees by names other than “placement fee” (training fee, medical fee, etc.).

It has also made an overt show of penalizing errant agencies that have been reported by some intrepid FDWs, such as the POEA’s preventive suspension of Findstaff Manpower Resources, Inc. and its Hong Kong counterpart, Satisfactory Employment and Travel Services Ltd. in August this year (Mandap, 2014), but the sanctions have amounted to no more than slaps in the wrist for such patently illegal practices. At the same time, the incumbent government has been steadily reducing the annual budgets of the Department of Labor and Employment (DOLE) and the Department of Foreign Affairs (DFA), which further limit their ability to attend to FDW complaints of overcharging on both ends of deployment.

Indonesia has even more lenient regulatory laws for their placement agencies, which derive their powerful mandate from Law No. 39/2004 Concerning the Placement and Protection of Indonesian Overseas Workers. The country’s FDWs in Hong Kong say that there are no specific government agencies that handle complaints on overcharging, and this is a concern that needs to be addressed urgently.

This advocacy research project strongly recommends that existing mechanisms in both sending countries be bolstered by creating or assigning specific state agencies with quasi-judicial powers that will accept, investigate and prosecute complaints related to overcharging placement agencies. These bodies should also be allocated with sufficient funds to be able to effectively exercise their functions, including assigning officers to diplomatic missions abroad. Laws that empower placement agencies should also be reviewed and amended to reduce their capacity to charge exorbitant fees that subject FDWs to debt-bondage arrangements.

Much remains to be done by all migration stakeholders to reduce, if not eliminate, dependence on placement agencies. Grassroots-based migrant organizations and advocates also play a crucial role in exerting pressure on state actors to increase regulation of third-party recruiters, and call for alternative modes of deployment. For their part, governments and intergovernmental bodies that delve on labor migration should also enact more effective measures to combat migrant worker indebtedness in general, including adoption and implementation of the ILO Domestic Workers' Convention (C189) and pertinent UN statutes. For all migration stakeholders, the common point of unity should be human rights, and not unbridled profiteering.

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# Appendices

## Appendix 1

### Key Informant Interview (KII) Questions

1. What is the usual process of placement fee payments by Filipino/Indonesian FDWs going to Hong Kong?
2. How do “company loans” factor in the payment of agency fees?
3. What are the main pertinent laws and policies of Hong Kong regarding placement fees on FDWs?
4. What are the laws and policies of Indonesia/Philippines regarding placement fees in their respective territories?
5. What is the role of Hong Kong placement agencies in collecting payments from FDWs already in the territory?
6. What are the methods used by Hong Kong placement and lending agencies to ensure payment of FDW debts/loans? Do these involve any form of coercion or harassment?
7. Do you think there are enough laws, institutions and mechanisms in place in Hong Kong to regulate placement agencies here? How about in Indonesia/Philippines?
8. What more do you think needs to be done to improve regulation of placement agencies in Hong Kong and Indonesia/Philippines?

## Appendix 2

### List of KII Respondents

1. Cynthia Abdon-Tellez, Manager, Mission For Migrant Workers (MFMW)
2. David Leung, Deputy Commissioner, Employment Agencies Administration (EAA)
3. Edwina Antonio, Executive Director, Bethune House Migrant Women's Refuge (BHMWR)
4. Emmanuel Villanueva, Spokesperson, Asian Migrants Coordinating Body (AMCB)
5. Eni Lestari, Chairperson, International Migrants Alliance
6. Manuel Roldan, Labor Attache, Philippine Consulate General (PCG), Hong Kong SAR
7. Phoebe Lam, Social Worker, Diocesan Pastoral Center for Filipinos (DPCF)
8. Sringatin, Chairperson, Indonesian Migrant Workers' Union (IMWU)
9. Tse Yuk Man, Hong Kong Catholic Commission for Labour Affairs (HKCCLA)
10. Wiwin Warsiating, Volunteer, Bethune House Migrant Women's Refuge (BHMWR)

### Appendix 3

#### FGD Questionnaire for Filipino FDWs

1. Are you paying your placement agency or local Hong Kong agency any fees at the moment? If so, are you aware of what they were for?
2. If yes, how did the agency itemize each transaction (e.g. as training fees, placement fees, etc.)?  
If no, was the agency the willing to go over each transaction with you?
3. Are you aware that it is illegal for an agency in Hong Kong to charge you more than 10% of your wages earned in your first month? And that placement fees are illegal according the Philippines' labor laws?
4. How much are you currently paying to your Hong Kong agency? How much did you pay when you were back in the Philippines? Are you still paying for these fees?
5. How did you manage to pay for the initial payments on agency/government charges in the Philippines? Did you sell anything or borrow money from friends/relatives?
6. How are these payments extracted (e.g. taken from salaries, after receiving your wages, what kind of installments, did you have to go in person and pay, who received the payments in the agency, etc.)?
7. Have you been put under pressure by agencies about giving payments on time or defaulting on them (e.g. receiving phone calls daily, being harassed by agency about paying fees)?

8. Are you given a receipt of any kind after you pay off your agency fees? If yes, is the same amount stated in the receipt? Were there any extra amounts incurred?

9. Are you (or a friend you know of) currently borrowing money from a lending company or from family and friends (in either Hong Kong and/or your home country)? What was the purpose of the loan? Who encouraged you to take out the loan?

10. Do you think you can pay off your fees with the income you are making along with other costs you have at the moment?

11. Have you ever complained or challenged your agency about the overcharging?

12. Do you think the Hong Kong and Filipino governments need to regulate these practices? What do you think needs to be changed?

## Appendix 4

### FGD Questions for Indonesians

1. Are you paying your placement agency or local Hong Kong agency any fees at the moment? If so, are you aware of what they were for?
2. How much are you currently paying to your Hong Kong agency? How are these payments extracted?
3. Have you, your family or your employer been put under pressure by agencies about giving payments on time or defaulting on them?
4. Are you currently borrowing money from a lending company? What was the purpose of the loan? Who encouraged you to take out the loan?
5. Have you ever complained or challenged your agency about the overcharging?





## About the book

This research study on the indebtedness of foreign domestic workers (FDWs) in Hong Kong is a qualitative one, and is impelled by the need to substantiate with ground-based information ongoing migrant advocacy campaigns against overcharging and illegal collection of recruitment fees. It also sought to look into the following problems: overcharging and illegal fee collection occur not only in sending-countries like Indonesia and the Philippines, but even in Hong Kong itself; placement agencies use deceptive and coercive methods to ensure payment of recruitment fees; and that loan companies both in Hong Kong and in their countries of origin subjecting FDWs to debt-bondage to pay off concealed placement fees.

## About APMM

The Asia Pacific Mission for Migrants (APMM) is a cause-oriented regional center committed to support the migrants' movement through advocacy, organizing, building linkages for the advancement of migrants' rights. Established in 1984, APMM continues to work towards helping build a strong movement of migrants of different nationalities in Asia Pacific and Middle East (APME). We envision this as organized into a strong migrant movement, actively defending their rights, advancing solidarity with people's movements in the countries where they are working and linking up with their peoples movements in their home countries.