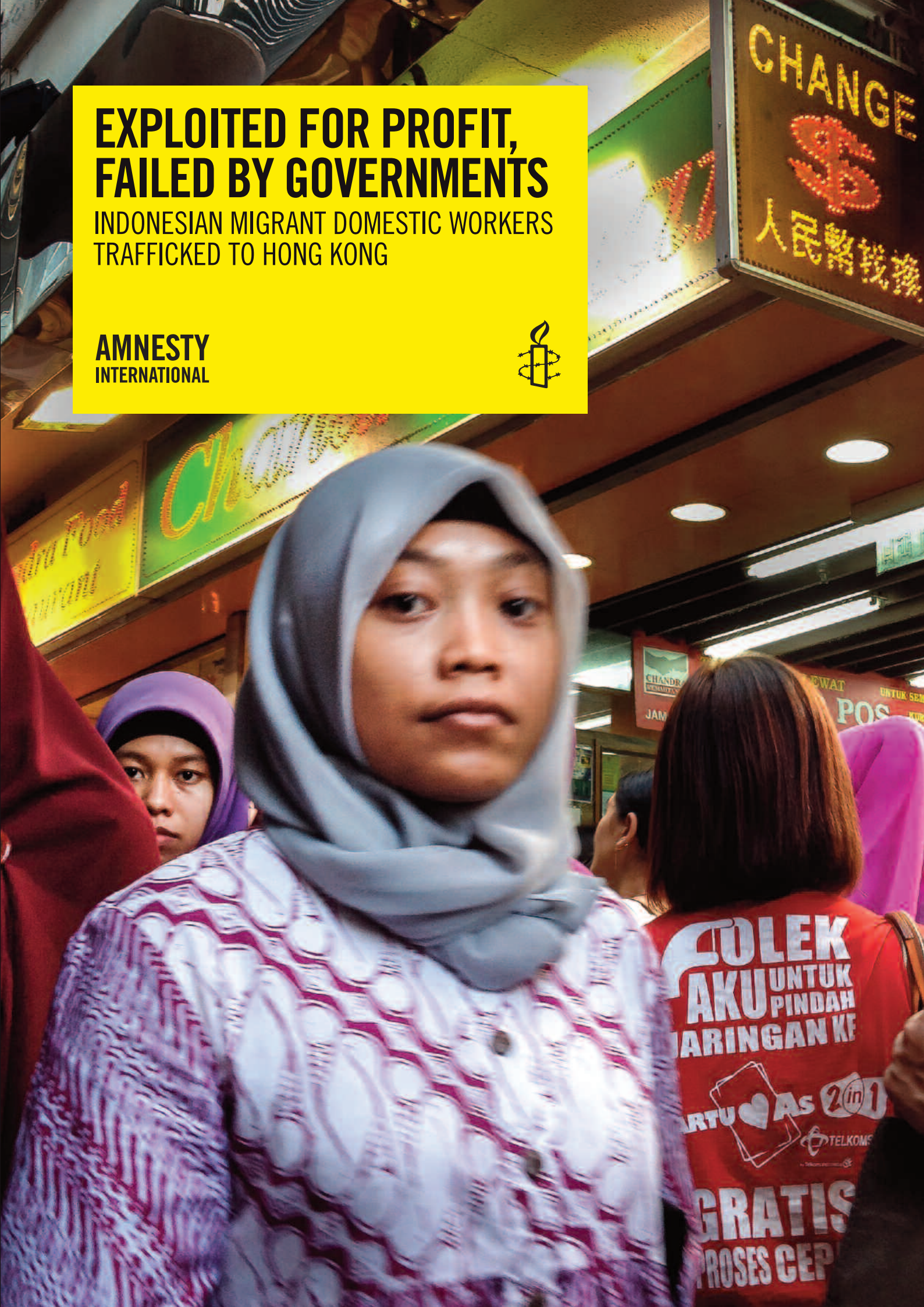
EXPLOITED FOR PROFIT, FAILED BY GOVERNMENTS

INDONESIAN MIGRANT DOMESTIC WORKERS TRAFFICKED TO HONG KONG

AMNESTY INTERNATIONAL



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Cover photo: Indonesian migrant domestic workers walk below money exchange sign in Causeway Bay, Hong Kong.

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"The wife physically abused me on a regular basis. She forcibly cut my hair with the pretext that my hair had fallen in their food but that was absurd because I didn't cook for them. Once she ordered her two dogs to bite me. I had about ten bites on my body, which broke the skin and bled. She recorded it on her mobile phone, which she constantly played back laughing. When one of the dogs vomited, she forced my face down to the vomit ordering me to eat it, but I refused. When I asked her why she kept abusing me in this way, she told me that it was because she was bored so this is how she passed the time."

NS, a 26-year-old woman from Jakarta[1]

1.1. OVERVIEW

Out of 319,325 migrant domestic workers in the Hong Kong Special Administrative Region (Hong Kong SAR), about half are Indonesian and nearly all are women.[2] Indonesians must migrate via recruitment agencies that are registered with their Government.

This report is a detailed examination of the experiences of Indonesian migrant domestic workers, from their recruitment in Indonesia to their employment in Hong Kong, and documents a series of human and labour rights violations that these workers are subject to in both territories.

The findings are based on 97 in-depth interviews conducted in Indonesia and Hong Kong (from May 2012 to March 2013) with recent migrant domestic workers who had encountered problems during the migration process, as well as interviews with recruitment agencies and relevant government departments in both territories. Amnesty International's findings were also compared with survey data collected by the Indonesian Migrant Workers Union (IMWU), between July and September 2011 from a random sample of 930 Indonesian migrant domestic workers.[3]

Amnesty International found that:

- Recruitment and placement agencies, in Indonesia and Hong Kong respectively, are routinely involved in the trafficking of migrant domestic workers and their exploitation in conditions of forced labour, as they are using deception and coercion to recruit Indonesian migrants and to compel them to work in situations which violate their human and labour rights. The principal mechanisms of coercion which are applied in both Indonesia and Hong Kong are the confiscation of identity documents, restrictions on freedom of movement and the manipulation of debt incurred through recruitment fees.

- Employers in Hong Kong frequently subject migrant domestic workers to serious human rights violations in Hong Kong, including physical or verbal abuse; restricting their freedom of movement; prohibiting them from practising their faith; not paying them the minimum wage; denying them adequate rest periods; and arbitrarily terminating their contracts, often in collusion with placement agencies.

- Both the Indonesian and Hong Kong SAR governments have not complied with their international obligations to prevent and suppress trafficking and the use of forced labour. They have failed to properly monitor, investigate and sanction individuals and organisations which are violating domestic legislation in their respective territories. This relates to the recruitment agencies in Indonesia and to placement agencies and employers in Hong Kong. In addition, both governments have regulations in place which increase migrant domestic workers' risk of suffering human and labour rights violations. These include the obligation of migrants to migrate through government-registered recruitment agencies in Indonesia, and the imposition of the Two-Week Rule and live-in requirement in Hong Kong.

1.2. REPORT FINDINGS IN INDONESIA

Amnesty International found that recruitment agencies and brokers often deceive migrant domestic workers during the recruitment process. Prospective migrants are promised good jobs with lucrative salaries, but are not properly informed about the large fees they will incur during the recruitment process or the lengthy mandatory pre-departure training they will have to undertake. Many find on arrival in Hong Kong that their jobs and terms and conditions are not what they were promised.[4]

Brokers initially identify women in their local communities who might be interested in migrating as domestic workers. To begin the process, the women hand over their identification documents to the brokers, who liaise with recruitment agencies on their behalf.

When the prospective migrants arrive at the training centres, their personal documents (e.g. identity card, school diploma and family certificate) are normally handed directly to the recruitment agency by the broker. Recruitment agencies usually obtain additional documents from the women at this time, such as birth and marriage certificates, property titles or promissory notes from the family.

These documents are held by the agency as collateral for unpaid fees. If prospective migrants change their mind after a few days and want to pull out of the process, the recruitment agency will charge them a penalty or demand payment of the full recruitment fee, which in 2012 was set at IDR 14,780,400 (US$1,730). It would take a woman around 17 months to earn this if she was employed as a domestic worker in Jakarta. The women cannot retrieve their personal documents unless they pay back this "debt" to the recruitment agency, which they will be unable to do without securing a job abroad.

The vast majority of those interviewed by Amnesty International had their personal documents retained by the recruitment agency.[5] IMWU's survey also found that nearly two thirds (64 per cent) of the respondents had their documents retained by their recruitment agency prior to their departure for Hong Kong,[6] indicating that the confiscation of identity documents is likely to be a common practice.

In this way, recruitment agencies are able to coerce Indonesian women into accepting jobs with different terms and conditions of work to what they were originally promised and to sign documents without knowing what they are for, as was the case for 32 per cent of the migrant women who took part in the IMWU survey.[7]

Recruitment agencies also exploit prospective migrants in other ways. Amnesty International found that many of the women interviewed had to wash clothes, clean the living quarters and/or take care of the children of staff and/or the owner of the recruitment agency without payment while they were being trained.[8] Many interviewees also stated that they had to work as domestic workers for families outside the training centre as part of an "internship", earning wages significantly below the market standard.[9] IMWU's survey found that 43 per cent of respondents were employed on such low-paid "internships".[10]

During the "internships" they were still charged the full training and accommodation fee even though they were not being trained, housed or fed by the agency while working as live-in domestic workers. Most women Amnesty International interviewed who had worked as "interns" felt that if they challenged their treatment, they would not get their application to work abroad approved and would subsequently be unable to pay their debt or support their families.

While in the training centres, the women interviewed had restrictions placed on their freedom of movement by recruitment agencies in order to ensure that they did not run away. Eighty-one out of 88 respondents could not freely leave the training centre. In addition, the agencies frequently placed restrictions on the use of mobile phones and family visits which further isolated the women Amnesty International spoke to from support mechanisms and external advice.

Women from several different training centres reported that they were forced to have a contraception injection. Furthermore, many women said they were forced to cut their hair short and were also frequently taunted, abused and threatened with the cancellation of their employment applications. More than a third of interviewees also told Amnesty International that they were not given enough to eat at the centres.[11]

Recruitment agencies also routinely fail to provide migrant workers with legally required documentation for their migration, including their contract, mandatory insurance and foreign employment identity card (*Kartu Tenaga Kerja Luar Negeri* or KTKLN). Amnesty International found that only 28 out of 75 respondents who responded to the question were issued a KTKLN card and only five out of 75 had a copy of their contract when they left for Hong Kong. Similarly, IMWU's research found that 57 per cent had not received a KTKLN card[12] and 77 per cent had not been given the mandatory insurance card.[13]

1.3. REPORT FINDINGS IN HONG KONG SAR

Once the migrant domestic workers arrive in Hong Kong, they continue to be at risk of abuse, as local placement agencies (contracted by the Indonesian recruitment agencies) and employers also confiscate their documents and restrict their freedom of movement. For example, Amnesty International documented that the vast majority of the women interviewed[14] had their documents taken by either their employer or the placement agency in Hong Kong and about a third of the respondents[15] were not allowed to leave the employer's house. IMWU's survey found that nearly three quarters of the women interviewed (74 per cent) had their documents confiscated by their employer or the placement agency.[16]

Migrant domestic workers are normally told that they will only get their documents back after their debt is fully repaid. The fees charged by recruitment agencies are generally higher than the maximum permitted under both Indonesian and Hong Kong law. Furthermore, if migrant domestic workers leave their job or have their contract terminated, they will normally have to pay a recruitment fee all over again.

Interviewees reported that contracts could be terminated if the worker complains about her treatment, is not considered to be a good worker or if the placement agency manipulates the situation in order to collect a new recruitment fee. IMWU documented that 17 per cent of the women it surveyed had their contract terminated before the agency fee had been repaid.[17] The fear of having their contract terminated and either not being able to secure a new job or having to repay a recruitment fee a second time compels many Indonesian migrants to remain in abusive and exploitative jobs.

As a result of these abusive recruitment practices and poor government oversight of legal requirements for both recruiters and employers, Indonesian migrant domestic workers are at risk of serious human and labour rights violations in Hong Kong. For example, Amnesty International found that interviewees worked on average 17 hours a day; numerous respondents did not receive the Minimum Allowable Wage (the minimum wage for migrant domestic workers in Hong Kong);[18] were physically or verbally abused by their employer;[19] were prohibited from practising their faith;[20] and did not receive a weekly day off.[21]

Some regulations in Hong Kong exacerbate this problem. For example, migrant domestic workers are required, by law, to live with their employers as a condition for a work permit,

preventing workers from moving out of their employer's house even when they are being exploited or are in danger of abuse. Amnesty International documented that many of the respondents did not have their own room,[22] which leaves workers without privacy, on call 24 hour a day and more vulnerable to sexual harassment or violence.

In addition, Hong Kong's Two-Week Rule stipulates that migrant domestic workers must find new employment and get an approved work visa within two weeks of their contract ending or being terminated, or they have to leave Hong Kong. This pressures workers to stay in an abusive situation because they know that if they leave their job, they are likely to have to leave the country, which for many would make it impossible to repay the recruitment fees or support their families.

This requirement in turn makes migrant domestic workers dependent on placement agencies to find them another job quickly. It also places them at risk of further exploitation, including having to accept excessive recruitment fees, a salary below the Minimum Allowable Wage, and/or poor living and working conditions just to be able to continue working in Hong Kong.

The Two-Week Rule also acts as a barrier to justice. If a migrant domestic worker leaves an abusive situation and is not re-employed within two weeks, she must leave Hong Kong, making it difficult and costly for her to file a case against an abusive employer. The only alternative is to apply for a visa extension, which does not allow her to work, at a cost of HK$160 (US$20) for 14 days. To take a case to the Labour Tribunal takes nearly two months.[23] During this time, the woman would have to renew her visa several times and pay for her own accommodation, food and other expenses without any income. The costs of doing so makes it impossible for the majority of migrant domestic workers to seek redress for human and labour rights violations. In this way, the Two-Week Rule provides a disincentive for the workers to denounce exploitative practices and seek justice through the legal channels.

1.4. OBLIGATIONS OF THE INDONESIA AND HONG KONG SAR GOVERNMENTS

The Indonesian and Hong Kong governments have both ratified the UN International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination against Women and ILO Convention No.29 on Forced Labour. Under these standards, they have a particular obligation to suppress trafficking and the use of forced labour in all its forms and to ensure that those responsible face adequate penalties which are strictly enforced.

Neither Government is fully complying with this duty. This is primarily a result of their failure to enforce appropriate domestic legislation in their own national territories. However, it should also be stressed that regulations exist in both jurisdictions that increase migrant domestic workers' vulnerability to abuse and the existing statutory frameworks need to be further strengthened.

In the case of Indonesia, *Law No. 39/2004 concerning the Placement and Protection of Indonesian Overseas Workers* (Law No. 39/2004) sets out the Government's responsibilities for the regulation and supervision of the recruitment process and for investigating and punishing recruitment agencies which do not comply with the law.

The Government is not discharging these responsibilities adequately as numerous provisions of Law No. 39/2004 are routinely violated. For example, agencies are charging fees in excess of the limit set by the Government, falsifying documents, and failing to provide migrants with a contract, insurance and a KTKLN identity card prior to departure.

Law No. 39/2004 also sets sanctions for infringements including prison sentences, fines and the revocation of operating licences for recruitment agencies. However, only 28 licences were revoked in 2011 despite evidence that violations of the provisions of Law No. 39/2004 are widespread.[24] This is reflected in the fact that respondents to the IMWU survey had been through 220 out of a total 558 recruitment agencies, with a third reporting that personal information had been falsified and more than half stating that they had not been given the mandatory KTKLN identity card.[25]

In 2007, Indonesia passed the Law on the Eradication of the Criminal Act of Trafficking in Persons.[26] Many of the cases documented by Amnesty International fall within the crime of trafficking as defined in this law. The law also requires the Government to launch prompt, comprehensive, and impartial investigations into alleged abuse. Furthermore, since 2007 several other agencies have documented practices by recruitment agencies which constitute trafficking in people under Indonesian law. These include the International Labour Organization (ILO), which recently concluded that Indonesian migrant domestic workers "are exposed to institutionalized trafficking and forced labour practices throughout the entire migration cycle".[27]

Despite this, Amnesty International is not aware of any investigation or prosecution of recruitment agencies or brokers for the trafficking of Indonesian migrant domestic workers.

The Hong Kong government maintains that "Hong Kong is one of the few places in the region that grants equal statutory labour rights and benefits to migrant workers. Migrant workers can also access the whole range or free services provided by the Labour Department and can seek redress through the legal system".[28] However, it has failed to properly monitor the activities of placement agencies within its territory and appropriately sanction those that are acting contrary to the law.

This is despite evidence that many placement agencies are routinely charging fees far in excess of the legally prescribed limit. Placement agencies often circumvent the law through collusion with employers and money lenders as well as manipulated contract termination.

Placement agencies and employers often pay salaries below the minimum wage set for domestic workers and do not give workers weekly rest days or statutory holidays. The IMWU survey alone identified 258 Indonesians who stated that they were underpaid (28 per cent of the respondents).[29] If this is representative of the general situation for all Indonesian migrant domestic workers in Hong Kong, then this would mean that more than 40,000 Indonesian women are not receiving the minimum salary that they are entitled to by law. Yet, in the two-year period up to 31 May 2012, just 342 cases of underpayment were lodged out of a total population of more than 300,000 migrant domestic workers in Hong Kong.[30] Similarly in 2012, the Commissioner for Labour revoked only two placement agencies' licence and one in the first four months of 2013.[31]

There is little doubt that regulations like the Two-Week Rule and the live-in requirement increase migrant domestic workers' vulnerability to human and labour rights violations and limit their ability to access redress mechanisms in Hong Kong. This has been recognized by several UN human rights expert panels, including the Committee on Economic, Social and Cultural Rights (2005), Committee on the Elimination of Discrimination against Women (2006), Committee on the Elimination of Racial Discrimination (2009) and Human Rights Committee (2013). All of these UN bodies have specifically called on the Hong Kong government to review or repeal the Two-Week Rule. The latter two also called for the repeal of the live-in requirement.

In addition, there is no comprehensive anti-trafficking law that prohibits all forms of trafficking in Hong Kong and there have been no prosecutions for trafficking for forced labour offences against Indonesian migrant domestic workers.[32]

It is the responsibility of the Indonesian and Hong Kong authorities to ensure that those who have suffered human and labour rights violations are able to access functioning redress mechanisms, and that those responsible face adequate punishments.

1.5. KEY RECOMMENDATIONS

The responsibility for protecting and promoting the rights of migrant domestic workers lies with both countries of origin and destination. Amnesty International's key recommendations to the Governments of Indonesia and Hong Kong SAR in this regard are outlined below.

Amnesty International calls on the Government of Indonesia to:

- Register and monitor brokers through the National Board for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI);

- Ensure that recruitment agencies provide migrant domestic workers with a written contract in Indonesian and an itemised receipt for the recruitment fee charges which reflects the structure set out in Ministerial Decree No. 98/2012;

- Strengthen the monitoring of recruitment agencies, including through increased capacity for regular and unannounced inspections, and sanction recruitment agencies who violate Law No. 39/2004;

- Use the 2007 anti-trafficking regulations to prosecute recruitment agencies which are involved in the trafficking of migrant domestic workers and amend Law No. 39/2004 so that the use of deception as a means of trafficking faces adequate punishments rather than the administrative sanctions currently outlined in article 72 of the Law;

- Incorporate the provisions of the UN Migrant Workers Convention into domestic law and implement it in policy and practice;

- Ratify and fully implement the ILO Domestic Workers Convention. In particular, take measures to ensure that fees charged by recruitment agencies are not deducted from the remuneration of domestic workers.

Amnesty International calls on the Government of Hong Kong SAR to:

- Thoroughly regulate and monitor placement agencies in its territory and sanction those which are operating in violation of Hong Kong's laws (e.g. in respect to illegal wage deductions and confiscation of contracts or identity documents), including the application of criminal sanctions when appropriate;

- Amend the Two-Week Rule to allow migrant domestic workers a reasonable period to find new employment, including incorporating the average time of 4-6 weeks it takes to issue a new visa;

- Amend current legislation which forces migrant domestic workers to live with their employers and excludes them from the Minimum Wage Ordinance;

- Waive the costs of visa extensions for migrant domestic workers who are seeking compensation for human and labour rights abuses, and ensure that they have effective access to appropriate support measures, such as shelters and interpretation, at all stages of redress, including the conciliation process at the Labour Department;

- Ensure that the prohibition of illegally exacted forced or compulsory labour is clearly defined in law with penalties that are adequate and strictly enforced, in accordance with obligations under article 25 of the ILO Forced Labour Convention;

- As a matter of priority, extend the UN Trafficking Protocol to Hong Kong SAR (ratified by the People's Republic of China in 2010), incorporate its provisions into Hong Kong law and implement them in policy and practice;

- Pursue with the Central Government in Beijing the ratification of the UN Migrant Workers Convention and ILO Domestic Workers Convention, incorporate their provisions into Hong Kong law and implement them in policy and practice.

2. INTRODUCTION AND METHODOLOGY

Over the last five years (2008-2012), some 500,000 Indonesian migrant workers officially migrated abroad for work each year. About 70 per cent were women who were mostly employed as domestic workers in Asia and the Gulf.[33]

Previous research reports by Amnesty International[34] have shown that migrant workers in Asia have been trafficked for exploitation and forced labour in countries of destination. These reports also indicated that migrant domestic workers are at higher risk of human rights violations, including violations of their labour rights, due to their frequent exclusion from the scope of labour laws and the isolated nature of their work.

In 2013, a meeting of ILO experts on forced labour and trafficking also underlined the specific risks that migrant workers are exposed to:

> *"On numerous occasions the Committee of Experts has expressed concern about the vulnerable situation of migrant workers, including migrant domestic workers, who are often subjected to abusive practices by employers, such as the retention of their passports, the non-payment of wages, deprivation of liberty, and physical and sexual abuse, which cause their employment to be transformed into situations that could amount to forced labour."* [35]

This report's focus on domestic workers is timely, as ILO Convention No.189 concerning Decent Work for Domestic Workers, 2011 (Domestic Workers Convention) came into force in September 2013. The Convention contains comprehensive measures which, if fully implemented, would provide considerable protection to domestic workers against exploitation, forced labour and other human and labour rights abuses (see Appendix 5 for a summary of the Convention's key measures).[36]

This report looks at the full migration cycle of Indonesian migrant domestic workers, examining the extent to which both the countries of origin and destination meet their human rights obligations with respect to this group of workers. In Indonesia, the report addresses the recruitment, training and departure procedures. In the Hong Kong Special Administrative Region (Hong Kong SAR or HKSAR), it examines the terms and conditions of work, the methods used to control migrant domestic workers, and access to redress mechanisms.

2.1. METHODOLOGY

Between May and October 2012, Amnesty International interviewed 50 Indonesian migrant domestic workers in Hong Kong. In March 2013, further interviews were conducted with 47 returnees in Indonesia who had worked in Hong Kong as domestic workers. All of the interviewees were women. Interviews were facilitated by migrant organisations in Hong Kong and Indonesia.[37]

Amnesty International sought to interview Indonesian migrant domestic workers who had arrived in Hong Kong between 2008 and 2012,[38] and experienced problems during the migratory process. The interviewees are therefore not a random sample of migrant domestic workers, but do provide an in-depth understanding of the migration process and the types of human and labour rights abuses encountered by these women.

Interview questions (see Appendix 2) focused on what happened during the recruitment process, at the training centre in Indonesia, while the interviewees were working in Hong Kong, and when they returned to Indonesia. To protect the identities of these interviewees, their names have not been used and their province, regency or closest city was listed as their place of origin.

Amnesty International also conducted interviews in Hong Kong and Indonesia with the recruitment agencies, brokers, local trade unions, NGOs, employers association and inter-governmental institutions, as well as visited two training centres (in Blitar and Malang). In addition, Amnesty International met with Indonesian officials from the Ministry of Manpower and Transmigration, National Board for the Placement and Protection of Indonesian Overseas Workers (*Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia* or BNP2TKI), Consulate General of Indonesia in Hong Kong, Labour Office (*Dinas Tenaga Kerja* or *Disnaker*) of Blitar Regency, and Hong Kong SAR officials from the Labour and Immigration Departments.

While a total of 97 Indonesian migrant domestic workers were interviewed for this research, not all interviewees answered all questions. Some issues in the recruitment and migration process were only identified during the research and so were not asked in the initial semi-structured interviews. The variation in the total response rate also arises from some interviewees being unable or unwilling to answer particular questions (e.g. because they could not remember, were traumatised or the questions were not relevant to their situation).

In addition to the interviews undertaken by Amnesty International, the report also makes use of data collected from questionnaires by the Indonesian Migrant Workers Union (IMWU), in conjunction with the International Trade Union Confederation (ITUC) and Hong Kong Confederation of Trade Unions (HKCTU), between July and September 2011 (hereafter referred to as the IMWU survey). The questionnaire was completed by 930 Indonesian migrant domestic workers in public venues[39] (e.g. parks and other places where domestic workers meet) throughout Hong Kong.[40]

PART ONE: MIGRATION FROM INDONESIA

"I graduated from high school at 18 years old. This is my first time working abroad. I decided to work in Hong Kong because I needed the money to support my father and younger brother who is still in school. There are no jobs for me in Indonesia. It's a poor country. You can earn a lot more working in Hong Kong."

DF, a 23-year-old woman from Semarang[41]

3. MIGRATION FROM INDONESIA – RECRUITMENT

3.1. OVERVIEW OF MIGRATION ISSUES

According to government statistics, almost three million Indonesians officially migrated abroad for work between 2008 and 2012, of which about 70 per cent were women. Indonesian migrant workers were mainly employed as domestic workers, caregivers and labourers (e.g. plantation and construction) in the Gulf States and Asia.[42] This makes Indonesia one of Asia's major countries of origin for labour migration. Consequently, migration has become an increasingly important part of Indonesia's strategy for economic growth.[43] In 2012 alone, it is estimated that Indonesian migrant workers (*Tenaga Kerja Indonesia* or *TKI*) sent US$7.1 billion home in remittances.[44]

Year	Women	Men	Total
2008	496,131	148,600	644,731
2009	528,984	103,188	632,172
2010	451,120	124,684	575,804
2011	376,686	210,116	586,802
2012	279,784	214,825	494,609

Figure 1: Total number of Indonesian migrant workers, 2008-2012 (Source: BNP2TKI)[45]

Most documented migrant workers come from West Java, Central Java, East Java, West Nusa Tenggara (NTB) and Banten.[46] Several of these regions have a higher than average incidence

of poverty (East Java 13.08 per cent, NTB 18.02 per cent, NTT 20.41 per cent,[47] compared to a national average of 11.66 per cent[48]). High levels of unemployment and underemployment, as well as wage disparities between comparable work in Indonesia and other countries are key factors in their decision to migrate overseas for work.

Low levels of education in Indonesia,[49] particularly for women and girls from poor and rural backgrounds, mean that most female migrants end up working in the informal sector, undertaking low and semi-skilled work. Many seek employment as domestic workers, as this is one of the few employment opportunities open to them.

3.2. MIGRATION TO HONG KONG

Hong Kong SAR is one of the principal destinations for Indonesia's migrant domestic workers. According to the National Board for the Placement and Protection of Indonesian Overseas Workers (*Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia* or BNP2TKI), 18,237 workers officially migrated to Hong Kong from January to May 2012.[50] Of these, 98 per cent were women. In fact, women have consistently accounted for over 98 per cent of Indonesian workers officially migrating to Hong Kong since at least 2006.[51]

Indonesians, along with Filipinos, make up the great majority of migrant domestic workers in Hong Kong, where they are referred to as "foreign domestic helpers".[52] The number of Indonesian migrant domestic workers has grown significantly over the past decade. As of 30 September 2013, there were about 149,098 Indonesians employed as domestic workers in Hong Kong. They now make up nearly half of the migrant domestic workforce, which stands at 319,325.[53]

Year	Women	Men	Total
2006	19,243	857	20,100
2007	29,961	12	29,973
2008	30,192	12	30,204
2009	32,401	16	32,417
2010	33,239	23	33,262
2011	49,122	1,161	50,283
2012 (Jan-May)	17,905	332	18,237

Figure 2: Migration of Indonesian workers to Hong Kong SAR, 2006-May 2012 (Source: BNP2TKI)[54]

According to the BNP2TKI, the top three regencies where Indonesian migrant domestic workers employed in Hong come from are Malang and Blitar in East Java, and Kendal in Central Java.[55] Many of the Indonesian migrant domestic workers interviewed by Amnesty International identified the importance of earning an income to support their families and contributing to their household income as the prime motivator for working in Hong Kong.

3.3. ROLE OF RECRUITMENT AGENCIES AND BROKERS

Prospective Indonesian migrants seeking overseas employment in domestic work are required to apply through government-approved private recruitment agencies (referred to as *Perusahaan Jasa Tenaga Kerja Indonesia* or PJTKI[56]), as stipulated under article 10 of *Law No. 39/2004 concerning the Placement and Protection of Indonesian Overseas Workers* (Law No. 39/2004).[57]

Article 31 of Law No. 39/2004 outlines the duties of recruitment agencies which include: processing the recruitment licence (*Surat Ijin Pengerahan* or SIP); recruitment and selection; education and job training; health examination and psychological test; processing of documents; competence tests; the Final Pre-Departure Program (*Pembekalan Akhir Pemberangkatan* or PAP); and arrangement for the departure to the country of destination.

In addition, article 34 of Law No. 39/2004 states that prospective migrant workers must be properly informed about the costs of the recruitment process (e.g. the charges for training, accommodation and food, medical exams, and insurance); their rights and responsibilities; the conditions and risks in destination countries; and available protection mechanisms.

There are 558 registered recruitment agencies in Indonesia.[58] These agencies are mainly located in the capital of Jakarta or major cities in the provinces and do not have a presence in the rural areas where most migrants come from. For this reason, the first point of contact for prospective migrant domestic workers is normally a broker (*petugas lapangan* or sponsor).

It is through brokers that the vast majority of prospective migrants learn about job opportunities abroad, their earning potential and how to process their application.

Nearly all of Indonesian migrant domestic workers interviewed by Amnesty International had a broker organise their job for them.[59] This is in line with the findings of the 2011 IMWU survey involving 930 Indonesian migrant domestic workers in Hong Kong, which found that 78 per cent of respondents were recruited by brokers.[60]

Brokers can potentially earn a good living recruiting migrant domestic workers in rural areas of Indonesia. For example, a broker working for Tritama Bina Karya Overseas Employment Agency in Malang, Indonesia, told Amnesty International that he receives IDR 3,500,000 (US$360) commission for "each housemaid going to Hong Kong". This one commission alone is more than three times what a domestic worker could expect to earn as a monthly salary in Jakarta (between IDR 800,000-1,000,000 or US$80-100).[61] The broker told Amnesty International that on average, he recruits "five to six housemaids a month."[62]

3.4. DECEPTION BY RECRUITERS AND DEBT IN THE RECRUITMENT PROCESS

Recruitment agencies and brokers who work for them are routinely deceiving migrant domestic workers in relation to recruitment costs, salary and other terms and conditions of work in Hong Kong.

In interviews conducted by Amnesty International, 43 migrant domestic workers stated that brokers offered cash rewards to the women who verbally agreed to "sign" with them. The money is usually given to them at the training centre when they have passed the medical exam and are eligible for work in Hong Kong.[63]

RE, a 36-year-old woman from Lampung (2011-),[64] was one of the 43 migrant interviewees who received money in exchange for agreeing to "sign" with a particular agency:

> *"When I first met my broker, he promised me IDR 1,000,000 [US$100] if I went to Hong Kong with the recruitment agency he works for. He gave me the money at the training centre, but only after I passed the medical exam."*[65]

In some cases, brokers fail to honour their promise of the monetary reward, as in the case of UM, a 30-year-old woman from Ponorogo (2009-2010):

> *"In my village, the broker promised to give me IDR 1,000,000 [US$100] but when I went to the training centre, he only gave me IDR 200,000 [US$20]. He promised to give me the rest of the money when I got an employer but he never did."*[66]

SK, a 42-year-old woman from Malang (2012-), did not receive any of the money promised to her by her broker:

> *"My broker promised to give me IDR 5,000,000 [US$510] if I agreed to go abroad with the recruitment agency he recommended, but I never received the money. The broker also promised that I would be at the training centre for three months, but instead I was there for 10 months."*[67]

Figure 3: A migrant domestic worker's rural home in East Java (Source: Amnesty International, Photographer: Robert Godden)

Once prospective migrant women agree to work abroad as domestic workers, their broker obtains from the women a written family permission to migrate[68] and their personal documents (e.g. their identity card), which are passed on to the recruitment agency employing the broker to initiate the application process. In the minority of cases where a broker is not involved, prospective migrants bring the required documents directly to the recruitment agency.

Working on commission, it is in the brokers' financial interest to convince the prospective migrant to seek employment as a domestic worker abroad and they therefore have a strong incentive to make the job as appealing as possible, including by making false promises about the nature of the work the women will be doing in Hong Kong or elsewhere.

More than a quarter of the migrant domestic workers interviewed by Amnesty International were deceived by a broker in relation to their pay or other key aspects of their terms and conditions of employment.[69] A case in point is TI, a 33-year-old woman from Ponorogo, who worked as a domestic worker in Hong Kong from 2008-2010:

> *"My broker promised me a salary of HK$4,000 [US$515] but instead, I was paid HK$2,000 [US$260]. He also said that it would be easy work in a small flat, but in reality, it was a very big house and I had to take care of a 10-year-old child, the grandparents and two dogs."*[70]

RT, a 32-year-old woman from Trenggalek (2011-2013), also experienced deception by her broker:

> *"When the broker came to my house, he said that I could find a job quickly in Hong Kong and earn full salary of HK$3,580 [US$460]. But in reality, I was only paid HK$2,000 [US$260]."*[71]

WS, a 25-year-old woman from Ponorogo (2010), was deceived regarding her wages:

> *"Both my broker and recruitment agency in Malang assured me that I would be paid HK$3,580 [US$460] per month after the deduction period, but in reality, I only received HK$2,000 [US$260]."*[72]

RM, a 41-year-old woman from Ponorogo (2009), was similarly deceived:

> *"When I was in Indonesia, my broker and the agency in Surabaya promised me a monthly salary of HK$3,900 [US$500], but I found out from the Hong Kong placement agency*[73] *that I would only receive HK$2,000 [US$260]."*[74]

The 2011 IMWU survey found that 41 per cent of those interviewed were lured by promises of "big salaries" and 24 per cent by guarantees of finding immediate employment in Hong Kong.[75] A total of 32 per cent also stated that they did not receive the necessary information about their work in Hong Kong when they were recruited by the broker.[76]

Without accurate information regarding their future salary, working conditions and the costs of the recruitment process, prospective migrant workers cannot make an informed decision about whether to take the job or not. By the time they find out the full cost of recruitment and the true terms and conditions of work – either at the training centre or in the country of destination – it is too late to withdraw from the migration process, as they are already in debt to the recruitment agency and working abroad is the only means they have to repay what they owe.

NE, a 29-year-old woman from Ponorogo (2008-2010), was promised a salary of HK$4,000 (US$515) by her broker, but found out at the training centre in Jakarta that her actual salary would be much lower:

> *"The recruitment agency owner said my monthly salary in Hong Kong would be HK$3,480 [US$450]. I was surprised and wanted to return home but I couldn't because when I had arrived at the training centre, the staff made me sign a document that said I was responsible for re-paying the recruitment fees or else I had to pay a penalty of IDR 27,000,000 [US$2,770]. I needed the job to help out my parents, so I had no choice but to stay."*[77]

Another interviewee, IR, a 29-year-old woman from Ponorogo (2009-2011), was also deceived by her broker on her salary:

> *"My broker told me that I would earn the full salary of HK$3,580 [US$460] but two weeks after my arrival at the training centre in Tangerang, the recruitment agency boss told me that I would be paid HK$2,600 [US$330]. I wanted to go back home but I couldn't because the staff told me that if I backed out now, I would have to pay the agency a penalty of IDR 12,000,000 [US$1,230]."*[78]

RA, a 23-year-old woman from Ponorogo (2008-), found out at the training centre in Surabaya that her broker had lied about the terms and conditions of her work in Hong Kong:

> *"Instead of HK$3,580 [US$460], the recruitment agency boss informed me that I would be underpaid HK$2,000 [US$260] for two years with no rest days or holidays. He said if I wanted a rest day, then my employer would deduct HK$200 [US$25] from my monthly salary."*[79]

SP, a 23-year-old woman from Ponorogo (2009-2011), confronted her broker about his deception without success:

> *"Upon arrival at the training centre in Jakarta, the recruitment agency boss told me that I would get paid HK$2,000 [US$260]. When I asked why, they told me it was because this was my first time to work abroad so that was the normal salary for first timers. When I confronted my broker about the salary discrepancy, he just agreed with the agency, but didn't admit to deceiving me."*[80]

In this way, a significant number of brokers are involved in the trafficking of Indonesian migrant women as they use deception to recruit them into jobs where they face exploitation and forced labour. Recruitment agencies are complicit in this, as the brokers are working on their behalf to identify and sign up prospective migrant domestic workers. This is despite the fact that Law No. 39/2004 clearly states that recruitment agencies are not allowed to recruit with the help of or through brokers.[81]

While the Government is not enforcing this provision of the law, the National Board for the Placement and Protection of Indonesian Overseas Workers (*Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia* or BNP2TKI), a governmental agency, has recently been attempting to register brokers. One broker from Banyuwangi, East Java explained:

> *"I have been working as a broker for six years. I am registered with the BNP2TKI, which means that I can only work for one recruitment agency. The BNP2TKI certificate allows me to recruit prospective migrants in five regencies of East Java, which is the maximum."*[82]

However, such certification and regulation are not established in law or done in coordination with relevant government bodies such as the Ministry of Manpower and Transmigration.[83] In order to effectively stamp out trafficking for labour exploitation, it is essential that brokers are registered and held accountable. Therefore, this initiative needs to be applied nationally and the Government must be much more pro-active in monitoring the brokers' activities and applying effective sanctions against those who are not officially registered.

Furthermore, some agencies are directly involved in the deception and exploitation of migrant domestic workers, as they are negotiating contracts which pay salaries below the Minimum Allowable Wage set by the Hong Kong government (this is currently HK$4,010 or US$517).[84] This is in violation of article 8 of Law No. 39/2004, which specifically states that all Indonesian workers are entitled to receive a wage according to the standards of wages that apply in the destination country of employment. The testimonies collected by Amnesty International suggest that this is a widespread practice.

A case in point is JH, a 22-year-old woman from Malang (2012-), who was originally promised HK$3,740 (US$480), the Minimum Allowable Wage at that time:

> *"The recruitment agency told me that after the seven-month deduction period, I would receive HK$2,200 [US$280] per month. The agency explained that this salary was normal for first-time migrant domestic workers. I didn't know that this was illegal until I came to Hong Kong and met other Indonesian domestic workers."*[85]

YT, a 24-year-old woman from Surabaya (2010-), was also not paid the Minimum Allowable Wage, which at the time was HK$ 3,580 (US$460):

> *"My recruitment agency in Indonesia told me that I would earn HK$2,200 [US$280] per month. Although I knew that this was underpayment, I didn't know how to ask for my correct wages. The staff told us that our employers will underpay us and specifically instructed us not to say anything or complain to anyone, and to just accept it."*[86]

AK, a 30-year-old woman from Ponorogo (2010), was promised by her broker the Minimum Allowable Wage of HK$3,580 (US$460) but was told otherwise at the training centre in Malang:

> *"After one month, the recruitment agency boss told me that I would get paid HK$2,000 per month, but if the Hong Kong authorities asked me, I must tell them that I receive the full salary. I couldn't turn back because the staff reminded me that a lot of money was already invested in me. If I changed my mind, I would have to pay a huge penalty. I also needed to earn money, so that I could support my family in Indonesia."*[87]

It is not uncommon for recruitment agencies to coerce migrant domestic workers in this way. RT, a 32-year-old woman from Trenggalek (2011-2013), was also pressured into accepting a salary below the minimum wage:

> *"I signed a document in Indonesian that said I would receive HK$2,000 [US$260] after the five-month deduction period. I couldn't refuse to sign it because I was already at the training centre and had just signed my employment contract."*[88]

4. MIGRATION FROM INDONESIA – THE TRAINING CENTRES

"When I arrived at the training centre in Surabaya, I had to get my hair cut short like a boy. No trainee could leave the centre without depositing more than IDR 1 million [US$100] or a property certificate with the broker's guarantee. The recruitment agency owner also kept our mobile phone. We could only call our family once a week. Aside from the training, we had to do housework – like laundry and cleaning – for the owner and staff, as well as baby-sit their children. We had very little to eat. Once the owner told all the trainees that he was purposely feeding us very little food so that we could get used to life as a migrant domestic worker in Hong Kong, as we would surely be underfed by our employers."

GH, a 29-year-old woman from Cilacap[89]

4.1. PURPOSE

The Government of Indonesia requires prospective migrant domestic workers to undergo 600 hours of education and job training[90] at a facility run by private recruitment agencies, prior to taking up their job abroad. The purpose of the training, as articulated in Law No. 39/2004, is to ensure that trainees have the necessary skills to do their job; understand the culture, religion and society in the destination country; are able to communicate in the language of the destination country; and know their rights and responsibilities as prospective migrant workers.[91]

Upon completion of their training, prospective migrant domestic workers must undergo a competency test on their skills and relevant language (for example, Cantonese for those working in Hong Kong). The test and certification are conducted by the National Education Standards Agency (*Badan Standar Nasional Pendidikan* or BSNP).[92] Successful candidates should receive a government-accredited certificate of work competence.[93] It is not possible to obtain such a certificate without undergoing training at the centres and only those with this certificate are permitted to work abroad. However, certified migrant domestic workers who return to Indonesia and wish to work in Hong Kong again do not need to repeat the training process or pay recruitment fees again if they return to Hong Kong within a year.[94]

Normally, the training centre is located at the same place as the recruitment agency which is running the facility. Thus, most prospective migrants travel from rural areas by bus, car and/or ferry to reach the centres in Jakarta or large cities in the provinces. This journey can take as long as one day and it is not unusual for brokers to accompany the prospective migrants.[95]

Except in rare cases,[96] trainees live at the training centre until their departure to the destination country. However, the great majority of the women interviewed by Amnesty International stated that they were not told by their broker or recruitment agency how long they would have to stay at the centre (55 out of 61 migrants who were asked and responded to the question) and 78 per cent of the respondents to the IMWU survey were not given clear information on how long they would have to stay at the training centre.[97]

The migrants interviewed by Amnesty International spent on average four months at the training centre, with the length of stay ranging from one week to 15 months.[98] On average, interviewees attended training for about 7.5 hours per day.[99] Sunday was a rest day for the vast majority with some having a half day free on Saturday as well.

4.2. RECRUITMENT AGENCIES' CHARGES

In July 2008, the Indonesian government laid out the cost structure of the recruitment fees and the maximum amount a prospective migrant domestic worker can be charged.[100] In 2008, this was set at IDR 15,500,000 (US$1,525), plus US$15 guidance fee which was charged to migrant domestic workers employed in Hong Kong.

Despite this and other more recent decrees on recruitment fees (see Appendix 3 for the full breakdown of charges as of 2012[101]), the great majority of prospective migrants are not properly informed about the breakdown of the costs (e.g. how much they pay for the competency test, insurance, training, food and accommodation). This was the case for 53 out 54 migrant domestic workers interviewed by Amnesty International who were asked and responded to this question. Similarly, the IMWU survey found that 77 per cent of respondents were not informed about the cost of their training.[102]

In practice, it is only upon arrival at the training centre that many prospective migrants are informed by the staff of their obligation to repay the recruitment fee, usually through monthly payments of HK$3,000 (US$387) for a seven-month period, once they commence work in Hong Kong. This means that even migrant domestic workers who receive the statutory Minimum Allowable Wage will be left with only a quarter of their salary for the first seven months of their contract after their fees are deducted.[103]

Most prospective migrants are also not aware that if they try to change employers in Hong Kong, it is very likely that the placement agency will charge them further agency fees. The fees charged for the second employment vary, but normally extend the repayment period for several months (see section 9.1).

Moreover, despite the varying length of stay at the training centre and irrespective of previous experience, all migrant domestic workers must pay one flat fee according to the government cost structure. The current fee includes IDR 5,500,000 (US$480) for 600 hours of training, and accommodation and meals for 110 days, and IDR 3,000,000 (US$300) for the training

equipment[104] (see Appendix 3). The full charge is payable from their first day attending the training centre. The differing lengths of stay are confirmed by Drs Mokh Kurdi, President of Tritama Bina Karya Overseas Employment Agency:

> *"The amount of time maids spend in the training centre depends on the maids' experience. It is shorter if they are more experienced – this can be as short as 10 days with working experience in Hong Kong."*[105]

Without an itemised breakdown of the recruitment fee, prospective migrants are also unaware of what services they have paid for and consequently what responsibilities their recruitment agency has towards them. They are equally unable to identify any overcharging or billing for services which have not been provided.[106]

In view of the above, it is not surprising that many interviewees were made to pay for some items or services (e.g. books, uniforms, medical exam and competency test), which are already included in the official recruitment fee – effectively being double charged. Eleven women Amnesty International spoke with reported that they also had to purchase some of these items at the training centre, where the price was more expensive than elsewhere. Most remarked that they had "no choice" but to buy them at the training centre, as they were not permitted to leave because they are unable to provide collateral (see section 4.3). The IMWU survey found that 69 per cent of those interviewed were required to purchase books, stationery, uniforms and other items directly from the recruitment agency at inflated prices[107] and 14 per cent had to pay an additional fee to sit their competency exam.[108]

Figure 4: Many women go to Jakarta for training before working as domestic workers in Hong Kong (Source: Amnesty International, Photographer: Robert Godden)

4.3. RESTRICTIONS ON FREEDOM OF MOVEMENT AND CONTACT WITH PEOPLE OUTSIDE OF THE TRAINING CENTRES

Prospective migrants' freedom of movement is severely restricted from the time of their arrival at the recruitment centre until their departure for employment abroad. The vast majority of migrants interviewed by Amnesty international stated that they could not freely

leave the training centre (77 out of 81 who were asked and responded to the question). Normally, they had to first deposit cash or a property certificate (land, house, motorcycle) as collateral to the recruitment agency before they could leave. Cash amounts varied from facility to facility, but most deposited between IDR 500,000-3,000,000 (US$50-300). These control measures are in addition to the retention of prospective migrants' key identity documents on first entry into the training centre.

Such confinement very effectively prevents women from changing their minds about going abroad for employment and returning home. HM, a 28-year-old woman from Banten (2012-), explained:

> *"If we wanted to go home, we had to provide IDR 3,000,000 [US$310] or property certificate for a motorcycle or land as a guarantee to the recruitment agency. So, I had to remain at the centre for the entire nine months of my training because I had no money or property."*[109]

In some training centres, trainees are categorised into groups of people that were more or less valuable to the agencies, as described by AU, a 30-year-old woman from Tulungagung (2012-):

> *"All trainees without an employer had to deposit IDR 2,000,000 [US$200] and those with an employer had to deposit more money – IDR 5,000,000 [US$510] for a three-day pass."*[110]

Some interviewees avoided leaving the premises because they were told it could reflect badly on their candidacy, as they would be seen as less committed. This is expressed by IR, a 29-year-old woman from Ponorogo (2009-2011):

> *"I never left the training centre in the four months that I was there because the staff warned me that if I left, it would not be viewed positively and my application process for employment in Hong Kong would take longer."*[111]

Further restrictions included the prohibition of the use of personal mobile phones, which were often confiscated by the staff upon arrival at the training centre. Many of the women interviewed by Amnesty International were not able to keep their mobile phone with them (34 out of 43 who were asked and responded to this question). NU, a 31-year old woman from Ponorogo (2011), noted:

> *"The staff at the training centre in Surabaya checked us upon arrival and confiscated our mobile phone. We were only allowed to receive incoming calls to the office phone on Sundays – outgoing calls were strictly for emergency situations. I received calls three times in eight months."*[112]

HS, a 32-year old woman from Ponorogo (2009), recounted her experience:

> *"I was at a training centre in Jakarta where there were about 400 trainees. As we could only receive incoming calls on Sundays, there were so many people waiting, especially since there was only one office phone! It was very difficult to receive calls from my family."*[113]

LJ, a 38-year-old woman from Ponorogo (2010-) expressed the impact this restriction had on her:

> *"Life in the training centre was depressing because there were so many restrictions. We were only allowed one phone call per week – so one hour to speak to our family."*[114]

As well as the restrictions on their freedom of movement and access to telephones, interviewees also told Amnesty International that their recruitment agency imposed restrictions on family visits.[115] Normally, visits were limited to one day per week, usually a Sunday, within specific hours. Some interviewees added that there was a time limit per visit.

4.4. UNPAID OR UNDERPAID WORK

During the training period, prospective migrant domestic workers are often engaged in work in the guise of "training" without remuneration. Nearly half of all the migrants interviewed by Amnesty International shared a similar experience with LR, a 37-year-old woman from Bandung (2011-):

> *"At the training centre in Semarang, I had to wash the clothes, take care of the children and clean the living quarters of not just the staff members, but also the recruitment agency boss."*[116]

GM, a 45-year-old woman from Banyuwangi (2010-), detailed her daily routine:

> *"Everyday at 4am, along with other trainees, I cleaned the training centre. Then after classes ended at 5pm, we worked for the staff and agency owner – making them coffee, cooking, cleaning and doing their laundry. We also had to do small services like massage the agency owner."*[117]

Furthermore, many interviewees stated that they had to work as a domestic worker for a family outside the training centre as part of an "internship" during the period they were being charged for training.[118] Some of them were not paid, while others received between IDR 50,000-500,000 (US$5-50) per month, when the standard wage for domestic workers in Jakarta is about IDR 800,000-1,000,000 (US$80-100) per month.[119] The IMWU survey found that 43 per cent of respondents were employed in "internships" on very low or no wages.[120]

This situation is not consistent with article 46 of Law No. 39/2004 which states that: "It is prohibited to employ prospective Indonesian workers who are attending education and training".

HM, a 28-year-old woman from Banten (2012-), described her two-month "internship":

> *"I had to work for the recruitment agency owner's relatives who lived in a 3-storey house. I cooked and cleaned for them, and was paid IDR 300,000 [US$30] per month, which is lower than what other domestic workers in Jakarta earn. They make at least IDR 700,000 [US$70] per month. But I was in no position to refuse because if I did, the agency wouldn't find me a job in Hong Kong."*[121]

Similarly, NP, a 43-year-old woman from Ponorogo (2009-2011), also felt she could not refuse to work:

> *"I had to work for four months in Surabaya for the mother of the Vice Director of the recruitment agency. I was paid IDR 100,000 [US$10] per month. It was not enough given the workload. Other domestic workers in Surabaya get IDR 700,000 [US$70] per month. But I couldn't refuse because it was mandatory and I was afraid that the agency would cancel my job in Hong Kong."*[122]

4.5. THREATS, ABUSE AND PUNISHMENTS

IMWU recorded that five per cent of survey respondents were subject to physical and sexual abuse, and 17 per cent to verbal abuse.[123] In Amnesty International's research, interviewees raised verbal abuse by staff members as the most common problem. The abuse and threats were usually levelled at the trainees during instruction in the form of taunts and denigrating remarks.

JH, a 22-year-old woman from Malang (2012-) stated:

> *"If we didn't follow the instructions given by staff members, they would get angry and personally attack us with comments like 'You'll only be a domestic worker in Hong Kong, you're not worth anything'."*[124]

IR, a 29-year-old woman from Ponorogo (2009-2011), was also subject to abuse by staff at a training centre in Tangerang:

> *"The instructors kept telling us to study hard and were never satisfied. They called me stupid and threatened that if I didn't work harder, they would not send me to Hong Kong."*[125]

According to the interviews, it was common practice for staff to threaten to cancel trainees' employment applications to Hong Kong. Staff members also punished trainees for failing to meet certain standards in class or for punctuality issues. HI, a 40-year-old woman from Ponorogo (2009-2011), described the situation at a training centre in Jakarta:

> *"The staff hurled verbal abuse at us if we woke up late, arrived tardy to class or didn't clean well. They would then punish us by making us clean the bathroom, run many laps around the training centre or stay up all night guarding the centre."*[126]

Another woman, HS, a 32-year old woman from Ponorogo (2009), recounted the punishment she and others received in class:

> *"The instructors at the training centre in Jakarta always pushed us to work harder and if we gave the wrong answers in class, we were punished. For example, I had to stand up still for five hours. Other trainees were hit by the instructors on their hand or back."*[127]

RA, a 23-year-old woman from Ponorogo (2008-), detailed her experience:

> *"The staff imposed penalties on us for everything. We were punished for the smallest things like eating peanuts in bed. The punishment for that was to mop the floors on rainy days or washing staff members' bicycles."*[128]

Regarding the training environment, GN, a 29-year-old woman from Semarang (2011-), noted:

> *"There were more than 500 trainees at this centre in Jakarta – going to five different countries. During my brief stay of less than two months, many trainees ran away due to staff pressure and the strict regime at the centre."*[129]

One interviewee, JE, a 37-year-old woman from Trenggalek (2010-2012), reported having experienced sexual harassment at a training centre in Jakarta:

> *"A male staff groped me, touching my breasts. When it happened a second time, I complained to a female staff who told him to stop and he did."*[130]

4.6. ENFORCED CONTRACEPTION

Several women complained that they were forced to have a contraception injection.[131] As ST, a 29-year-old woman from Banyuwangi (2011-), explained:

> *"All trainees wanting to leave the training centre to visit their family had to get a contraception injection. Without it, we couldn't go home."*[132]

DL, a 24-year-old woman from Ponorogo (2012-), was subjected to a similar policy:

> *"The recruitment agency required all of the trainees to get a contraception injection – the staff told us that if we get pregnant, we cannot go to Hong Kong. The contraception had a 3-month duration in preventing pregnancy and I had to pay IDR 18,000 (US$1.80) for it."*[133]

TY, a 40-year-old woman from Ponorogo (2011), explained the motivation behind the enforcement of this procedure at a training centre in Madiun:

> *"I went home twice and both times I had to get the contraception injection before being allowed to leave the training centre. I couldn't refuse. The staff made us get the injection because they didn't want us getting pregnant. They told us that if we get pregnant, we can't work in Hong Kong, which ultimately means that the recruitment agency owner would lose money that was invested in us."*[134]

Other interviews suggest that married women are especially affected by this procedure. NW, a 31-year-old woman from Ponorogo (2008-2009) who was at a training centre in Pasuruan, is a case in point:

> *"The staff didn't want us to get pregnant so all married women got a contraception injection whether they left the training centre or not. It was given to me on the day of my arrival at the centre."*[135]

In an exceptional case, TS, a 24-year-old woman from Magetan (2012-), was able to resist the practice at the training centre where she stayed:

> *"All the other trainees had to get the contraception injection, but my friend and I – who had previous overseas work experience – weren't intimidated by the recruitment agency or its staff and just refused. So in the end, we didn't have to."*[136]

4.7. MANDATORY HAIRCUTS

Recruitment agencies also compelled migrant domestic workers to cut their hair short before leaving for Hong Kong. Several interviewees thought this was to give the impression to the employers that they are strong workers, but it is also likely that the purpose is to make the women look more "boyish" or "masculine" and therefore less attractive to male employers.

The vast majority of the women interviewed by Amnesty International had to undergo short haircuts before (on their broker's instruction) or upon their arrival at the training centre (66 out of 68 who were asked and responded to the question). TR, a 29-year-old woman from Indramayu (2012-), told Amnesty International:

> *"There was a policy at the training centre which required all trainees to have very short hair. So, I had no choice but to cut my hair like a boy."*[137]

4.8. POOR LIVING CONDITIONS

Interviews conducted by Amnesty International indicate that living conditions in training centres are generally basic with common complaints of overcrowding and a lack of shower facilities, toilets and beds. RH, a 35-year-old woman from Ponorogo (2011), described her living conditions at the training centre in Jakarta:

> *"It was small and overcrowded with about 300 trainees. We had only one shower facility, which meant that seven people had to shower at a time so there was no privacy. We had to sleep on the floor on mattresses and even had to share because there weren't enough. It was also dirty with rubbish collection only once per week."*[138]

Around one third of the women interviewed by Amnesty International felt that they were not given enough food at the training centre and had to supplement their diet,[139] as in the case of WS, a 25-year-old woman from Ponorogo (2010):

> *"At the training centre in Malang, we had half a glass of bean porridge for breakfast and a small bowl of rice and vegetables for lunch and dinner. I had to supplement the meals by buying food with my own money, which came to about IDR 15,000-20,000 [US$1.50-2.00] per day."*[140]

RT, a 32-year-old woman from Trenggalek (2011-2013) who spent six months at a training centre in Surabaya, complained about the added costs:

> *"Because I was hungry, I had to buy food at the training centre, but it's more expensive than what stores charge outside the centre. As I couldn't leave, I had no choice but to pay for the food at the elevated prices."*[141]

Many more complained that the quality of the meals was substandard because the ingredients were not fresh or nutritious, and that they were rarely given protein-rich foods, such as meat, fish or eggs. According to YT, a 24-year-old woman from Surabaya (2010-):

> *"We were normally given leftover stale rice with some vegetables. The food was dirty and the bits of dried fish had no taste. We never had eggs. It wasn't enough so I had to buy my own food and drinks."*[142]

4.9. INADEQUACY OF TRAINING AT THE CENTRES

The purpose of the training, as set out in article 42.2 of Law No. 39/2004, is to equip migrants with skills and to "increase and develop their competence". Trainees are consequently supposed to attend classes in the relevant language and culture, and skills training (cooking, cleaning, operating domestic appliances, caring for the young and elderly). However, according to the women Amnesty International interviewed, it was common for trainees to attend classes mostly or solely on learning to speak the language of the destination.

Many of the migrants interviewed by Amnesty International felt that the training provided at the centre did not improve their existing skills and/or prepare them for working abroad.[143] Most of the complaints were levelled at the language instruction, which was deemed "poor" and "ineffective". The testimony of GN, a 29-year-old woman from Semarang (2011-), was typical of how many of the interviewees felt:

> *"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. They also lacked the skills to teach a foreign language. We only learned basic words, not how to formulate sentences and converse."*[144]

Another woman, HW, a 34-year-old woman from Ponorogo (2012), was not satisfied with the skills training:

> *"I didn't learn a lot because the facilities at the training centre in Ponorogo were ill-suited for learning. The instructor trained us in taking care of infants by only using a toy doll and no other props."*[145]

MI, a 25-year-old woman from Blitar (2008-2009), noted:

> *"I struggled for the first three months in Hong Kong trying to communicate in Cantonese with my employer and others. Also, the skills programme is not tailored to meet your professional needs. For example, I was trained to take care of babies but I took care of children, which requires different skill sets."*[146]

TS, a 24-year-old woman from Magetan (2012-), said that her training only focused on language instruction:

> *"The centre only provided lessons in Cantonese language. There was absolutely no training on child minding, cooking, using household appliances, etc. So, we had to use our imagination on how to take care of children or do the household work!"*[147]

IA, a 32-year-old woman from Ponorogo (2009-2010), spent four months at a training centre in Blitar without any training or formal language instruction:

> *"The conditions were extremely bad because there were no language or skills training instructors. So, I had to wake up everyday at 5am and study Cantonese by myself. There was also no facility at the centre to self-train in skills-related areas."*[148]

The information above indicates that some prospective migrants are not getting the training they require and have paid for. It is also possible that some prospective migrants are already proficient in the tasks required of a domestic worker or only need very specific and limited training. However, the abilities and needs of the prospective migrant do not appear to be linked in any way to the length of the training and the subsequent fees charged to the migrant worker.

Article 34(d, e) of Law No.39/2004 states that prospective migrant workers must be informed of the conditions and risks associated with destination countries and the procedures for providing protection to workers. Furthermore, article 42(b, d) states that the education and training must inform prospective migrants of these points, as well as their rights and responsibilities.

However, interviewees confirmed that the training does not include information on their human rights which are guaranteed under international law, nor how to access assistance or the specifics of complaints and compensation mechanisms in Indonesia, and the country of destination. For example, RP, a 32-year-old woman from Ponorogo (2011), had previously worked in Singapore and Taiwan as a domestic worker. She told Amnesty International that the training programme in Surabaya:

> *"did not provide crucial information to the trainees, such as contact details of relevant organisations and governmental agencies in case we encounter problems with our job in Hong Kong".*[149]

In practice, the duration of an individual's stay in the training centre is primarily linked to the availability of a job abroad that a woman can be sent to, rather than the need to complete a structured training programme. In this way, some migrants are at the centre for very short periods of time and do not receive the training they need, while others, who already have experience of working abroad as domestic workers, are held at the centre for prolonged periods of time.

GH, a 29-year-old woman from Cilacap (2012-), had previously worked in Singapore and wanted to return there for work. After spending three months in different training centres, she tried to withdraw from the process, but was compelled to return:

> *"I was at the training centre in Cilacap for a month, but because my application for Singapore was delayed, I was sent to two different training centres in Semarang and Surabaya for two more months. Afterwards, I decided to stop the process and returned home. But after constant phone calls from the agency boss in Cilacap, who threatened to call the police, I had no choice but to return there. The boss told me that as Singapore would take time, I needed to go to Hong Kong instead."*[150]

5. MIGRATION FROM INDONESIA - PRE-DEPARTURE DOCUMENTATION

"We retain the personal documents [family certificate, school diploma, Indonesian ID card] of housemaids, which are returned after the deduction period in Hong Kong when the agency fees are paid in full. These documents are kept to ensure they do not change agency or employer on their own."

Ibu Siti, Director of Operations, PT. ASA Jaya Labour International Employment Agency[151]

Before prospective migrant domestic workers can be placed in jobs abroad, they must have submitted a number of documents to the recruitment agency and, in turn, received appropriate documentation from the agency. As outlined in article 51 of Law No. 39/2004, this includes:

1. ID card, certificate of completion of their last education and birth certificate/letter of birth recognition statement;
2. Statement of marital status and if relevant, a copy of their marriage book;
3. Letter of permission to migrate from their spouse, parent or guardian;
4. Certificate of work competence;
5. Medical certificate stating their clean bill of health based on the results of health and psychological tests;
6. Passport issued by the local Immigration Office;
7. Work visa;
8. Agreement for work placement abroad;
9. Employment contract; and
10. Foreign employment identity card (KTKLN)

However, Amnesty International's research found that many recruitment agencies do not return key identity documents (e.g. passport and identity card) to the migrant domestic worker and also fail to provide them with the necessary documents required by law (e.g. work placement agreement, employment contract and foreign employment identity card). Furthermore, testimonies show that many women cannot get the documents back and that others do not even try because they are afraid of confronting the recruitment agencies.

In some cases, agencies provided these required documents, but falsified information in them such as the date of birth. Such falsification renders the documents invalid for legal purposes, including redress, and undermines the migrant domestic workers' ability to claim their rights.

5.1. AGREEMENT FOR WORK PLACEMENT ABROAD

When prospective migrants are selected or short-listed for domestic work abroad, a written and legally binding agreement must be made between them and their recruitment agency.[152] Both parties must receive a copy of the agreement,[153] and the agency is then responsible for submitting a further copy to the district or city government agency for labour affairs.[154]

Recruitment agencies are required under article 52 of Law No. 39/2004 to provide, in writing, specific details relating to the proposed work placement, including the names and addresses of the recruitment agency and the prospective employer, the amount in recruitment fees that the prospective worker must pay, and the method of repayment.

Despite this, the overwhelming majority of interviewees told Amnesty International that they did not enter into a written agreement about their work placement with the recruitment agency. In fact for many, the interview with Amnesty International was the first time they heard of such an agreement.

Even in the case of DL, a 24-year-old woman from Ponorogo (2012-) who had "signed an agreement with my recruitment agency to work for the employers in Hong Kong", she was unable to give further details on what the document said.[155] Another woman, FI, a 29-year-old woman from Wonosobo (2012-), noted that:

> *"Soon after my arrival at the training centre in Surabaya, I signed an agreement of some sort but I don't know what it was. The recruitment agency boss gave it to me to sign, but didn't allow me to read or ask questions about it. He just told me to sign it."*[156]

WS, a 25-year-old woman from Ponorogo (2010), was placed in a similar situation:

> *"At the training centre in Malang, I had to sign an agreement. I don't know what it was about. The staff just put it in front of me and told me to sign it – there wasn't any time to read it."*[157]

Recruitment agencies also obliged prospective migrants to sign other agreements. For example, GM, a 45-year-old woman from Banyuwangi (2010-), had to sign a document that "stated I would be underpaid [paid below the Minimum Allowable Wage]", while YM, a 28-year-old woman from Subang (2010-), had to accept other terms and conditions of her work placement:

> *"The recruitment agency owner made me sign an agreement the afternoon before my departure for Hong Kong. It said that if I ran away from my employer, the agency would not take responsibility for me or help me."*[158]

In order to qualify for domestic work in private households abroad, Law No.39/2004 states that women must be at least 21 years old, physically and mentally healthy; not be pregnant; and have completed at least their junior high school education (*Sekolah Lanjutan Tingkat Pertama* or SLTP) or equivalent.[159] At a meeting with the Ministry of Manpower and Transmigration in April 2013, officials also stated that migrant domestic workers must not be more than 35 years old, a condition which, however, is not contained in the law.[160]

Amnesty International documented six cases where recruitment agencies falsified the age of migrant domestic workers. This was done for various reasons, including circumventing the law on the age limit. This was the case for RA, a 23-year-old woman from Ponorogo (2008-), who was only 18 years old when she was recruited by the agency in Surabaya:

> *"When the recruitment agency applied for my passport, they changed my birth year so that I would be three years older. So, in my passport, it now says that I am 22 years old [at the time of the interview in 2012]."*[161]

Similarly, the agency of GM, a 45-year-old woman from Banyuwangi (2010-), changed her age to 34 in all her documentation, including her passport, because she was "too old" to work in Hong Kong.[162]

In another case, the recruitment agency of DL, a 24-year-old woman from Ponorogo (2012-), falsified her age because she looked "too young".[163]

Falsifying the age of a migrant domestic worker increases their risk of abuse because they are less likely to seek help with the authorities due to the fear of being complicit in an illegal act.

It is worth highlighting that the falsification of documents is a criminal offence under article 263.1 of the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana* or KUHP), which prohibits forgery. This offence is punishable by a maximum of six years in prison. [164] Falsification of migration-related documents also carries administrative sanctions against the recruitment agencies[165] under article 100.1 of Law No. 39/2004.

5.2. EMPLOYMENT CONTRACT

Prior to their departure to the country of destination, migrant domestic workers are required under article 55.2 of Law No. 39/2004 to sign an employment contract (see Appendix 4 for a sample of Hong Kong's Standard Employment Contract). It must be signed before an official from a government agency responsible for labour affairs[166] and contain at least the following information:

1. names and addresses of the employer and worker;
2. occupation or job type;
3. rights and obligations of both parties;
4. terms and conditions of work, including working hours, wages and procedures of payment of wages, leave entitlements and periods of rest, facilities and social security; and
5. period of employment covered by the contract.[167]

This is a crucial document because it sets out the migrant workers' entitlements in relation to wages and work hours, as well as other terms and conditions. Although recruitment agencies are under a legal obligation to provide prospective workers with their contract, several women who were interviewed by Amnesty International said that they did not sign an employment contract nor were they given one prior to their departure for Hong Kong.[168]

Of those who stated that they did not sign a contract, two found out that a contract did exist after their arrival in Hong Kong (this could happen through an application for a change in

employers, passport renewal, or other interaction with the authorities). UR, a 40-year-old woman from Jombang (2010-), noticed that the signature on her contract had been falsified:

> *"I didn't get or sign a contract in Indonesia. I only came into possession of it after almost two years in Hong Kong when I quit my job and the Indonesian Consulate retrieved it from my placement agency. But the signature on that contract was not mine, it was forged."*[169]

GH, a 29-year-old woman from Cilacap (2012-), only saw her contract on the day of her departure for Hong Kong:

> *"I saw my employment contract only at the airport. The agency staff instructed me to give it to the placement agency when I arrive in Hong Kong. The signature on the contract was of course not mine. I didn't ask her about it because it was too late. What could I do then?"*[170]

In the case of ST, a 29-year-old woman from Banyuwangi (2011-), her signature was forged despite having signed a contract:

> *"I signed the contract at the recruitment agency before leaving Indonesia. After my employer fired me, I was able to get my contract back with the help of an Indonesian friend who is also a domestic worker. But the version I have now is not the one I had signed in Indonesia."*[171]

Moreover, of the 32 interviewees who responded to the question, only one had signed the contract in front of a government labour official, as required by Indonesian law.

A total of 72 interviewees told Amnesty International that their recruitment agency did not allow them enough time to read and properly understand their contract. LR, a 37-year-old woman from Bandung (2011-), described her experience at the training centre in Semarang:

> *"I only had time to quickly look at the job and name of my employer before one of the staff told me to sign the contract. There was no chance to read the details!"*[172]

Many migrant interviewees had similar experiences. A typical response was that the staff at the training centre told them to "just sign it", while others added that staff specifically instructed them "not to read it".

These findings are broadly similar to those from the IMWU survey, which found that 63 per cent of migrant domestic workers were not informed about their contract or were not given the opportunity to read and understand the contents of the documents that they were told to sign.[173]

Even if migrant domestic workers are given enough time to read the contract, for many, this would make little difference, as Hong Kong Standard Employment Contract (see Appendix 4) is in English and recruitment agencies rarely provide a translation of the contract to the workers, nor are they obligated to do so under Indonesian law.

YJ, a 29-year-old woman from Ponorogo (2011-2012), was one of 69 interviewees who were unable to understand the contract due to the language of the text:

> *"I only had a minute. I couldn't understand the content because it was in English. No one explained it to me – the staff just pointed to the place where they wanted me to sign and that was it."*[174]

HM, a 28-year-old woman from Banten (2012-), was placed in a similar situation:

> *"At the training centre in Jakarta, I signed what I think was my contract – it was in English and as I don't understand English, I can't be sure. The staff just told me to sign it without bothering to explain the content to me."*[175]

Even when staff offer assistance, the level of explanation is largely inadequate, as recalled by LE, a 28-year-old woman from Sumatra (2010-):

> *"I don't understand English so a staff member briefly explained the content – 'this is your employer and this is your salary'. Then she asked me whether I wanted to work in Hong Kong or not, basically telling me to quickly sign the contract."*[176]

Furthermore, Amnesty International's research found that out of 78 interviewees who responded to the question, only ten had a copy of the contract when they left for Hong Kong and all but one had it confiscated by their placement agency or employer upon arrival.

Amnesty International also documented cases where migrant domestic workers were coerced into signing a document while in Indonesia, but had no idea what they were signing. This included being made to sign a blank piece of paper. HH, a 26-year-old woman from Trenggalek (2011-2012), recounted:

> *"I had to sign each page of a blank contract, as well as one blank sheet of paper. I asked what it was for but the staff just told me to sign it saying it was for finding an employer. I didn't have a chance to say more or to object. A trainee next to me asked why we were signing a blank document and one of the staff said that it was to expedite our application process. They said our application would be placed with multiple placement agencies in Hong Kong so that we could get a job quicker."*[177]

Prospective migrant domestic workers felt that they had little choice but to sign documents given to them because if they refused, the agency would not provide them with a certificate of work competence or place them in a job abroad. In the survey conducted by IMWU, 32 per cent of the respondents said they were forced into signing a document, without knowledge of what it was for and 33 per cent said their personal information was falsified.[178]

The above information shows that migrant domestic workers are either not receiving the documents they are required to have by law or being coerced into signing documents which they do not properly understand. Amnesty International's research found that most interviewees could not distinguish between a placement agreement and a contract, and the training centre staff had not explained the specifics of what was in these documents to them. Without this information, prospective migrants cannot make informed decisions about their

employment abroad and cannot properly protect themselves against exploitation once they start work.

5.3. FOREIGN EMPLOYMENT IDENTITY CARD (KTKLN)

Article 62.1 of Law No. 39/2004 specifically states that all Indonesian migrant workers employed in a foreign country must have the government-issued Foreign Employment Identity Card (*Kartu Tenaga Kerja Luar Negeri* or KTKLN). The card provides the migrant with an identification document and proof of having complied with governmental procedures for foreign employment.[179]

The KTKLN is issued once all the required documentation for migration has been submitted, the migrant has been included in an insurance policy and the Final Pre-departure programme has been completed.[180] This photo ID card is embedded with a chip containing personal data of the migrant worker, including passport number; home address; and details of her employer, recruitment and placement agencies, insurance policy, and an emergency contact number.[181]

Articles 51 and 62 of Law No. 39/2004 and article 15 of the 2005 Ministry of Manpower and Transmigration Decree on Regulations on Administrative Sanctions and Means of Determining Sanctions in the Placement and Protection of Indonesian Overseas Workers[182] state that Indonesian migrant workers will not be allowed to work abroad if they are not in possession of a KTKLN.

Although it is illegal under Indonesian law for recruitment agencies to send migrants to work abroad without a KTKLN, Amnesty International's research found that only 28 out of 73 interviewees who responded to the question were in possession of the foreign employment identity card before going abroad. In the IMWU survey, 57 per cent of Indonesian migrant workers stated that they were not given a KTKLN card.[183] Many migrant domestic workers were not aware of the KTKLN's existence.

In the case of YM, a 28-year-old woman from Subang (2010-), the issuance of the KTKLN was arbitrary:

> *"I know of the card because my friend and fellow trainee at the training centre in Jakarta received one, but I didn't. I don't know why."*[184]

For some migrant domestic workers who were issued a KTKLN, the card was not in their possession. YT, a 24-year-old woman from Surabaya (2010-), had hers retained by the recruitment agency in Indonesia and was given "only a photocopy of it".[185]

The KTKLN is supposed to be free of charge, but OT, a 33-year-old woman from Trenggalek (2011-2013), was made to pay for her card at a training centre in Surabaya:

> *"I paid the recruitment agency IDR 350,000 [US$35] for the KTKLN. I personally know other migrant domestic workers in Hong Kong who didn't have their KTKLN at the airport in Indonesia, so the immigration officer made them pay IDR 1,000,000 [US$100] for the card when it actually costs IDR 350,000 [US$35]."*[186]

5.4. INSURANCE

Article 68 of Law No. 39/2004 stipulates that recruitment agencies must insure all migrant workers they are sending abroad and migrant workers are charged for this as part of their recruitment fee (see Appendix 3 for details). This mandatory insurance policy costs IDR 400,000 (US$40)[187] for a two-year employment contract. The Ministry of Manpower and Transmigration told Amnesty International that the policy is issued from a consortium of 10 insurance companies and workers are not free to choose which company they use. It covers the migrants during pre-departure, placement and return. It insures the workers and their family in the event of failed recruitment, unpaid wages, early termination of contract, contractual deception, physical abuse, sexual harassment and assault, legal proceedings, being stranded, illness, industrial accident and death.[188]

Despite being a legal requirement, only seven out of 77 migrant domestic workers interviewed by Amnesty International could definitely say that they were covered by insurance. A typical response from interviewees was an initial "no", and when probed, they revealed that they did not know. Some discovered that they were insured only after they arrived in Hong Kong, as in the case of TJ, a 29-year-old woman from Ponorogo (2010-):

> *"I didn't know that I had paid for insurance – no one at the training centre in Jakarta told me about it. It was only when I met other Indonesian migrant workers in Hong Kong that I found out."*[189]

LE, a 28-year-old woman from Sumatra (2010-), also found out about the insurance "after my arrival in Hong Kong", but "I don't have any information about it – like what it's for and how it can help me".[190] Unlike LE, KM, a 34-year-old woman from Ponorogo (2009-2011), knew before her departure for Hong Kong that she was insured, but she still did not know "how much the policy costs, what it insures or how to claim compensation through it".[191]

DY, a 27-year-old woman from Ponorogo (2009-2011), knew that she had insurance, but when she asked her recruitment agency about its coverage, she was incorrectly informed that "it was for accidents only and does not cover unpaid wages".[192]

HW, a 34-year-old woman from Ponorogo (2012), was only able to work in Hong Kong for one month due to falling ill, which led to her early dismissal by her employer. After she returned to Indonesia, she went to see the National Board for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI) in Surabaya because she was worried about the penalty of IDR 21,000,000 (US$2,140) payable to the recruitment agency for failing to complete her contract. HW stressed that:

> *"both the BNP2TKI and the agency didn't inform me that I could get compensation through my insurance policy. In fact, I specifically asked the agency about the insurance, but he said that the policy only covers industrial accidents or incidentals like pocket money. So that is why I didn't apply for compensation through the insurance."*

The recruitment agency did not return HW's family certificate, Indonesian ID card and junior school diploma, and still had them when Amnesty International interviewed her in 2013.[193]

If migrant domestic workers are not informed that they are insured or what that insurance policy covers, they will not be aware of how it may enable them to escape an exploitative or abusive work environment, let alone how they go about seeking compensation when they return home.

In fact, only one of the 67 women who experienced problems covered by their insurance filed for compensation through their policy (see RP's case below). When asked why they did not seek compensation, all interviewees replied that it was because they did not know they were insured and/or how to apply for it. This is consistent with the IMWU survey, which revealed that 77 per cent of the respondents were not given an insurance card[194] and 52 per cent were not even aware that they had paid for any insurance.[195]

TY, a 40-year-old woman from Ponorogo (2011), tried unsuccessfully to get compensation through her recruitment agency after she was forced to return to Indonesia after failing a medical exam in Hong Kong:

> *"There was a spot on the left side of my lung. No explanation was given to me, just that I was medically unfit – even though I had passed the medical exam at the training centre in Indonesia. So, I had to pay for my flight ticket back home. Back in Indonesia, the recruitment agency arranged another x-ray for me, but when I asked for the result, they didn't tell me. The agency just told me to be patient and that they were trying to get compensation for me through the insurance but it has already been two years and still I have not received any money from the insurance company."*[196]

RP, a 32-year-old woman from Ponorogo (2011), was dismissed by her employer after working three months in Hong Kong. She eventually managed to get compensation by going directly to the Government for assistance:

> *"When I returned to Indonesia, the recruitment agency driver was waiting for me at Surabaya airport. He saw me and so I couldn't run away. He asked for my passport – I was afraid so I gave it to him. He also told me that I must come with him to the agency, but I refused and went with my husband instead. When I was at home, both the Indonesian and Hong Kong agencies called me telling me that I had to return to Hong Kong for work again."*

Because RP was afraid of the looming debt, she went to seek help at the labour office (Disnaker) in Surabaya:

> *"I explained my problems – early termination and confiscation of documents – and filled out a form. In February 2012, I received IDR 1,400,000 [US$140] in compensation for the early termination and all my documents [family certificate, Indonesian ID card, high school diploma, birth certificate] except for my passport. I don't know why the labour office was not able to return it and the staff didn't explain the reason."*

RP did not know whether the labour office took any action against the recruitment agency.[197] It is likely that the compensation was provided through her insurance policy, but RP's case is indicative of how little information many migrant domestic workers are given about their rights and entitlements.

5.5. RETENTION OF DOCUMENTS BY RECRUITMENT AGENCIES

Most recruitment agencies ensure that they maintain control over migrant domestic workers when they are in the destination country by retaining important personal and family documents, which are usually taken by the broker when they are still in their hometown or, if no interlocutor is used, by the recruitment agency upon their arrival at the training centre.

The migration process does not allow for a prospective migrant woman to arrange the necessary documentation themselves. For example, the BNP2TKI told Amnesty International that the women do not have the choice of applying directly for their own passport because "they are not skilled – the requirement [for migrant domestic work] is just a junior school diploma. Some women do not understand how to make the passport so we have recruitment agencies help them."[198]

Thus, on behalf of the women, recruitment agencies apply for a passport, for which they need to submit the women's Indonesian ID card, school diploma, and family certificate.[199] Instead of returning the documents once the application process is completed, the agencies retain them as collateral to ensure that migrant domestic workers pay the full recruitment fees once they start work in Hong Kong. Recruitment agencies also obtain and withhold other documents for this purpose, including birth and marriage certificates, expired passports, police certificate of good conduct, property titles and promissory notes from the family to pay the fees.

The majority of migrant domestic workers interviewed by Amnesty International stated that they handed over important documents that were not returned to them before they left for Hong Kong.[200] This is in line with the IMWU survey where 64 per cent of the respondents stated that their documents were retained by their recruitment agency prior to their departure for Hong Kong.[201]

Ibu Siti, Director of Operations, at PT. ASA Jaya Labour International Employment Agency (recruitment agency) in Blitar, Indonesia confirmed this practice and explained that the personal documents of migrant domestic workers were returned after the agency fees were "paid in full". According to Siti, the retention of documents was done to prevent the workers from changing their "agency or employer".[202]

The removal of these documents is used as a coercive mechanism to ensure that Indonesian migrant domestic workers stay in the job to which they are sent in Hong Kong until their debt has been fully repaid. SK, a 42-year-old woman from Malang (2012-), recalled that:

> *"Before I left for Hong Kong, my recruitment agency took my school diploma, family certificate, Indonesian ID card and the property certificate of our family farm."*[203]

The repayment period is usually HK$21,000 (US$2,709) over seven months, as was the case for GH, a 29-year-old woman from Cilacap (2012-), who recounted that:

> *"I had to give the recruitment agency my junior school diploma, family certificate, husband's permission, marriage certificate and Indonesian ID card. After the seven-month deduction period in Hong Kong, my family was allowed to retrieve them from the agency."*[204]

Many interviewees told Amnesty International that recruitment agency owners or staff specifically informed them that their personal documents were being withheld "as a guarantee" that they "go to Hong Kong, pay back the recruitment fee and not quit before the debt is paid". DY, a 27-year-old woman from Ponorogo (2009-2011), tried unsuccessfully to retrieve her documents before she had completely repaid the agency fees:

> *"After five months in Hong Kong, I asked for my documents to be returned, but the agency owner refused and said he would give them back to my family only after seven months when I had finished paying off my debt."*[205]

In cases where migrant domestic workers return to Indonesia without fully repaying their fees, their agency will continue to withhold their documents until they receive full repayment.

However, some migrant domestic workers were not able to retrieve their documents despite having paid off the debt. This was the case for 11 of the migrant domestic workers interviewed by Amnesty international, including GS, a 33-year-old woman from Ponorogo (2009-2010):

> *"Before going to Hong Kong, I asked my broker for my family certificate, Indonesian ID card and junior school diploma, but he said it wasn't possible. After one year in Hong Kong, I asked for them again. He said he would get them for me, but he didn't. They are still with the recruitment agency today."*[206]

It took WR, a 43-year-old woman from Trenggalek (2009-2012), one year to get her documents back:

> *"Initially, my broker told me that the recruitment agency would hold on to my high school diploma and family certificate until I arrived in Hong Kong, but that wasn't true. After one year in Hong Kong, the agency still had them so I asked my broker to get them for me. I had to call him several times before the broker finally retrieved them from the agency."*[207]

NM, a 33-year-old woman from Blitar (2008-2009), was told by her recruitment agency in Sidoarjo that if she failed to work seven months and pay off her recruitment fee, she would have to pay a penalty of IDR 7,000,000 (US$710) before they returned her documents (junior school diploma, family certificate, old passport, marriage certificate and birth certificate). In Hong Kong, NM broke her contract after four months due to physical abuse from her employer and decided to return home:

> *"The recruitment agency staff tried to pick me up at the airport in Surabaya. As soon as I saw her, I hid from her view. I asked the airport security officer for help, explaining my situation. He called my husband over and showed us another exit from the terminal. After returning home, the Hong Kong agency also tried to contact me."*

NM was unable to get back the documents and because she does not have her family certificate, her family could not receive state welfare provisions on two occasions – first for a stove and gas, and the second for two goats.[208]

The experience of AU, a 30-year-old woman from Tulungagung (2012-), who ran away from her employer in Hong Kong after five months of physical abuse, demonstrates the level of pressure that recruitment agencies maintain on migrant domestic workers to ensure that they repay the fees:

> *"I am worried about my debt. I'm afraid that the placement agency [in Hong Kong] will try to get me to pay the outstanding fee or even worse that the recruitment agency in Indonesia will harass and intimidate my family for money. I'm very scared."*[209]

Similarly, JH, a 22-year-old woman from Malang (2012-), ran away after two months because her employer physically assaulted her on multiple occasions:

> *"I am afraid that the recruitment agency in Indonesia will go to my family and threaten them to pay for the remaining agency fee. My parents don't know that I've quit my job so I'm very worried."*[210]

6. RECRUITMENT AGENCIES' INVOLVEMENT IN FORCED LABOUR AND TRAFFICKING

GLOSSARY OF TERMS

Forced or compulsory labour: "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself up voluntarily" with the exception of compulsory military service, normal civic obligations, emergency work required in the event of war or calamity, and work that is a consequence of a criminal conviction (article 2, ILO Convention No. 29 concerning Forced or Compulsory Labour, 1930 or Forced Labour Convention).

Menace of penalty: "direct and indirect coercion, such as physical violence, psychological coercion and the retention of identity documents. The penalty may also take the form of a loss of rights or privileges" (ILO).[211] The ILO also notes that for the work to have been undertaken voluntarily, "free and informed consent must be given by the worker when accepting the work and must cover the whole duration of the work or service". It stresses that actions which interfere with this freedom would include "deception or false promises to induce a worker to provide services" and that such practices would be a clear violation of the Forced Labour Convention.[212]

Trafficking in persons: "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs". Consent is irrelevant where any of the listed means have been used. In respect of anyone under 18 years of age, use of force, coercion, etc. need not be involved so long as the purpose of the conduct was exploitation (article 3, UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000, or Trafficking Protocol).

Amnesty International's research shows that prospective migrant domestic workers are regularly subject to deception and false promises both by brokers, who are working on behalf of the agencies, and by the recruitment agencies themselves.

Furthermore, recruitment agencies compel the women, under the menace of a penalty, to stay at the training centres and, subsequently, in their jobs in Hong Kong. One of the key coercive mechanisms used for this purpose is the confiscation of personal documents (e.g.

identity card, family certificate and property title), which are held as collateral to ensure that the prospective migrant cannot back out of the process and does pay the full recruitment fee. The evidence from the research cited above indicates that this is a common practice.

The migrant women cannot get their documents back until they pay off their debt and this is practically impossible without taking up the job abroad, as agency fees are charged at a flat rate from the first day at the training centre. Thus, if the prospective migrant changes her mind, even within days, she will be liable to pay a penalty which can be as much as the full recruitment fee. In 2012, this was set at IDR 14,780,400 (US$1,730). For a domestic worker employed in Jakarta, earning a monthly wage of IDR 1,000,000 (US$100), it would take about 17 months to repay this debt.[213]

At this point, any threat by the recruitment agency not to send the migrant workers abroad is normally a sufficient "menace of a penalty" to ensure that the women comply with whatever instructions they are given. If they do not secure foreign employment, they will not be able to repay their debt, let alone support their families.

The restrictions placed on the women's freedom of movement, along with the limitations imposed on the use of mobile phones and family visits, further strengthens the recruitment agencies' control over the prospective migrants, as it is difficult for them to access any advice or support from outside the centres.

In this way, recruitment agencies are able to coerce Indonesian women into accepting jobs with different terms and conditions of work to what they were originally promised, and to sign documents without knowing what they are for.[214]

The practices described above also come within the definition of trafficking, as set out in the Trafficking Protocol (see the Glossary of terms above), as the recruitment agencies and their brokers are recruiting Indonesian women, using deception and coercion, for the purpose of their exploitation in Hong Kong.

It should also be stressed that the way in which prospective migrant workers at the training centres in Indonesia are compelled to work for the staff or recruitment agency owner and/or as "interns" for families outside the centre while in training is extremely exploitative and in some cases constitutes forced labour. For example, making trainees work in underpaid jobs they have not volunteered for, against their will and under the menace of penalty constitutes forced labour under the Forced Labour Convention. In this case, the penalty that they are threatened with is that they will not be given a job abroad unless they do the work allocated to them and they will then be left heavily indebted to the recruitment agency.

The evidence cited above clearly shows that some Indonesian recruitment agencies are routinely involved in the trafficking and exploitation of migrant domestic workers for forced labour.[215] The Indonesian government's failure to prevent these human rights abuse means that it is not complying with its obligations under a number of international standards that it has ratified.

7. INDONESIAN GOVERNMENT'S FAILURE TO MEET ITS OBLIGATIONS

"We must also support the ILO Convention on Decent Work for Domestic Workers [...] I believe that this Convention can provide guidance to the sending and the host governments, to protect migrant domestic workers. This is an important issue to Indonesia, because a relatively large portion of our migrant workers abroad are domestic workers. We have therefore taken institutional, administrative and legal steps, to protect and empower our migrant workers."

Susilo Bambang Yudhoyono, President of the Republic of Indonesia[216]

7.1. INTERNATIONAL COMMITMENTS

In recent years, the Indonesian government has recognised the need to provide greater protection to both migrant workers and domestic workers in particular. This is reflected in Indonesia's ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention) in 2012 and the President's stated support for the Domestic Workers Convention (cited above).

At the time of writing, the Indonesian Parliament was also reviewing a Domestic Workers Protection Bill (*Rancangan Undang-Undang Perlindungan Pekerja Rumah Tangga*). However, the draft Bill, which has faced several delays, does not include provisions relating to sick pay, clearly defined daily and weekly rest periods, statutory holidays, and protection of female workers prior to and after pregnancy.[217] If the draft is amended to comply with Indonesia's obligations under international standards, and enacted as a matter of priority, it would provide domestic workers in Indonesia with some important labour rights.[218]

Despite these initiatives, the Indonesian government is failing to meet its obligations under numerous international standards to protect and promote the rights of Indonesian migrant domestic workers.

As a party to International Covenant on Civil and Political Rights (ICCPR),[219] the Indonesian government has an obligation to suppress the use of forced labour in all its forms (article 8.3). As a party to the Forced Labour Convention, it is obliged to do this within the shortest possible period (article 1), and to ensure that the exaction of forced labour is illegal under

national law and that the penalties imposed by law against those responsible are adequate and strictly enforced (article 25).

Indonesia is also legally bound by, among other provisions, the Trafficking Protocol[220] and article 6 of UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),[221] which compels States Parties to "take all appropriate measures, including legislation, to suppress all forms of traffic in women".

In addition, as a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR),[222] Indonesia recognises "the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right".[223]

Under article 11 of the Migrant Workers Convention, which Indonesia ratified in 2012, the Government is responsible for ensuring that "No migrant worker or member of his or her family shall be required to perform forced or compulsory labour". It is also obligated to provide information to migrant workers, particularly in relation to their remunerated activities, conditions of work, and the relevant laws and regulations in the country of destination.

However for over a decade, the Government has consistently failed to act to ensure its full compliance with these international obligations.

7.2. CONDEMNATION BY THE INTERNATIONAL COMMUNITY

As long ago as June 2004, the ILO Conference Committee on the Application of Standards specifically raised concerns over the operation of recruitment agencies and the subjection of migrant domestic workers to forced labour. It called on the Indonesian government to take "strong measures, proportional to the magnitude and gravity of the problems examined, particularly to impose sanctions on those responsible for forced labour".[224]

Five years later, the ILO Committee of Experts on the Application of Conventions and Recommendations concluded that Law No. 39/2004:

> *"does not appear to provide effective protection for migrant workers against the risks of exploitation due to its vague provisions and its numerous shortcomings."*

The ILO called on the Government to:

> *"protect Indonesian migrant workers by way of controlling the exploitative aspects of activities of private recruitment agencies including their fee-charging practices."*[225]

Despite these repeated calls for action, in 2012 the ILO concluded that the problem was ongoing and stated that migrant domestic workers':

> *"adequate legal protection in Indonesia and abroad, has not yet been sufficiently addressed by the Indonesian government. As a result, domestic workers are exposed to institutionalized trafficking and forced labour practices throughout the entire migration cycle".*[226]

In its concluding observations on Indonesia in July 2012, the UN Committee on the Elimination of Discrimination against Women made several recommendations relating to trafficking of migrant women, including urging the Government to:

> *"(d) Address issues relating to, inter alia, the severe risk of exploitation of unskilled migrant workers, the confiscation of their passports and their contracted debts with recruitment agencies; and*
> *(e) Strengthen inspection of recruitment agencies and training centres to monitor human rights abuses; impose substantial penalties on companies that fail to respect the rights of the employees they recruit; and prosecute and punish persons engaged in illegal recruitment processes, including the traffickers of migrant women for forced labour and sexual exploitation."*[227]

7.3. FAILURE TO ENFORCE DOMESTIC LEGISLATION AND SUPERVISE RECRUITERS EFFECTIVELY

In some respects, the Indonesian government's failure to comply with its international obligations and protect its citizens from exploitation, trafficking and forced labour is a direct result of its failure to properly implement its own domestic legislation, and in particular Law No. 39/2004.

Under this law, the Government has a responsibility, either directly or through the Ministry of Manpower and Transmigration, and National Board for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI), for regulating and supervising the placement and protection of migrant domestic workers, and investigating and punishing recruitment agencies which do not comply with the Law.

The Government is not discharging these responsibilities adequately and, as shown by Amnesty International's research, numerous procedural and substantive provisions of Law No. 39/2004 are not being implemented on a routine basis. There is little evidence of effective investigation of these issues by the authorities or of the imposition of sanctions against recruitment agencies which are breaking the law.

For example, article 70.3 of Law No. 39/2004 obliges recruitment agencies to treat prospective migrants "humanely and in a normally acceptable manner". Failure to do so is punishable under article 103 with prison sentence of between one and five years.

"Normally acceptable and humane treatment" should, at a minimum, include the protection of human rights, such as the rights to freedom of speech and movement, equal pay for work of equal value, adequate food and protection from threats, abuse and forced labour, and reproductive autonomy. The evidence collected by Amnesty International, however, indicates that a significant number of training centres' treatment of prospective migrants falls far short of the standard set in article 70.3 of Law No. 39/2004, as well as of Indonesia's international human rights obligations. Yet as far as Amnesty International is aware, the Government has not taken effective action against those agencies which are not complying with the law.[228]

Furthermore, all migrants are required to attend the government-run Final Pre-Departure Programme (*Pembekalan Akhir Pemberangkatan* or PAP) once all of the necessary documents

for job placement are in order (e.g. employment contract, KTKLN and insurance).[229] This programme is run by the National Board for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI) in coordination with the local labour office (Disnaker).[230]

The Final Pre-Departure Programme is intended to provide migrant workers with information about their employment, and the laws and regulations of the destination country.[231] During this Programme, the Indonesian government is also meant to inform the migrant women of their rights and responsibilities in the destination country and how they can seek redress.[232] Given that the Government is directly responsible for this training programme, there is no justification for the current situation in which migrant workers leave the country without the legally required documentation and in many cases, not even knowing what the documents are or that they are covered by an insurance policy. Moreover, respondents to the IMWU survey had been through 220 different recruitment agencies with a third reporting that their personal information had been falsified and more than half stating that they had not been given a KTKLN identity card.[233]

The Indonesian government has failed to address this issue despite the fact that it has itself acknowledged that migrant workers who do not have the required documents will be "in a very vulnerable position to inhumane treatment and other exploitative treatment in the destination country".[234]

Furthermore, the punitive provisions of Law No. 39/2004, as far as Amnesty International is aware, are not being properly enforced. For example, the following violations of the Law are all punishable under articles 102-104 with prison sentences, fines or administrative sanctions:

- Not providing migrant domestic workers with a written and signed placement agreement, written work contract, foreign employment identity card (KTKLN) and insurance;[235]

- Not treating workers humanely and in a normally acceptable manner during the training period;[236]

- Employing prospective migrants workers in jobs while they are attending the training centre;[237]

- Any action that runs against the laws and regulations in Indonesia or in destination country (e.g. paying a salary below the minimum standard in the destination).[238]

Moreover, the labour office (Disnaker, under the Ministry of Manpower and Transmigration) in the regencies are responsible for monitoring the recruitment agencies to ensure that they adhere to the laws when placing migrant workers abroad for employment. At a meeting in March 2013, Djohar Arifin, Head of the labour office in Blitar, stated to Amnesty International that:

> *"Since 2000, when this office in Blitar was established, there has only been one case where a recruitment agency was investigated. The head office in Jakarta gave a strong reprimand, but did not revoke the agency's permit. This happened in 2012 and it involved an agency that sent migrant workers to Malaysia. For Hong Kong, there has never been a case against any recruitment agency in this regency."*[239]

According to the 2013 US State Department Trafficking in Persons Report, the Indonesian National Police initiated 138 new trafficking investigations in 2012 and referred just 86 cases to the local prosecutors, of which 61 were accepted for prosecution. Under the Law on Elimination of Human Trafficking Crimes (Law No. 21/2007), the Attorney General reported 102 convictions between January and October 2012.[240] The previous report stated that only 28 licences were revoked in 2011.[241] It is unclear how many of the cases are related to trafficking for labour exploitation. The US State Department specifically urged the Indonesian government to: "undertake greater efforts to criminally prosecute and punish labor recruitment agencies and corporations involved in trafficking".

The report goes on to note that the "Indonesian government's anti-trafficking law enforcement efforts diminished in effectiveness during the reporting period" and that:

> *"endemic corruption among members of Indonesian security forces and government officials remained an impediment to increased effectiveness in anti-trafficking law enforcement efforts"*.[242]

At the time of this writing, the Indonesian authorities had not responded to Amnesty International's request for statistics on the total number of investigations undertaken and prosecutions brought between 2008 and 2012 involving the trafficking of migrant domestic workers abroad.[243] As such, Amnesty International is aware of only two cases reported by third parties,[244] neither of which involved migrant domestic workers employed in Hong Kong.

The Government of Indonesia needs to robustly monitor recruitment agencies and brokers, and investigate recruiters who violate the law. Without adequate sanctions, which are dissuasive and properly enforced, there is no effective deterrent against unscrupulous recruitment agencies using trafficking and forced labour practices. The consequences that this has for the migrant domestic workers are only fully seen once they begin work in Hong Kong.

PART TWO: WORK IN HONG KONG SAR

"If the housemaids have problems with their salary in Hong Kong, they can ask for help from the placement agency there. If there is a problem, they can also call me and I'll call the agency for them. But this has never happened. Underpayment of salary has never happened to any of our housemaids. It has never happened with my agency. In fact, it never happens in Hong Kong."

Drs Mokh Kurdi, President of Tritama Bina Karya Overseas Employment Agency[245]

Migrant domestic workers (known in Hong Kong as foreign domestic helpers or FDHs) are permitted to enter and work in the Hong Kong SAR under certain conditions. The main features of the "FDH policy" have been described as follows:

> *"Under the FDH policy, permission for them to enter and stay in Hong Kong is tied in with their employment to a specified employer. The standard FDH employment contract is for a duration of two years. If a FDH's employment was terminated prematurely, she is required to leave Hong Kong within 2 weeks after the termination."*[246]

In certain circumstances, migrant domestic workers are allowed to change employer in Hong Kong without returning to their country of origin (see section 9.8), as explained by the Hong Kong government:

> *"an FDH whose contract is prematurely terminated may be allowed to change employer in Hong Kong without returning to his/her place of origin first if they meet the relevant criteria, including his/her employer is unable to continue with the contract because of migration, external transfer, death, or financial reasons or there is evidence that the FDH has been abused or exploited."*[247]

In October 2013, the HKSAR Labour Department clarified that all migrant domestic workers who complete their two-year contract must leave Hong Kong. However, they can apply for an extension of stay when starting a new contract. Thus, they can defer their "home leave" for normally up to one year, which according to the Department is "quite common".[248]

8. WORK IN HONG KONG – CONDITIONS AND ABUSES

Indonesian migrant domestic workers provide crucial services to the local community and make an important contribution to Hong Kong's economy by enabling members of the employing household, largely women, to take up paid employment in the labour market.[249]

According to the Government of Hong Kong SAR, it "attaches great importance to protecting the well-being" of migrant domestic workers whose "equal statutory labour rights and benefits" include maternity protection, rest days and statutory holidays. Moreover, it asserts that migrant domestic workers:

> *"enjoy additional rights and benefits through administrative measures. In this regard, FDHs are further protected by a standard employment contract (the contract) set by the Government. The contract requires that the employer provides the worker with, amongst others, a wage not lower than the Minimum Allowable Wage, suitable accommodation with reasonable privacy for free, free medical treatment, regardless whether the medical condition concerned is work-related or not, and free return passage between Hong Kong and his/her place of origin. These are all benefits which are not usually available to local workers."*[250]

Despite this, Amnesty International's research demonstrates that the same coercive practices which are employed by recruitment agencies in Indonesia to maintain control over prospective migrant domestic workers (e.g. the confiscation of identity documents, manipulation of debt and restrictions on freedom of movement) are also used by placement agencies in Hong Kong. In this way, the placement agencies, which are contracted by the Indonesian recruitment agencies, compel migrant domestic workers to work in conditions where they are exposed to exploitation, forced labour, and physical and sexual violence.

While the Hong Kong placement agencies work in close partnership with Indonesian recruitment agencies, they are separate organisations and come under the jurisdiction of the Hong Kong authorities which have a responsibility to monitor and regulate them, and ensure that they are operating in full compliance with the laws in the Hong Kong SAR. The following sections outline specific abusive practices, which in combination amount to trafficking and forced labour.

8.1. CONTRACTUAL DECEPTION

Amnesty International's research demonstrate that many Indonesian migrant domestic workers discovered after arriving in Hong Kong that their wages or working conditions were different to what they had been promised by their broker and/or recruitment agency in Indonesia.[251] In the IMWU survey, 60 per cent of the respondents said that their actual work was different from the terms and conditions stated in their contract.[252]

Typically, migrant domestic workers who were deceived regarding their terms and conditions of work were given false or misleading information relating to their wages, work hours, holidays and workload. Their actual working conditions in Hong Kong are reviewed in detail below.

8.2. UNDERPAYMENT

Migrant domestic workers are excluded from the scope of Hong Kong's Minimum Wage Ordinance, which was implemented in 2011 (see section 11.1). Instead, they fall under a separate and less favourable Minimum Allowable Wage (MAW), which is currently set at HK$4,010 (US$517) per month.[253] The most common problems that migrant interviewees faced in Hong Kong were being paid less than the amount promised to them by the recruiters and/or a salary that was significantly below the Minimum Allowable Wage.

For example, RM, a 41-year-old woman from Ponorogo (2009)[254] and WS, a 25-year-old woman from Ponorogo (2010) were both paid well below the Minimum Allowable Wage, receiving only HK$2,000 [US$260] per month. WS noted:

> *"I couldn't complain to the placement agency in Hong Kong because I was not allowed to go outside or make phone calls."*[255]

In addition to this, some migrant domestic workers have all their wages transferred directly to their recruitment agency to repay their debt during the "deduction period", which usually lasts for seven months.

RH, a 35-year-old woman from Ponorogo (2011), who was promised the Minimum Allowable Wage at that time of HK$3,580 (US$460), relayed her experience:

> *"I worked for three months and during this period, I was not paid at all. I asked my employer for my salary, but she said that she was keeping it until after the seven-month deduction period. In the end, I never received any of the money."*[256]

Similarly, OH, a 35-year-old woman from Semarang (2012-), did not receive any of her monthly salary of HK$3,740 (US$480) for two months:

> *"When I asked my employer, she insisted that she had paid my placement agency. I then complained to the placement agency who assured me that they would sort it out but nothing happened."*[257]

Paying migrant domestic workers below the Minimum Allowable Wage is against the law in Hong Kong and carries a maximum fine of HK$350,000 (US$45,000) and three years' imprisonment. In addition:

> *"The employer would also be committing serious offences of making false representation to an Immigration Officer and conspiracy to defraud. Any person convicted of making false representation is liable to a maximum fine of $150,000 [US$19,300] and imprisonment for 14 years. Any person convicted of the offence of conspiracy to defraud is liable to imprisonment for 14 years."*[258]

However, more than a third of the women interviewed by Amnesty International received a salary that was below the statutory Minimum Allowable Wage.[259] The testimonies given to Amnesty International are corroborated by the results of the survey conducted by IMWU in which 28 per cent of Indonesian migrant domestic workers experienced payment below the Minimum Allowable Wage, with a higher prevalence among respondents who were on their first contract.[260]

Despite the high number of employers paying below the Minimum Allowable Wage, between 2008 and 2012, the HKSAR Labour Department investigated only 143 cases of wage offences. Following the investigation, the Department prosecuted 49 employers, which resulted in the conviction of 34 employers. Twelve of the convicted employers were sentenced to community service orders and three were sentenced to three months' imprisonment. The other convicted employers were given fines, of which the highest was HK$105,000 (US$13,500).[261]

8.3. EXCESSIVE AND EXPLOITATIVE WORK HOURS

In Hong Kong, many Indonesian migrant domestic workers endure excessive working hours. Interviews conducted by Amnesty International indicate that on average they worked 17 hours per day[262] with respondents frequently noting that they were "on call 24 hours".

Under Hong Kong law, there is no general statutory provision limiting maximum daily working hours, limiting overtime hours or stipulating overtime pay, including for migrant domestic workers.[263] This is not consistent with the Hong Kong government's obligations under international law. As a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR),[264] Hong Kong has a duty to "recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure", among others, "rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays".[265]

DE, a 24-year-old woman from Malang (2011-), was made to work more than 18 hours a day, seven days a week:

> *"My employer was also the owner of my placement agency. I worked from 6am to 12:30am or until the employer went to bed. I was not allowed to sleep unless after she went to bed. She didn't like me resting or sitting around, so whenever I was done with one task, she gave me more work to do. I didn't have a rest day – instead on Sundays, my employer made me work at her agency cooking and selling Indonesian food. She did not pay me for this extra work."*[266]

MI, a 25-year-old woman from Blitar (2008-2009), also worked excessive hours and was forced to do additional work outside of the house, which is illegal[267] under Hong Kong law:

> *"Everyday I worked from 5am to 2am – I never rested, never had free time and was only given breakfast and dinner. My employer criticised me everyday about every aspect of my work. If I had to take her son to school and he wasn't ready, she blamed me. If the meals weren't delicious or up to her standards, she got angry and criticised me for not knowing how to cook Cantonese food. On top of all the domestic duties, my employer also made me work everyday for two to three hours at their chicken shop dressing the chicken and cleaning the shop."*[268]

8.4. DENIAL OF WEEKLY REST DAY AND HOLIDAYS

Hong Kong's Employment Ordinance, which applies to all workers including migrant domestic workers, stipulates that "every employee who has been employed by the same employer under a continuous contract[269] shall be granted not less than one rest day in every period of seven days".[270]

However, the denial of a rest day is a common problem among Indonesian migrant domestic workers in Hong Kong. More than half of the migrants interviewed by Amnesty International did not receive a weekly rest day.[271]

By denying a migrant domestic workers their statutory rest day, the employer not only forces them to work more, but also prevents them from having contact with other migrants and accessing information about their rights and entitlements in Hong Kong.

YT, a 24-year-old woman from Surabaya (2010-), described her situation:

> *"I worked daily from 6am to 2am, sometimes until 4am, and was underpaid HK$2,200 [US$280]. For 19 months, I had no rest day. I finally got enough courage to complain to my employer, so I managed to get Sundays off for the remaining two months. My employer didn't like me going out because she didn't want me to talk to other Indonesian domestic workers – maybe because she was afraid that I would get information about my rights."*[272]

JH, a 22-year-old woman from Malang (2012-), was also denied a rest day as a means of control:

> *"I was given only one rest day per month – either Monday or Tuesday. My employer purposely didn't allow me to go out on Sundays because she didn't want me to mix with other Indonesian domestic workers. She got very angry whenever I talked to other Indonesians in the apartment complex. Also during my day off, my employer said I could only spend it at the placement agency."*[273]

Hong Kong law defines a rest day as "a continuous period of not less than 24 hours during which an employee is entitled [...] to abstain from working for his employer".[274] Interviews indicate that even when migrant domestic workers are given a rest day by their employer, it is often not a full 24 hours. This was the case for the majority of the interviewees, such as FR, a 31-year-old woman from Blitar (2010-2012):

> *"I had Sundays free from 9am-9pm, but I was not allowed to go out until I was done with the housework. Once I wanted to be with my friends who were free at 7am, so I decided to leave with them. But of course my employer called me on my mobile when I was at the station and told me to come back and finish the work."*[275]

Similarly, when HH, a 26-year-old woman from Trenggalek (2011-2012), was finally given a rest day, she still had to do domestic work:

> *"Upon arrival in Hong Kong, the head of the placement agency told me that I couldn't leave the employing household for seven months. He said I had to obey or face termination. But even after seven months, I was only given a rest day twice per month. Also, I couldn't leave the house until 10am because I had to prepare breakfast for my employing family first and I had to return by 9pm."*[276]

Figure 5: Indonesian domestic workers enjoying a game of tug-of-war in Hong Kong's Victoria Park (Source: Amnesty International, Photographer: Robert Godden)

Hong Kong law also entitles all migrant domestic workers to the 12 statutory holidays each year.[277] Employers cannot pay the workers in lieu of granting them the holidays; those contravening this provision are "liable to prosecution and, upon conviction, to a fine of HK$50,000 [US$645]".[278] Despite this, 26 interviewees told Amnesty International that their employer did not allow them leave during these days.

The HKSAR Labour Department told Amnesty International in August 2013 that between 2008 and 2012, the Department investigated only 97 cases of holiday and rest day offences, which led to the prosecution of 9 employers. Four of the employers were convicted and fined; the highest was HK$11,000 (US$1,400).[279]

8.5. RESTRICTIONS ON THE RIGHT TO FREEDOM OF RELIGION

Under Hong Kong's Basic Law, everyone has the "freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public".[280] However, the right of Indonesian migrant domestic workers, many of whom are Muslim, to practise their religion is often severely restricted.

The majority of women who spoke to Amnesty International stated that their employer and/or placement agency prohibited them from practising their faith in the employing household.[281] The IMWU survey found that 30 per cent of Indonesian migrant domestic workers were not allowed to practise their religion.[282]

TJ, a 29-year-old woman from Ponorogo (2010-), is a practising Muslim. She recalled the warning she received:

> *"When I first arrived, my employing family sternly told me that I would not be allowed to pray in their home. If I ever prayed or fasted, they would terminate my contract."*[283]

SL, a 28-year-old woman from Madiun (2012-), was also prevented from practising her religion:

> *"My employer prohibited me from praying in the household, not even at night in the privacy of my room. She said that it was because she didn't like the idea of me praying."*[284]

According to the testimonies of migrant domestic workers interviewed by Amnesty International, the women were prevented from praying for any number of reasons, including because their employers were afraid of them wearing a white veil, as it made them "look like a ghost"; they would "scare the children"; "pray for bad things to happen" to the employing family; or "die due to fasting". Other employers asserted that "praying is prohibited under Hong Kong law" for migrant domestic workers and that they "came to Hong Kong to work not to pray".

This practice is not only in violation of domestic law but also of the International Covenant on Civil and Political Rights (ICCPR), which Hong Kong ratified in 1976,[285] which states in article 18.1 that everyone has the "right to freedom of thought, conscience and religion", including "freedom to have or to adopt a religion or belief of his choice and freedom either individually or in community with others and in public or private to manifest his religion or belief in worship, observance, practice and teaching".

In October 2013, the HKSAR Labour Department told Amnesty International that although the right to freedom of religion "does not come under the jurisdiction of the Department", where there are related issues to practising religion, the Department encourages discussions between the employer and migrant domestic worker for reaching a mutual agreement. According to the Department, it "seldom" receives complaints about the right to freedom of religion.[286]

8.6. LACK OF ADEQUATE FOOD

Employers in Hong Kong are required to provide migrant domestic workers with food or a food allowance of not less than HK$920 (US$120) per month, according to Hong Kong regulations.[287] Yet in a submission to the ILO in 2012, the Hong Kong Confederation of Trade Unions (HKCTU) and Hong Kong Federation of Asian Domestic Workers Unions (FADWU) raised concerns regarding the provision of food:

> *"there is no definition of quality and quantity of food both under the Employment Ordinance and the Standard Contract. Both migrant domestic workers and imported workers under SLS [Supplementary Labour Scheme] report to the unions on insufficient food."*[288]

More than a third of Indonesian migrant domestic workers interviewed by Amnesty International stated that they were not given enough to eat nor were they provided with a food allowance.[289] Interviewees complained about employers giving them leftover or rotten food, pork (which most women cannot eat as they are Muslim), tiny portions and fewer than three meals per day.

NS, a 26-year-old woman from Jakarta (2012-), recounted her experience:

> *"I was given only one meal per day at midnight or 1am. It usually consisted of scraps of food like fish eyes and leftovers. When I ate the fish eyes, I felt sick and threw up. My employer just laughed at me."*[290]

HM, a 28-year-old woman from Banten (2012-), also received inadequate food:

> *"My employer provided a piece of bread for breakfast and usually rice for dinner. Rarely would I get lunch. I was always so hungry that other Indonesian domestic workers in the apartment complex felt sorry for me and gave me some food."*[291]

LR, a 37-year-old woman from Bandung (2011-), noted:

> *"I never had breakfast and no food allowance to compensate for it. I was made to work at two different households so I was tired and hungry all the time. The grandmother was always angry with me so it was hard to eat when she was around."*[292]

Several interviewees added that they had no choice but to supplement what they were given with food they bought with their own money. As YM, a 28-year-old woman from Subang (2010-), explained:

> *"I wasn't provided with breakfast and sometimes went without lunch. Because my employer didn't give me any food allowance, I had to spend my own money to buy food."*[293]

Similarly, AA, a 26-year-old woman from Kediri (2011-), stated:

> *"I was usually given one meal per day – either lunch or dinner. It wasn't enough, especially with all the work that I had to do. So when I had some money, I would supplement it by buying my own breakfast."*[294]

8.7. LIVE-IN REQUIREMENT, INADEQUATE ACCOMMODATION AND A LACK OF PRIVACY

Under Hong Kong's immigration regulations and stated in clause 3 of the Standard Employment Contract (see Appendix 4), migrant domestic workers must "work and reside in the employer's residence" (see section 11.2).[295] Employers in Hong Kong are required to provide migrant domestic workers with "suitable accommodation and with reasonable privacy". The Hong Kong Government describes "having to sleep on made-do beds in the

corridor with little privacy or sharing a room with an adult or teenager of the opposite sex" as not meeting this criteria.[296]

Only just over a third of the migrant domestic workers interviewed by Amnesty International were provided with their own room.[297] The majority had little or no privacy, as recounted by AU, a 30-year-old woman from Tulungagung (2012-):

> *"I had no time to myself – I worked long hours from 5am to 11pm with no rest day. My employers didn't allow me to leave the house without someone accompanying me. When it was bed time, I had to wait for everyone to sleep because I slept in the family bathroom."*[298]

Another migrant, FH, a 30-year-old woman from Ponorogo (2011), described her sleeping arrangement:

> *"I had no privacy in my employers' house. At night time, I had to sleep on a makeshift bed in the hallway, which was located between the parents' bedroom and bathroom."*[299]

Based on the interviews, other sleeping areas included the living room, kitchen, storage room, or sharing a room with the employers or their children. Beds were often not provided and migrant domestic workers reported sleeping on mattresses, sofas or armchairs.

The mandatory live-in requirement increases workers' isolation and the consequent risk of being subject to exploitation and abuse. An option to live outside of the house would provide migrant domestic workers with a way out of situations where their basic rights are being violated (e.g. where their privacy is not being respected and/or they are at risk of abuse from someone in the employer's household or where they are being made to work excessive hours). It is also likely that migrant domestic workers would gain leverage in negotiations for better conditions of work if they had the option of leaving the employer's house.

Figure 6: On Sundays, many Indonesian domestic workers gather at Causeway Bay, Hong Kong

(Source: Amnesty International, Photographer: Robert Godden)

9. WORK IN HONG KONG – HUMAN RIGHTS ABUSES AND COERCIVE MECHANISMS

"My first employer terminated my contract after five months so I still had two more months of agency fees [HK$6,000 or US$774] to pay. I had to briefly return to Indonesia before working for my second employer. My placement agency made me pay five months in fees [HK$15,000 or US$1,935]. My second employer terminated my contract after nine months. Even though I had paid the full fees, my agent told me I still had to pay an agency fee for my third job. We agreed to three months in fees [HK$9,000 or US$1,161] but when I returned from Macau, where I was waiting for my work visa to be processed, the agent changed his mind and made me pay four months [HK$12,000 or US$1,548] instead."

SN, an Indonesian migrant domestic woman from Cirebon[300]

9.1. EXCESSIVE AGENCY FEES

The maximum amount that agencies can charge migrant domestic workers is regulated in both Indonesia and Hong Kong. Under Indonesia's Ministerial Decree No. 98/2012, Indonesian recruitment agencies can charge a maximum fee of IDR 14,780,400 or HK$13,436 (US$1,730). Once interest payments and administrative fees are included, this equates to monthly payments of HK$2,180 (US$281) over seven months to repay the fee.

The Government of Hong Kong has also legislated on the maximum charge a placement (employment) agency can make for their services, as outlined in the Employment Agency Regulation of the Employment Ordinance:

> *"The maximum commission which may be received by an employment agency shall be-*
> *(a) from each person applying to the employment agency for employment, work or contract or hire of his services, 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."*[301]

This means that, at the current Minimum Allowable Wage of HK$4,010 (US$517), the maximum fee placement agencies in Hong Kong can charge is HK$401 (US$52).

In 2011, the HKSAR Labour Department received 73 complaints by migrant domestic workers against placement agencies, which was up from 67 complaints in 2010. The majority of cases (74 per cent) were related to overcharging the workers on placement fees.[302]

Amnesty International's research demonstrates that most interviewees had to hand over the vast majority of their salary to their placement agency,[303] normally a monthly repayment of HK$3,000 (US$387) for the initial seven months of their contract.[304] This corresponds to a total of HK$21,000 (US$2,709), which exceeds the statutory limits established by legislation in Indonesia (HK$13,436 or US$1,730). IMWU's survey found that an overwhelming 85 per cent of the respondents stated that they had to pay HK$21,000 (US$2,709) over a seven-month period.[305]

Consequently, serious indebtedness due to excessive recruitment fees is common among Indonesian migrant domestic workers. Many interviewees expressed how heavily they were burdened by their debt and their fear of acquiring more debt through new employment due to the common practice by placement of charging new fees. These debts often force workers to accept exploitation and abuse in the workplace. DL, a 24-year-old woman from Ponorogo (2012-), described how these debts impacted on her life:

> *"I find out after arriving in Hong Kong that my main job was not taking care of an elderly woman, but working at the market. I had to carry vegetables to Tai Po market to sell and collect rubbish three times per week. Without gloves, I had to pick through the rubbish to find items that could be recycled. I then carried them, which were often very heavy, to a centre where I could sell them. It was truly horrible work, but I remained because I needed to pay off my recruitment fees."*[306]

TN, a 31-year-old woman from Ponorogo (2011-), told Amnesty International she was physically abused by her employer who then dismissed her after three months on the pretext of theft:

> *"My employers refused to pay me the one-month salary compensation and my flight home, so the placement agency told me to return to them. I didn't want to and refused, but they called my recruitment agency in Indonesia who then put pressure on me to return. I owed the agency in Indonesia money for the recruitment fee, so I had no choice but to return."*

Like most migrant domestic workers, TN was reluctant to move employers because they will usually have to pay a new recruitment fee to obtain another job:

> *"I am worried that when I find a new employer I will have to re-pay the seven-month recruitment fee. I want to work in Hong Kong but feel traumatised by the physical abuse and the weight of the debt."*[307]

Similarly, RE, a 36-year-old woman from Lampung (2011-), was physically abused by her employer on multiple occasions whenever she was "unhappy about my work". So after two months:

> *"I ran away from my employer, I was worried about paying back the recruitment fee because I didn't finish the contract, which meant I would have to pay the fee again. I only found out now that under Hong Kong law, agencies can only charge in fees 10 per cent of our first month salary."*[308]

UR, a 40-year-old woman from Jombang (2010-), was paid HK$2,200 (US$280), which was less than the legal Minimum Allowable Wage at that time of HK$ 3,580 (US$460), but nothing during the repayment period:

> *"I didn't receive any salary during the five-month deduction period – it all went to the placement agency. I had nothing left over so I couldn't do anything or send any money home."*

When UR arrived in Hong Kong, she discovered that aside from domestic work, she also had to work on a farm growing vegetables and tending chickens and as a result of this, she developed a rash on her arms. Despite this, she remained in the job for 23 months due to threats from her placement agency:

> *"The placement agency in Hong Kong told me that I had to continue working or else pay them HK$ 21,000 [US$2,709]. There are no jobs in Indonesia, especially for people like me with very little formal education, and I have 12 brothers and sisters to support back home."* [309]

9.2. CIRCUMVENTING THE LAW ON RECRUITMENT FEES

Recruitment agencies in Indonesia work closely with placement agencies in Hong Kong to ensure that their fees are fully repaid. As these fees routinely exceed the legal maximum that agencies are allowed to charge in both countries[310] the agencies circumvent the law by collecting payment through a variety of third party schemes.

One is for placement agencies to collect the fees through finance companies.[311] They compel migrant domestic workers to sign a document acknowledging receipt for a "loan" and instruct their employer to transfer most of the monthly salary to the finance company that issued the "loan". The IMWU survey found that 34 per cent of Indonesian migrant domestic workers were asked to sign a loan agreement.[312]

FI, a 29-year-old woman from Wonosobo (2012-), recounted how the head of a recruitment agency in Indonesia had threatened her when she did not repay all the fees:

> *"The agency boss complained and threatened that the "bank" – it's actually the finance company in Hong Kong – will go to my family and ask for the remaining money. In fact, people did go to my parents' house to ask for the money, but they don't have any money. So far, I received eight warning letters from the company, which were all sent to my employer's house. That clearly creates big problems for me because my employer gets annoyed and thinks I'm getting myself into financial problems."*[313]

LJ, a 38-year-old woman from Ponorogo (2010-), explained the pressure she was under:

> *"Just recently, the placement agency spoke to my employers to arrange for me to take out a loan through a financial company. The agency wants them to put pressure on me to take out this loan. I don't want to but I'm not sure how I can resist if my employers insist."*[314]

Alternatively, the agency instructs some migrant domestic workers to make cash payments to the loan company via 7-Eleven stores after they receive their salary from their employers. The 7-Eleven's receipt only includes an account number[315] and it is not made clear to the migrants who the recipient is. Eleven interviewees, including NA, a 28-year-old woman from Karawang (2012-), made payments through this method:

> *"Under instructions from my placement agency in Hong Kong, I made a payment of HK$3,000 [U$387] every month for the first seven months. I was just given an account number, no name of the account holder, so I don't know who the recipient was."*[316]

Holly Allan, founder of Helpers for Domestic Helpers, an NGO in Hong Kong that handled 5,000 complaints just in 2011, described the connection between placement agencies, loan companies and the employers in Hong Kong:

> *"Employment agencies are in collusion with moneylenders and with employers, and they're all in it to save money or make money at the cost of domestic workers. […] All of it is illegal. The fact that they're taken to a loan agency to pay the placement fee – the purpose of the loan is illegal. It's a cross-border crime."*[317]

Another illegal mechanism which the placement agencies use is to make an agreement with the employer to deduct a portion of the migrant domestic worker's salary and then to force the worker to sign a piece of paper stating that they had received their full salary (i.e. in line with the Minimum Allowable Wage). Fifteen interviewees who were paid below the Minimum Allowable Wage specifically told Amnesty International that their employer made them sign a document falsely acknowledging receipt of their full wages.

YS, a 37-year-old woman from Ponorogo (2009-2010), was promised a salary of HK$3,580 (US$460) by her broker, but only found out after the deduction period that her real salary was *HK$2,000 [US$260]*: Even then she continued to sign the false statements which said she received HK$3,580 (US$460):

> *"Even after I repaid the agency fees, I continued to sign the document every month stating that I received the full salary because I was afraid that if I refused, my employer would terminate my contract and send me back home."*[318]

YT, a 24-year-old woman from Surabaya (2010-), challenged this fraudulent practice:

> *"I worked for my employers for a total of 19 months. After 15 months, I asked my employers why I had to sign a receipt every month stating that I had received the full salary of HK$3,580 [US$460] when they were only paying me HK$2,200 [US$280] with no rest days. I told them I would complain to the Labour Department. So afterwards, I received my full salary for the remaining four months. They refused to give me leave on statutory holidays but I had my Sundays off in the final two months."*

However, there were also consequences, as YT believed that her employers prematurely terminated her contract after 19 months because she was becoming a "troublemaker".[319]

Another case was WS, a 25-year-old woman from Ponorogo (2010):

> *"After the deduction period, I was paid HK$2,000 [US$260], but I had to sign a monthly receipt of HK$3,580 [US$460]. When I asked my employer why I had to sign it when I didn't receive the full salary, he became furious and banged his fists on the kitchen cupboard asking me why I would question him. I got so scared that I never asked again."*[320]

Most of the migrant domestic workers interviewed by Amnesty International who looked for a new job in Hong Kong after the completion or termination of their first contract had to pay a new fee to the placement agency, which exceeds the legal maximum charge of 10 per cent of the worker's first month's salary.[321] According to RE, a 36-year-old woman from Lampung (2011-):

> *"When a contract is terminated before paying off the fees, Indonesian domestic workers must pay an additional seven months' recruitment fee again for our new job. So even if it's terminated after six months, we are still obligated to pay the fees from the start all over again."*[322]

The case of ST, a 29-year-old woman from Banyuwangi (2011-) illustrates how agencies continue to exact excessive fees even in a worker's second contract:

> *"After my first employer terminated my contract, my placement agency wanted me to pay nine months in agency fees, but I negotiated it down to seven months. The agency made me sign a document that stated that my new job would only pay me HK$2,200 [US$280], despite the contract stating a salary of HK$3,580 [US$460]. I was not given a copy of this signed document."*[323]

Another migrant domestic, PS, a 38-year-old woman from Kediri (2011-), described the agency fees she paid in her three employment contracts:

> *"I only worked for two weeks for my first employer and wasn't paid anything – the placement agency kept all the money. For my second contract, I paid a total of HK$21,000 [US$2,709] in recruitment fees and for my third, I was supposed to pay HK$9,000 [US$1,160] over three months but my employer terminated my contract after two months."*[324]

9.3. PHYSICAL/PSYCHOLOGICAL ABUSE AND THREATS

"Around 11pm, my employer beat me up again. I wanted to go to my agent but he wouldn't let me. Instead, he kicked me from behind and dragged me by my clothes to my room. After locking the door, he smacked and punched me. He pushed me to the ground and kicked me some more. I was black and blue all over – my face, arms and legs. My mouth and forehead were bleeding."

BL, an Indonesian migrant domestic worker in Hong Kong[325]

Due in part to the isolated nature of their work, domestic workers are at greater risk of abuse, harassment and violence than other workers. This was acknowledged by the UN Committee on the Elimination of Discrimination against Women in its General Recommendation 26:

> *"Women migrant workers are more vulnerable to sexual abuse, sexual harassment and physical violence, especially in sectors where women predominate. Domestic workers are particularly vulnerable to physical and sexual assault, food and sleep deprivation and cruelty by their employers."*[326]

Two thirds of migrant domestic workers interviewed by Amnesty International had been subject to physical or psychological (verbal) abuse, and/or threats.[327] Employers threatened to terminate their contract or "send them back to Indonesia" if they didn't "work harder". Common psychological abuse included calling the migrant domestic worker "stupid", "deaf", "lazy", "crazy", "useless", "rubbish", "pig" and "dog".

NE, a 29-year-old woman from Ponorogo (2008-2010), was beaten on various occasions:

> *"The husband verbally abused me calling me crazy and stupid. He also slapped and punched me in the ear, arm and back, which left bruises. This happened many times because he was unemployed and so angry all the time, which he took out on me. I didn't say anything to his wife because he threatened that if I told her, he would beat me up again."*[328]

NS, a 26-year-old woman from Jakarta (2012-), was subject to serious physical violence:

> *"The wife physically abused me on a regular basis. She forcibly cut my hair with the pretext that my hair had fallen in their food but that was absurd because I didn't cook for them. Once she ordered her two dogs to bite me. I had about ten bites on my body, which broke the skin and bled. The wife was ecstatic – she recorded it on her mobile phone, which she constantly played back laughing. When one of the dogs vomited, she forced my face down to the vomit ordering me to eat it, but I refused. When I asked her why she kept abusing me in this way, she told me that it was because she was bored so this is how she passed the time."* [329]

AU, a 30-year-old woman from Tulungagung (2012-), was also physically assaulted by her employer:

> *"Once the daughter poured boiling water from a kettle on my right arm and chest because I didn't clean the fish properly and cut the vegetables the wrong way. Another time, she stabbed me with a knife because I had cut the meat incorrectly. I was bleeding. That night, I ran away – the security guard at the employer's apartment called an ambulance for me. At the hospital, they cleaned the wound and gave me an injection. The police arrived at the hospital and I filed a complaint against my employer."*[330]

Such abuse and violence are often the reasons why migrant domestic workers run away, as explained by TR, a 29-year-old woman from Indramayu (2012-), who was interviewed in a shelter in Hong Kong:

> *"The elderly woman – the mother of my employer – always called me bad names, and slapped me on my face and shoulder whenever she wasn't pleased with my work performance. After one year, I ran away because I couldn't stand the hitting or the constant criticism anymore."*[331]

DE, a 24-year-old woman from Malang (2011-), detailed her reasons for running away:

> *"Any time that my employer was angry with me, she slapped me everywhere. She hit me with a plastic chair on my right shin, which left a bruise, and scratched my face. I can't count how many times this happened because it was too numerous. After six months, I ran away because I was afraid of enduring more of her physical abuse."*

DE did not file a complaint with the police but she did pursue her wage and other compensation claims at the Labour Department.[332]

GM, a 45-year-old woman from Banyuwangi (2010-), endured a year and a half of abuse because she "didn't know Hong Kong and was afraid that the placement agency would report me to the police". She stated:

> *"After 18 months, I finally ran away to a shelter that my friends told me about because I was tired of being verbally abused by my employers, which happened every day. Whatever I did, it was always wrong – they criticised how I cooked, called me "crazy" or "mental", and once, the son used the term for the male sexual organ at me. If one family member got angry, then all of them joined in. I couldn't take it anymore because they constantly made me nervous and tense."*[333]

In August 2013, the Mission for Migrant Workers, an NGO based in Hong Kong, published its findings from a survey of more than 3,000 migrant domestic workers. In the survey, it found that 58 per cent of the women faced verbal abuse, 18 per cent physical abuse and 6 per cent sexual abuse. The Mission believes that there are many more cases that go unreported due to fear or lack of information on how to file a complaint.[334]

It is not surprising then that only a few of the migrant interviewees who had suffered abuse filed a police complaint. This was not only due to the aforementioned factors, but also other practical, financial and legal obstacles, primarily linked to their immigration status, which makes reporting difficult. These are examined in section 10.

KARTIKA'S ORDEAL

In a highly publicised court case in August/September 2013, Kartika Puspitasari, a 30-year-old Indonesian migrant domestic worker in Hong Kong, described the abuse she suffered at the hands of her employers, Tai Chi-wai and his wife Catherine Au Yuk-shan, during more than two years (July 2010-Ocotber 2012). Her story is indicative of some of the problems that many migrant domestic workers report in Hong Kong.

According to Puspitasari, her employers confiscated her passport, forced her to cut her hair "almost bald" and slashed her hands and stomach with a paper knife when she tried to refuse the second time. They locked her inside when leaving the flat and ensured that she never went out alone. Throughout her employment, Puspitasari was never paid or given a day off.

Puspitasari's testimony detailed how Au beat her frequently for any perceived wrongdoing or for no reason, using a metal hanger to hit her on the face and in one instance a shoe to slap her face so hard that she bled. Au also burned Puspitasari's face and arms with a hot iron.

Puspitasari recalled that the couple used a bicycle chain to whip her on the mouth, head and back. Medical assessments documented bruises to her lips and left eye, burn marks and 45 scars and abrasions – injuries that were unlikely to have been self-inflicted as they were located on her back, beyond reach.

Every night Puspitasari's hands and feet were tied in the kitchen where she slept in the first apartment and when they moved, in the bathroom sitting on the toilet.

In June 2012 when the employing family went on holidays in Thailand, Puspitasari was left in the kitchen without any food or water, with her hands tied behind her back and her feet on the legs of a chair. During those five days, Puspitasari relieved herself on the floor.

Having been given so little food, Puspitasari resorted to scavenging for leftover scraps in the rubbish. On the day of her escape, Tai punched her on the mouth for eating food without permission and threatened to smash all her teeth.

On 18 September 2013, the Wanchai District Court convicted Au on six charges of assault and Tai on two charges of assault, sentencing them to five and a half years, and three years and three months imprisonment respectively.[335]

9.4. SEXUAL HARASSMENT AND VIOLENCE

In seven cases, interviewees told Amnesty International that they were subject to sexual harassment and violence in the workplace. For example, ZR, a 27-year-old woman from

Surabaya (2011-), was raped by her employer:

> *"The husband always tried to touch me but I stopped him. One day, he returned home early when his daughter was sleeping and his son was at school. I was washing the dishes when he grabbed me and pushed me to the floor. He dragged me to the bedroom and raped me. I ran away that evening when everyone was busy. I asked an Indonesian domestic worker friend for help and she gave me the number of a helpline. After I called, I went to their office in Yaumatei [an area of Kowloon, Hong Kong] with my friend. Then together with the staff, we went first to the police station to file a complaint, then to the hospital and back to the police station."*[336]

At the time of Amnesty International's research, the case was pending police investigation.

RY, a 31-year-old woman from Karawang (2012-), also ran away after she was sexually assaulted by the husband in her employing household. When RY spoke to Amnesty International from a shelter in Hong Kong, she was too traumatised to speak about what had happened. However, she revealed that she had filed a complaint with the police, which was pending investigation at the time of the interview.[337]

As well as physical abuse (see section 9.3), NE, a 29-year-old woman from Ponorogo (2008-2010), also had to endure sexual harassment in the employing household:

> *"When everybody was asleep, the grandfather would come to the living room where I was sleeping and grope me everywhere. He told me that he wanted to have sex with me. All I could do was keep telling him no, get angry and try to stop him. This happened many times at night. I didn't tell my employers – the couple – because I was afraid that they wouldn't believe me."*

NE was "too afraid to complain to the placement agency" as she felt that the agency "wouldn't believe me and would take the employer's side". So after four months, NE decided to terminate her contract:

> *"In total, I only worked nine months in Hong Kong [five months in the previous employment]. I had to quit my second job because of the physical and sexual abuse. Because of the grandfather, I was forced to return to Indonesia without having earned any money."* [338]

9.5. RESTRICTIONS ON FREEDOM OF MOVEMENT AND ASSOCIATION

More than a third of the migrant domestic workers interviewed by Amnesty International stated that they had not been free to leave their employer's home.[339] According to several migrant interviewees and NGOs working with Indonesian domestic workers, placement agencies in Hong Kong specifically advise employers to prevent the workers from leaving the house, particularly during the initial months.

Amnesty International's research indicates that the reason for this is to ensure that the domestic workers do not have access to information or assistance which might lead to them challenging their terms and conditions of work, seeking alternative employment or not paying back the fees "owed" to the recruitment agency.

Figure 7: IMWU activists at an information stall in Hong Kong's Victoria Park (Source: Amnesty International, Photographer: Robert Godden)

Several interviewees told Amnesty International that their employer and/or placement agency stopped them from calling home or speaking to other people, including other migrant domestic workers. HM, a 28-year-old woman from Banten (2012-), outlined her experience:

> *"My employers controlled everything that I did. I had no rest day and couldn't leave the apartment unless I was accompanied by my employers. I was forbidden to talk to other Indonesian domestic workers – not even when I threw out the rubbish in the apartment complex – so I never knew anyone outside my employing family. Even my bedroom was restricted – I was not allowed to enter it until after 11pm."*[340]

WS, a 25-year-old woman from Ponorogo (2010), had similar restrictions placed on her everyday movements by her employers:

> *"I had no rest day or statutory holidays. If I left the household, I had to be accompanied by the grandmother or grandfather. My employers forbade me from talking to other Indonesian domestic workers – I wasn't even allowed to smile at them. Once I was walking with my employers to the park when they saw me smiling at other Indonesians. The husband got angry and yelled, "Why are you smiling? You look like a lunatic!"*[341]

These restrictions on the domestic workers' freedom of movement are further exacerbated by the removal of their personal identity documents, as outlined below.

9.6. REMOVAL AND RETENTION OF DOCUMENTS

In the interviews conducted by Amnesty International with Indonesian migrant domestic workers, the great majority revealed that their employer or placement agency in Hong Kong kept their identity documents (86 out of 93 who were asked and responded to the question), such as their passport, KTKLN and Hong Kong ID card,[342] and/or their employment contract. These documents were usually taken shortly after their arrival in Hong Kong. This is

consistent with the IMWU survey where 74 per cent of the respondents said their documents were taken by their employer or placement agency.[343]

GM, a 45-year-old woman from Banyuwangi (2010-), had all her key documents confiscated on arrival in Hong Kong:

> *"When I arrived in Hong Kong, the placement agency confiscated my passport, KTKLN and employment contract. The agency refused to return these documents to me. I was only allowed to keep my Hong Kong ID card."*[344]

TW, a 35-year-old woman from Ponorogo (2010), recalled her experience:

> *"Upon arrival in Hong Kong, the placement agency confiscated my passport and contract. I didn't ask for them back because I was afraid and besides, the recruitment agency in Indonesia had told me not to ask for them."*[345]

NU, a 31-year old woman from Ponorogo (2011), also had her documents confiscated:

> *"When I started work in Hong Kong, my employer took my passport and Hong Kong ID card. I never asked for them because the agencies in Indonesia and Hong Kong both warned me against it. I don't know about my contract because I'm not sure what it looks like."*[346]

Twenty-eight interviewees specifically stated that they had asked for their personal documents to be returned, but their employer or placement agency had refused to return them, as in the case of RM, a 41-year-old woman from Ponorogo (2009):

> *"My employer kept my passport and contract. When I asked for them, she told me that it was forbidden for me to hold on to them."*[347]

TD, a 29-year-old woman from Malang (2011-), was equally rebuffed when she tried to retrieve her documents:

> *"After several months in Hong Kong, I asked my placement agency to return my passport and contract. He refused and said I could only get them back after my two-year contract ends."*[348]

IR, a 29-year-old woman from Ponorogo (2009-2011), recounted her experience:

> *"My employer held on to my contract and passport. When I asked for them back, she refused and said that the placement agency had instructed her to keep them with her."*[349]

Several interviewees stated that they were "too afraid" to ask for their documents because it could anger their employer or agency, and lead to some penalty, such as the premature termination of their contract.

SL, a 28-year-old woman from Madiun (2012-), was only able to retrieve her documents after seven months:

> *"The placement agency kept my passport and contract for seven months. Afterwards, I asked for them back, which they did. I didn't ask for them before the deduction period was over because I knew it would not be possible until I repaid all the fees."*[350]

GH, a 29-year-old woman from Cilacap (2012-), was not so fortunate:

> *"The placement agency took my passport and contract when I arrived in Hong Kong. After seven months, the agency returned the documents when I had finished paying back my recruitment fees. But then my employer confiscated them."*[351]

The confiscation of passports, identity papers and contracts by employers or placement agencies is an effective way of maintaining control over migrant domestic workers, as without these documents, they cannot work legally in another job or even prove they have a right to be in Hong Kong if they leave the employer's house. This in turn makes it extremely difficult for them to leave jobs where they are subject to abuse.

Amnesty International also found that some migrant interviewees had difficulty getting their documents back after their contract was terminated or finished. Where their personal documents were retained by their employer or placement agency, Indonesian migrant domestic workers had little ability to negotiate the terms of their new job or the level of the repayment fee.

A case in point is RH, a 35-year-old woman from Ponorogo (2011):

> *"My employer terminated my contract after three months and refused to return my passport and contract. In the end, I only received my passport from the placement agency at Hong Kong airport when I was about to return to Indonesia."*[352]

In IMWU's survey, 48 per cent responded that their personal documents were not returned to them after the completion or premature termination of their contract.[353]

9.7. MANIPULATED CONTRACT TERMINATION

Amnesty International's research found that more than a quarter of Indonesian migrant domestic workers had their contract terminated by their employer before or just after their salary deduction period ended.[354] In the survey conducted by IMWU, 40 per cent of the respondents stated that their contract was terminated before the completion of their contract,[355] while 17 per cent faced termination just before their seventh-month repayment period.[356]

This is a common practice, which is manipulated by the placement agency in order to maximise profits, as the early termination of their contract forces the migrant domestic worker to look for another job, sign a new contract and pay the agency fee all over again. The new fee can be up to another seven months, depending for example on whether there is any remaining debt from her previous employment. During this time, the domestic worker will receive little, if any, of her wages.

The experience of HI, a 40-year-old woman from Ponorogo (2009-2011), was typical of many Indonesian domestic workers:

> *"After seven months, my employer terminated my contract because according to her, I didn't clean well or was too slow. But the real reason is because the placement agency convinced her to change domestic workers so that the agency could earn more money from recruitment fees."*[357]

It is important to note that nineteen of the migrants interviewed by Amnesty International, who did not have their contract terminated before or just after their salary deduction period, still had their contract terminated before the two-year completion date.

Under Hong Kong law, "either party may terminate the contract by giving not less than one month's notice in writing or by paying one month's wages to the other party".[358] Despite this, more than a quarter of the migrant domestic workers interviewed by Amnesty International had their contract terminated without notice and without receiving the due compensation.[359]

LR, a 37-year-old woman from Bandung (2011-), recounted how her employer terminated her employment less than two months into her contract and tried to renege on her obligation:

> *"My employer wanted me to sign a document that declared I was the one breaking the contract so that she wouldn't have to pay me the one month salary compensation. I refused and asked to go to my placement agency to find a new employer. My case is now at the Labour Department where a conciliation session is scheduled for October 2012. I am asking for compensation for unpaid wages and food allowance."*[360]

HS, a 32-year old woman from Ponorogo (2009), worked for only two weeks in Hong Kong before her contract was terminated. She received no pay and no compensation:

> *"After two weeks, the placement agency came and picked me up. No reason or explanation was given to me for the early termination by the agency or employer. Before I left the employer's house, I had to sign two documents – one was a receipt for the flight ticket home and the other was in Chinese so I didn't know what it was for, but I had no choice but to sign it."*[361]

Outstanding payment of wages after premature termination of a worker's contract is also a common problem among Indonesian migrant domestic workers. Amnesty International has documented cases where workers sought remedy by filing a complaint against their employer with the Labour Department.

For example, YT, a 24-year-old woman from Surabaya (2010-), was paid HK$2,200 (US$280) instead of the statutory HK$3,580 (US$460) and had no rest day for most of her 19-month employment. According to YT, her employers terminated her contract because she had started demanding her full salary. Upon termination, they took her to the placement agency:

> *"The agency, along with a staff from an Indonesian organisation KOMI [Komunitas*

Migrant Indonesia], tried to force me to sign a document stating that I had received all my salary, but I refused to sign it. The agency and employers got angry and the KOMI staff banged his fist on the table and said that I had to sign it. I told them, 'Until you cut my hand, I will never sign. I have not received all my full salary, so why should I sign it?' The KOMI staff then tried to appease me by saying that he would help me carry my suitcase and take me to their shelter, telling me that my placement agency was a good one. He warned me that Hong Kong was dangerous and that they would take good care of me. But I told him that I would go to my friends at ATKI [Asosiasi Buruh Migran Indonesia, a migrant-led NGO]."

As YT was not able to get her outstanding salary and compensation for the unpaid rest days from her employers, she took her case to the Labour Department in May 2012. Due to an unsatisfactory offer by the employer during the conciliation process, it was deferred to the Labour Tribunal where it was pending at the time of the interview.[362]

YT's situation is not unusual – another woman, HM, a 28-year-old woman from Banten (2012-), recounted that in August 2012:

"After two months of employment, my employers terminated my contract. The grandmother brought me to the placement agency because she wanted to pay the rest of my salary directly to the agency. When she complained that I didn't know how to do my job well, the agent slapped me many times, pulled my hair and pressed her finger on my forehead. Then the agent and my employer discussed something on their own and afterwards, told me to go home by myself."

HM sought compensation for the food allowance, as she was only given one full meal per day, and rest days that she was denied. During the conciliation process at the Labour Department in September 2012, HM did not accept the compensation offered by the employers, thus, her case went to the Labour Tribunal where it was pending at the time of the interview.[363]

Figure 8: A bedroom at an Indonesian shelter also used to store personal effects of domestic workers (Source: Amnesty International, Photographer: Norma Kang Muico)

MIGRANTS TELL THEIR STORIES

Almost 4 million Indonesians have officially migrated abroad for work since 2006. The majority of them are women who take on domestic work in private homes. Poverty and unemployment compel them to seek opportunities abroad, including Hong Kong. Yet for many Indonesian migrant domestic workers, hopes for a better life are crushed by a migration process that is fraught with duplicity and abuse from the moment they enter it.

Indonesian migrant domestic workers during their statutory rest day in Victoria Park, Causeway Bay, Hong Kong, June 2013.

*** All names have been changed.**

LESTARI

I was born into a very poor family. My parents are elderly. Back then, we had no income to live on. I thought about our life – how difficult it was – and asked myself how I could change it.

There was a broker who lived near me. One day, she came to my house and told me there was work in Hong Kong, but only if I went quickly. She said, "You don't have to worry about anything. The recruitment fee will be deducted from your wages, but other than that, everything you need will be taken care of by your employer." The broker promised me 1 million Indonesian rupiah (US$100) as an incentive, but only gave 400,000 rupiah (US$40) when I reached the training centre. I gave her my Indonesian ID and family certificate which she then passed on to the recruitment agency. I still haven't got them back.

The training centre was in Jakarta – nine hours from my home in Ponorogo. I was shocked when I got there. It was surrounded by high fences and all the women there had their hair cut short. At the office, they gave me a piece of paper with English writing on it. All I could read was the number 27 million. The staff told me, "You have to sign this." There were about 30 of us; we just did as we were told. Afterwards, they said: "What you have signed means that if you decide to leave, then you have to pay us 27 million rupiah."

When I got to Hong Kong, I had problems with my first employer and was terminated within five months. I went to my placement agency. They told me, "You can't go back to Indonesia because you still owe us two months' deductions." I still wanted to work so I found another employer. My wages were deducted not for two but for another six months, making my wage deduction period a total of 11 months.

My second employer lived with his extended family. The grandfather kept asking, "Do you want to have sex with me?" At night when everybody was asleep, he would come to the living room where I was sleeping and grope me everywhere. All I could do was keep telling him no and try to stop him. I just cried and cried.

In Indonesia, migrant workers are called "heroes" who earn valuable money for the country. In reality, we don't benefit from this. There is no state support for our families. The Indonesian government did not help me in Hong Kong. I was alone.

***Clockwise from above*: Lestari at her home near Ponorogo, East Java, at an interview with Amnesty International. Born in 1984, she was a domestic worker in Hong Kong from 2008 to 2012.**
Lestari’s family home.
Weights and (far left) cartons used by Lestari’s husband in his egg selling business.
Central Jakarta, Indonesia. Lestari travelled nine hours to get to the training centre in Jakarta which she described as a “prison”.

PUTRI

It's difficult to find work in Indonesia. A broker told me there were plenty of opportunities in Hong Kong and that my time at the training centre would be brief. But I ended up staying there for seven months. We were not allowed to go out the entire time we were there unless we paid a cash deposit of 1,000,000 Indonesian rupiah (US$100) or provided a property certificate as collateral.

The teachers at the training centre were unprofessional. I now know that they could not speak fluent Cantonese. They also failed to teach us how to cook Chinese food properly. The conditions were terrible – the centre was overcrowded and we slept on mattresses on the floor. There were only six bathrooms for 200 people, so three to four of us would have to shower together. The staff abused us all the time, calling us names and telling us we were bad workers. I also had to work as a domestic for a family in Surabaya for four months. I was only paid 150,000 rupiah (US$15) per month, but domestics in Surabaya are usually paid 400,000 rupiah (US$40).

On top of the recruitment fees, I had to pay for other costs.

I was given a contract to sign after five months. It was in English which I didn't understand. No one explained it to me. I was just told to "sign it". The whole process took no more than five minutes. I was never given a copy.

Once I started work in Hong Kong, my wages were deducted for the first seven months. I had to pay HK$ 3,000 (US$390) each month. My employer paid this directly to the agency. That left me with only HK$580 (US$75) which isn't very much to live on. I didn't get a weekly rest day. Instead, I only had two days free per month. My employer confiscated my passport to stop me running away.

I am back in Indonesia now and don't want to return to Hong Kong. I want to have children and start my own business so I can create job opportunities here for others.


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© Amnesty International (Photo: Robert Godden)


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Clockwise from above: Putri being interviewed by Amnesty International at her home near Trenggalek, East Java.
Farm land, Trenggalek. Many domestic workers worked the land in their villages before seeking new opportunities in Hong Kong.
Outside her home. Putri was a domestic worker in Hong Kong from 2011 to 2013.
Surrounds of Putri’s house.

WULAN

A broker told me an employer in Hong Kong needed domestic workers urgently. He said that I would be paid the full salary, which at that time was HK$3,580 (US$465). In reality I was paid nothing. The broker asked for my high school diploma, family certificate and Indonesian ID card. He gave them to the staff at the training centre who kept them. The staff explained the documents were a guarantee that I would go to Hong Kong and pay off my recruitment fees. To this day, I have not got them back.

I stayed in Hong Kong for only three months. In that time, I was never given a day off. I wasn't paid either. My employer told me I couldn't speak to anyone, not even my Indonesian friends. I had to sleep in the room with her two children. I was not allowed to practise my religion.

I always ate after the family. They gave me whatever was left over from their dinner. Sometimes that wasn't enough. They ate a lot of pork, which obviously as a Muslim, I couldn't eat.

One night, at midnight, my employer told me to wash her daughter's socks right away. I was exhausted but I did it. But my employer said they weren't clean enough and dumped the dirty cold water on my head. She said I was stupid and lazy. She abused me verbally like this every day.

[Later] someone from the agency… told me my employer had terminated my contract. My employer refused to give me my salary and compensation for terminating my contract! The agency did not help me find a new job and just told me to go back to Indonesia.

I am happy to be back in Indonesia where I have peace of mind. Before Hong Kong, I worked in Singapore where I learned English so I now teach primary school students at my home. I also run a small convenience shop from our home.

I hope that other migrant domestic workers, especially those going to Hong Kong, can get what they are entitled to, like a place of privacy to sleep, proper salary and rest day. I know there are many Indonesians in Hong Kong who don't get these things.

Clockwise from above: Wulan being interviewed by Amnesty International at her home, April 2013.
With her husband and father.
Working in her small shop.
Wulan runs a small English school from her house to earn money. She learned English while working as a domestic worker in Singapore and Hong Kong.
Wulan and her husband make salted eggs to earn extra money.

DEWI

My first job in Hong Kong was looking after an elderly lady who was very sick. The job didn’t last long because she died. My employer gave me my severance pay equal to one month’s wages, as stipulated by law, plus my last month’s salary. But the agency took this money from me. I stayed at the agency hostel for about a week. They only arranged one interview for me. I was running out of time to find work, due to the “two week rule” [upon termination of contract, migrant domestic workers must find a new employer within two weeks or leave Hong Kong].

I wanted to change agency but they wouldn’t let me and kept my passport. So I lodged a complaint with the police. They came to the hostel and forced the agency to return my passport.

At the last minute – on the last day of my visa – another agency offered me a job. I had to sign the contract immediately. Right from the start, things were not good with my new employer. The contract stated I would work for four people but there were actually eight in the household. After one month, I broke the contract.

My next employer was good. I was able to join the Muslim Women’s Communication Forum whose mission is to help migrant domestic workers. I helped collect donations to support our migrant women’s shelter which offers support to those experiencing sexual harassment, underpayment and early termination of their contract. I was able to make friends and learn more about Hong Kong. I felt empowered and decided to study at St. Mary’s University where I graduated from the Bachelor of Entrepreneur Management Programme.

If I could change one thing, it would be for the Indonesian Consulate to get rid of unscrupulous agencies and become a place where migrant domestic workers can go for help.

***Above*: Dewi being interviewed by Amnesty International at a hotel in Blitar, East Java. She was a domestic worker in Hong Kong from 2005 to 2011.**
***Right*: Indonesian migrant domestic workers gather in Victoria Park in Causeway Bay, Hong Kong. Organized by trade unions and activist groups, the event aimed at raising awareness of domestic workers’ rights.**

At a meeting with the HKSAR Labour Department, the officials informed Amnesty International that if a migrant domestic worker wanted to contest her employer's pre-mature termination of the contract, she would need to "provide substantial evidence to support the claim". The Immigration Department will only approve the application if it falls "within the scope of exceptional circumstances" – "transfer, migration, death or financial reasons of the ex-employer, or if there is evidence substantiating that the FDH has been abused or exploited". The Department further stated that it would be "her word against the employer" and when asked if employers had to prove their reason for terminating the contract, the Department answered "no".[364]

9.8. FINDING NEW EMPLOYMENT: THE TWO-WEEK RULE

Under the New Condition of Stay (NCS), 1987, or the Two-Week Rule, migrant domestic workers in Hong Kong must find new employment and obtain an approved work visa within two weeks of the expiration or premature termination of their employment contract. Failing that, they must leave Hong Kong.

So even after completing their two-year contract, migrant domestic workers continue to face difficulty in finding new employment due to the Two-Week Rule, which further exacerbates migrant workers' vulnerability to exploitation by both their employer and their placement agency. In their 2012 submission to the ILO, the HKCTU and FADWU stated that they did not consider this timeframe sufficient to find new employment:

> *"The two-week's time is not enough to get a new employer. Even when you can get a new employer immediately, the approval of working visa by the Immigration Department takes 6-8 weeks. The workers must leave Hong Kong when the 'two weeks' end."*[365]

Even the Immigration Department accepts that it normally takes "about 4-6 weeks" to process an application for change of employer by a migrant domestic worker once "all necessary documents" are received.[366]

Thirteen interviewees told Amnesty International that they had to leave Hong Kong because they were unable to find new employment within two weeks of termination. In some cases, the workers go to Macau and/or mainland China to wait for their Hong Kong visas to be processed.[367] A case in point is NE, a 29-year-old woman from Ponorogo (2008-2010), whose employers terminated her contract after five months. She tried to find another employer within two weeks but was unsuccessful. Her account demonstrates the scale of this problem:

> *"I had to spend one month in Macau and when my Macau visa ran out, one week in China. In Macau, I stayed at a studio apartment with about 60 other Indonesian domestic workers – we were all from the same placement agency and all waiting for our Hong Kong work visa to be processed."*[368]

IW, a 43-year-old woman from Ponorogo (2009-2011), was also unable to meet the two-week deadline:

> *"In 2011, my first employer terminated my contract so I only had two weeks to find another. I was able to find one, but the paperwork could not be completed within that time. So, I had to go to Macau where I waited two months until my new work visa for Hong Kong was ready."*[369]

The inability to find new employment in the two-week time limit leaves migrant domestic workers with little choice but to remain in abusive and/or exploitative conditions or accept jobs with unfavourable work conditions in order to maintain their immigration status.

In 2006, the UN Committee on the Elimination of Discrimination against Women,[370] raised concerns that the Two-Week Rule pushes "foreign domestic workers to accept employment which may have unfair or abusive terms and conditions in order to stay in Hong Kong".[371] Both the UN Human Rights Committee, the expert body charged with overseeing the implementation of the ICCPR, and the UN Committee on the Elimination of Racial Discrimination[372] called on the Hong Kong authorities to repeal the Two-Week Rule (see section 12.1).

In 2013, the UN Committee on Economic, Social and Cultural Rights, in its List of Issues for the second periodic report of the Republic of China, including the Hong Kong SAR, requested the Government to provide:

> *"information on steps taken to review and repeal the "two-week rule" and to address discrimination and abuse against migrant domestic workers as a consequence of this rule."*[373]

Despite these clear recommendations from several UN bodies, the Hong Kong SAR government has, at the time of writing, failed to take any action to abolish the Two-Week Rule. In fact, in response to the UN Human Rights Committee's recommendation to repeal the Two-Week Rule, the Hong Kong SAR government maintained that:

> *"such rule is required for maintaining effective immigration control and eliminating chances of FDHs overstaying in Hong Kong or working illegally after termination of contracts."*[374]

In addition to increasing migrant domestic worker's vulnerability to exploitative and abusive working conditions, the Two-Week Rule also significantly impedes their ability to access redress mechanisms in Hong Kong, as outlined below.

10. IMPEDIMENTS TO ACCESSING REDRESS AND COMPENSATION IN HONG KONG

"I know from personal experience the conditions Indonesian women live under [in Hong Kong]. So I want to [...] help create change for the women of my country. This is why I am now an active member of IMWU [Indonesian Migrant Workers Union]. We help women challenge their employers and agencies by giving them information about their rights and the law. We also give moral support and act as interpreters for women who have disputes at the Labour Department. The Labour Officer seems to be on the employer's side and not the worker's. They can make migrant workers feel that they are in the wrong – it's hard to convince them that they have a legitimate claim."

Sringatin, Vice-Chair of IMWU[375]

It is difficult for migrant domestic workers to access redress for human and labour rights violations in Hong Kong. Many migrant women interviewed by Amnesty International complained about the lack of support that they encounter from placement agencies and the Indonesian Consulate. In addition, they also face significant financial and practical obstacles to pursuing their case through the available mechanisms in Hong Kong.

10.1. PLACEMENT AGENCIES: DENIAL OF ACCESS TO INFORMATION

Upon arrival at Hong Kong International Airport, before immigration control, the International Social Service, a NGO, distributes guidebooks to migrant domestic workers containing relevant information about their rights as workers, redress mechanisms and contact details of organisations which can help them.

According to the IMWU survey, 87 per cent of the respondents received the guidebook, but of those, 43 per cent stated that it was confiscated by the placement agency immediately after they were through immigration control at the airport. As WW, from East Java, recalled:

> *"I got the book at the airport, but the agency took it and threw it away. I hadn't even opened the book, I was already picked up by the agency. They immediately took the book and threw it away. I wanted to take it back but there were many of them. I didn't dare."*[376]

ST, a 29-year-old woman from Banyuwangi (2011-), had a similar experience:

> *"As soon as I arrived in Hong Kong, the placement agency confiscated the booklets and information given to us at the airport. I wasn't even allowed to attend the welcome programme at the Indonesian Consulate [a mandatory programme for migrant domestic workers]."*[377]

In order to "promote better understanding of labour rights" among migrant domestic workers, the Government of Hong Kong produces publications in different languages and disseminates them without charge. It also holds seminars and information kiosks at popular gathering places, and screens television and radio commercials to raise awareness among the workers, employers and placement agencies of their rights and obligations.[378] Although these are positive initiatives, they will not be effective if migrant domestic workers are denied a rest day or have restrictions placed on their freedom of movement.

10.2. PLACEMENT AGENCIES: FAILURE TO RESPOND TO ABUSES

Amnesty International's interviews indicate that when Indonesian migrant domestic workers face problems with their employment, they are reluctant to ask their placement agency for help. This is because many were warned by their recruitment agency in Indonesia to be "obedient" and fear that if they complain about their treatment, this may result in the termination of their contract.

Interviews with migrant domestic workers also found that agencies typically take the side of the employers and advise migrants to "put up with it" and return to work. A third of the women stated that their placement agency was not helpful in resolving the problems they had in the workplace.[379] In fact, they pointed out that placement agencies actively discourage Indonesian migrants from complaining or accessing redress mechanisms, rather than assist them in trying to protect their rights. In parallel to these findings, 50 per cent of those surveyed by IMWU felt that their agency did not properly assist them when they complained about their employment.[380]

JE, a 37-year-old woman from Trenggalek (2010-2012), recalled the response from her placement agency when she told them about the problems she was having:

> *"I worked for a large family in a three-storey house from 6am to 1am with only one day off per month, but the agency just said that I had to accept it, as it was the nature of the job. I also complained about the illegal [non-domestic] work that I was forced to do. Three times per week, I had to hand deliver letters to my employer's mobile phone company clients. Whenever I was doing this work, I was so scared that the police or immigration might arrest me. But the agency told me that it was not a problem and just told me to continue doing it."*[381]

UM, a 30-year-old woman from Ponorogo (2009-2010), recounted her agency's response to her payment issue:

> *"I complained to the placement agency twice about the underpayment but they said that it was because I didn't speak Cantonese and promised that I would get the full salary in my second contract."*[382]

TS, a 24-year-old woman from Magetan (2012-), was dismissed by her employer after six days without any explanation. The employer took her back to the placement agency where she stayed while looking for a new employer:

> *"One agent was always angry at me, calling me useless and complaining that I only ate and slept, and nothing else. She repeatedly said that I would make the agency bankrupt. She kept taunting me with remarks like, 'Do you know how much money you have to pay in order to return to Indonesia? IDR 7,000,000! What kind of work does your father do? Did he already pay for you to return or not?' The agent also lied to the Hong Kong authorities claiming that I had stolen from my employer and run away. They also made me sign a document in Chinese that had 'HK$3,740 [US$480]' on it."*

TS thought that the document she was signing was a receipt for her one-month wage, as she never received any pay. After less than a week at the placement agency, TS ran away because she "couldn't take any more abuse at the agency". The agency threatened to call the police but:

> *"Of course they wouldn't because they know they did things that were illegal. Thanks to the help of IMWU, I got my passport back through the Indonesian Consulate. That's when I discovered a dismissal contract with my photo on it, but the signature on that document was forged."*[383]

NM, a 33-year-old woman from Blitar (2008-2009), worked for a family where she was in constant strife with the grandmother:

> *"I decided to clean the sliding glass door in the living room, which angered the grandmother because she wanted me to pick up her grandson. When I was leaning out to clean the outside of the glass door, the grandmother pushed me. I was able to grab the waist-length railing in time to prevent me from falling from the 9th floor apartment."*

After this incident, NM called the placement agency two times to complain, but they refused to help her find a new employer and told her to "be patient". The day after, while NM was cooking noodles, the grandmother reportedly pushed the pot to deliberately spill boiling water on her hand. So, after this incident, she decided to bypass the agency:

> *"After the boiling water incident, I spoke directly to the employing couple. I told them that if they didn't buy me a flight ticket home, I would go to the Indonesian Consulate to complain and show them my scars from the boiling water. They got scared so they agreed to pay for four months' salary and give me a flight ticket home."*[384]

RM, a 41-year-old woman from Ponorogo (2009), was forced to farm on top of her domestic duties and only received HK$2,000 (US$260), instead of HK$3,580 (US$460) she had been promised. RM complained to her placement agency, which resulted in her dismissal in her fifth month. The placement agency then coordinated with the recruitment agency in Indonesia to ensure that an agency staff was waiting for her at the airport when she returned home:

"At Surabaya airport, I was met by the recruitment agency staff who took my passport and said that I had to return with him to the training centre, but I refused and went home by taxi. My broker later told me that if I wanted my passport back, I would have to pay the agency IDR 1,000,000 [US$100]. As I don't have that kind of money, the recruitment agency still has my passport today."[385]

10.3. INDONESIAN CONSULATE

As Indonesian citizens, migrant domestic workers can go to the Consulate General of Indonesia for advice and assistance. The Labour Consul, Sendra Utami, stated that the Consulate provides legal representation and fees for migrant domestic workers who file a complaint against their employer and the case goes to court. She also noted that there is a shelter on the premises of the Consulate, which accommodates eight people.[386]

However, only some of the women Amnesty International spoke to were aware that the Indonesian Consulate existed[387] and even less knew that it could provide them with assistance (e.g. in retrieving their documents). For many, knowledge of the Consulate was limited to knowing its location, as information about consular services was not well distributed. Typical responses from interviewees were "I don't know anything about what they do" or "I don't know how they can help me". This clearly indicates that there are serious flaws in the delivery of the Consulate's compulsory welcome programme.

AF, a 28-year-old woman from Malang (2005-), expressed her lack of trust in the Consulate:

"*I know there is an Indonesian Consulate in Hong Kong, but I would not go to them for help regarding underpayment or other work-related problems because they wouldn't help me. The staff are well-known to be unfriendly and verbally abusive to migrant domestic workers. It would be a waste of my time."*[388]

Only six interviewees specifically told Amnesty International that they had complained to the Indonesian Consulate about their treatment. Of those who did, only one thought the Consulate had been helpful in trying to resolve their problem. In the IMWU survey, 56 per cent of the respondents felt that consular assistance was inadequate in dealing with their problems.[389]

IR, a 29-year-old woman from Ponorogo (2009-2011), described the treatment she received at the Indonesian Consulate:

"In September 2010, I went to the Consulate during my rest day to complain about being underpaid, but the staff yelled at me and said that I must obey my employer and do my job. They said that for migrant domestic workers like me with no previous work experience abroad, underpayment was the normal expected salary. The staff also told me that I could not get full salary [HK$3,580 or US$460] in my second contract if I didn't finish my first one."[390]

LE, a 28-year-old woman from Sumatra (2010-), went to the Consulate after she ran away from her employer in June 2011:

> *"I ran away because I was underpaid, given very little food, there were so many children to care for in a big house, no rest day, and long working hours with strict restrictions. I found out about the Consulate through an Indonesian neighbour, but when I went there, the staff were not helpful at all. After I explained my situation, they scolded me for remaining with the exploitative employer and then scolded me for having run away. The staff said because I had run away, it was my fault and refused to help me get my compensation money. They suggested mediation, but I refused because I wanted full compensation of the statutory wages owed to me."*[391]

After paying her recruitment fees in full, KM, a 34-year-old woman from Ponorogo (2009-2011), continued to receive only HK$3,000 (US$387), instead of the full salary of HK$3,580 (US$460). She also received little support from the Consulate when she went to complain about the illegal deductions the agency was making from her salary:

> *"When I went to the placement agency to complain about the deductions, they said that this was a pre-arranged agreement set by the recruitment agency in Indonesia. I complained three times but they didn't help me at all. After each attempt, I followed up by going next door to the Indonesian Consulate. But on all three occasions, the staff refused responsibility by saying that this was an agreement between the Hong Kong and Indonesian agencies so they could not intervene to help me."*[392]

Figure 9: Migrant domestic workers protesting in front of the Indonesian Consulate (Source: Amnesty International, Photographer: Robert Godden)

10.4. OBSTACLES TO ACCESS TO JUSTICE BEFORE THE HKSAR LABOUR DEPARTMENT AND LABOUR COURTS

The usual procedure for migrant domestic workers seeking redress is to first have a conciliation meeting with the employer held at the HKSAR Labour Department and presided over by a labour officer. If their claim is not settled at this first instance, they then have recourse to the Labour Tribunal.

It is often extremely difficult for the migrant worker to provide the Labour Department with evidence of labour rights violations (e.g. that they were not given rest days, statutory holidays or forced to work excessive hours) as these all take place in the employer's home and the migrant workers' testimony is often the only evidence. Similarly, it is difficult to prove that they have not received the wages they are entitled to, as their salaries are often not paid directly to the migrant domestic worker or the receipt is falsified to make it appear as if they have been paid the proper salary (see section 9.2).

However, an even greater obstacle is the fact that migrant domestic workers who lodge a complaint against their employer are likely to have their contract terminated. Under the current immigration policy, migrant domestic workers cannot normally change employers within their two-year contract except under "exceptional circumstances", including the transfer, migration, death or financial reasons of the former employer, or if the worker was abused or exploited.[393] This prevents many migrant domestic workers from raising issues of abuse, as doing so would most likely result in loss of employment and income, and leave them with just two weeks to find new employment.

From the first of June 2010 to 31 May 2012, the Hong Kong immigration authorities approved "56,402 applications of foreign domestic workers to change workplace" and refused "372 cases [...], largely due to the applicants' failure to meet the criteria for change of employment (see section 9.8).[394]

If migrant domestic workers are unable to find another job with two weeks, they will have no legal basis to stay in Hong Kong and their only other option is to apply for a visa extension at the Immigration Department. If a migrant has an active claim lodged with the Labour Department, then a visa extension is normally granted. From the first of June 2010 to 31 May 2012, all 10,050 applications for extension of stay from foreign domestic workers to pursue civil or criminal proceedings were approved."[395]

However according to Amnesty International's interviewees, this is typically only for one month or less and migrant workers usually have to get multiple extensions in order to pursue a case. Each time a new visa is required, an additional visa fee of HK$160 (US$20) has to be paid.

A case in point is UR, a 40-year-old woman from Jombang (2010-), relayed the financial burden of the visa fees:

> *"I want compensation due me for the 23 months I worked – 100 rest days, 22 statutory holidays, annual leave days, outstanding salary due to underpayment, flight ticket to Indonesia, travel allowance home, which total HK$56,987.14 [US$7,300]. I have to stay until my case is heard at the Labour Department so I needed an extension on my visa. A 14-day visa costs HK$160 [US$20] – it's expensive and I had to pay it myself. If my case gets extended or delayed, then I will have to spend more money on visa fees."*[396]

In October 2013, the HKSAR Immigration Department told Amnesty International that there is a flat visa fee of HK$160 (US$20), so the cost is the "same if you extend for one week or six months". However, it also noted that the length of the extension is given on a case by

case basis and there is no waiver for migrant domestic workers with pending cases at the Labour Department or labour courts.[397]

A visa extension does not allow migrants to work and there is only limited shelter accommodation.[398] As a result, most migrant domestic workers will be unable to support themselves while their case is being considered. Sendra Utami, Labour Consul at the Indonesian Consulate in Hong Kong stated that:

> *"In the event that an Indonesian domestic worker files a complaint against her employer and therefore must remain in Hong Kong to go through the process at the Labour Department or Tribunal, she will not be able to claim back this expense through her insurance policy."*[399]

Given the limited support available, it is not surprising that only a tiny minority of migrant domestic workers remain in Hong Kong to try and seek redress.[400]

According to the statistics provided by the HKSAR Labour Department, 2,332 Indonesian migrant domestic workers applied for conciliation in 2012; 2,424 in 2011; 2,212 in 2010; 1,908 in 2009; and 1,596 in 2008.[401] These figures do not indicate how many completed the process. Even so, given that there were 131,034 Indonesian migrant domestic workers employed in Hong Kong in 2012,[402] this accounts for less than 2 per cent of the population. Thus, the numbers do not reflect the widespread labour-related problems experienced by the women, as documented by Amnesty International and IMWU.

In 2012, the average waiting time for cases in the Labour Tribunal, from appointment, filing of the case to first hearing, was 50 days.[403] To avoid such a lengthy process, most migrant domestic workers settle their claim at the first instance – at a conciliation meeting in the Labour Department – even if this means accepting less than their legal entitlement.

In 2013, the ILO Committee of Experts on the Application of Conventions and Standards (CEACR) raised concerns regarding the ability of migrant domestic workers to access information and services in general while in Hong Kong, including "interpretation services, and information provided to them, and whether any additional steps are being taken to ensure that migrant workers have a clear understanding of the contents of their employment contract".[404]

At a meeting with the HKSAR Labour Department in October 2013, officials stated that the conciliation process is normally conducted in English and/or Cantonese. However "where necessary, e.g. in cases where the FDHs are not able to communicate in Chinese or English or where the FDHs are able to communicate in Chinese or English but prefer translation and interpretation services", the Labour Department will arrange free translation and interpretation services.[405] None of the migrant domestic workers who Amnesty International interviewed, who were participating in the conciliation meetings and needed interpretation, actually accessed this facility because they did not know it existed.

For example in June 2012, Amnesty International witnessed two conciliation meetings. The employers brought a "friend"[406] who was a lawyer, while the migrant domestic workers were accompanied by a representative of the Indonesian Migrant Workers Union (IMWU). The

meeting was conducted in Cantonese with no interpretation provided, thus, the IMWU representative had to interpret into Indonesian for the claimants.

The two proceedings Amnesty International witnessed favoured employers who had access to legal assistance, fluency in Cantonese, better awareness of Hong Kong laws and procedures, and appeared more confident and at ease with the process. In both cases, the migrant workers ended up accepting offers that were equal to just over 50 per cent of what they were entitled to.[407]

In addition to poor financial outcomes, migrant interviewees who have pursued cases to Labour Tribunal report that the experience is humiliating and that court officials do not treat them and employers as equal parties.

One of the claimants, JP, a 29-year-old woman from Malang (2011-), explained why she accepted the offer:

> *"Although I was due a compensation of HK$28,238.87 [US$3,640], the employers and their lawyer negotiated and bargained this down by offering me HK$16,000 [US$2,060]. Although it's not enough, I had no choice but to accept it because I don't have a job in Hong Kong and it's too expensive to stay here. It's better to return to Indonesia with some money."*[408]

This is consistent with the assessment by HKCTU and FADWU in their 2012 ILO submission:

> *"Those who have filed the case will easily settle their claim as soon as possible during the conciliation meetings at the Labour Department, the Labour Tribunal (LT) or the Minor Employment Claims Adjudication Board (MECAB). The presiding officer at LT and MECAB usually urge upon the claimants for settlements. Union survey shows that 85 per cent of their workers (local workers) sought settlement instead of getting the claims concluded."*[409]

Indonesian migrant domestic workers who lodge cases must weigh up the possible benefits of gaining more in compensation against the costs of sustaining themselves in Hong Kong while they are waiting for the case to be concluded. This inevitably works to the employer's advantage, especially if the process is protracted. As HKCTU and FADWU conclude:

> *"For migrant workers, the percentage of workers not to continue to pursue the case until it can be concluded is certainly much higher, considering that negotiation for settlement depends on the degree to which they have sound legal knowledge and the burden of prolonged stay in Hong Kong. Workers cannot support the travel back and forth between their homeland and Hong Kong to pursue the case."*[410]

DE, a 24-year-old woman from Malang (2011-), resisted settling:

> *"During the conciliation process at the Labour Department, my employer only wanted to give me HK$4,000 [US$515] out of HK$21,000 [US$2,709], which I was due for all the rest days and holidays I didn't get, plus the flight home. Because I refused to accept this settlement, my case will now go to the Tribunal. This of course means that I have to stay longer in Hong Kong without a job."*[411]

In contrast, OH, a 35-year-old woman from Semarang (2012-), accepted the initial sum offered at the conciliation meeting in October 2012:

> *"I ran away because I wasn't paid at all, had no rest days or holidays, and was physically and verbally abused. My case was heard today [18 October 2012] at the Labour Tribunal. I was entitled to a compensation of HK$18,440.68 [US$2,380] but I only received HK$3,035.97 [US$390]. It was very frustrating, but I had to accept it. Otherwise I risk ending up with no money. The employer had already bought a return ticket for me dated the first of November, but I still want to stay in Hong Kong and continue working because I haven't earned any money yet."*[412]

The cumulative effect of the policies and practices described above and in previous sections is to seriously impede Indonesian migrant domestic workers from pursuing compensation and accessing justice in Hong Kong. This is reflected in the fact that 43 per cent of respondents to the IMWU survey stated that they did not file a complaint even when they had a problem.[413]

Figure 10: Upon completion of her case, an Indonesian domestic worker holds up her contract and Labour Tribunal documents (Source: Amnesty International, Photographer: Norma Kang Muico)

11. UNEQUAL TREATMENT

"All FDHs enjoy the same and full statutory labour rights and benefits as other local workers [...] In addition, FDHs are accorded further protection through a mandatory Standard Employment Contract, which requires employers to pay FDHs not lower than the prevailing Minimum Allowable Wage, and to provide FDHs with free accommodation with reasonable privacy, free food (or food allowance in lieu), free medical treatment, free return passage, etc."

Hong Kong SAR Constitutional and Mainland Affairs Bureau[414]

As established in the previous sections, the reality for many Indonesian migrant domestic workers in Hong Kong is that despite existing laws, they are subject to underpayment, inadequate accommodation and food provision, and face impediments in accessing redress mechanisms. Moreover, certain laws impede migrant domestic workers from attaining equal treatment, namely in relation to their remuneration package, live-in requirement and right of abode.

The Government of Hong Kong SAR outlines the different features of the visa control regime for migrant domestic workers and other migrant workers admitted under the General Employment Policy, as set out in Figure 3.[415]

Feature	FDH Employment	General Employment
Employment contract	Standard-form two-year employment contract.	Applicant to submit proof to show that he/she and the employer have entered into a contract of employment, not necessarily for two years.
Limit of stay	Permitted to remain in Hong Kong for two years or two weeks after termination of contract, whichever is earlier (i.e. the two-week rule).	In the first instance for one year, with a pattern of extension of stay normally for two years plus two years plus three years. Short-term employment for a specific project is also permitted.
Home leave	Must return to place of origin for home leave before commencing new contract.[416] May apply for an extension of stay to defer the home leave, which has to taken within the extended period (normally not exceeding one year).	
Change of employment	Not allowed to change employer when the contract is terminated prematurely, save in exceptional circumstances.	May apply to change employment after the premature termination of employment contract and the application will be considered.
Requirement to leave after termination	Must leave Hong Kong upon expiry of their limit of stay or within two weeks after termination of their contracts, whichever is earlier (i.e. the two-week rule).	
Bringing in dependants	Not allowed, save in exceptional circumstances.	May apply to bring in spouse and unmarried dependent children under the age of 18.

Figure 11: Hong Kong's Employment Policy (Source: HKSAR Immigration Department)

11.1. REMUNERATION

Article 6.1 of the ILO Convention No. 97 concerning Migration for Employment (Migration for Employment Convention), 1949, which Hong Kong ratified in 1997, outlines the obligation of each member to apply the Convention's provisions "without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals". This non-discrimination protection also applies with respect to:

> *"(i) remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age for employment, apprenticeship and training, women's work and the work of young persons"*
> *[...]*
> *(iii) accommodation".*

However, Hong Kong's Minimum Wage Ordinance does not apply to "a person who is employed as a domestic worker in, or in connection with, a household and who dwells in the household free of charge". The reasons for this exclusion given by the Labour and Welfare Bureau to the Hong Kong Legislative Council during consideration of the legislation were:

> *"(a) the distinctive working pattern, i.e. round-the-clock presence and provision of service-on-demand expected of live-in domestic workers;*
> *(b) enjoyment of in-kind benefits [...] not usually available to non-live-in workers;*
> *(c) possible significant and far-reaching socio-economic ramifications; and*
> *(d) fundamental erosion of the FDH policy."*[417]

However, migrant domestic workers, unlike nationals, are required under the New Condition of Stay (NCS) of 1987 to reside in the employing household; they do not have a choice but to live-in. Therefore, migrant domestic workers are excluded from the Minimum Wage Ordinance and instead, fall under a separate and less favourable Minimum Allowable Wage. This exclusion of live-in domestic workers from the scope of the Minimum Wage Ordinance has a disproportionate effect on female migrant workers, who make up nearly 100 per cent of domestic workers.[418]

The 2012 report by the Hong Kong SAR government to the ILO on its obligations under the Migration for Employment Convention stated that the "the remuneration package of foreign domestic workers includes, beyond the MAW [Minimum Allowable Wage], a range of in-kind benefits which are not available to non-live-in workers, including free accommodation and a food allowance".[419] However, in its 2012 submission to the ILO, the HKCTU and FADWU contested that:

> *"Other types of workers who also work-around-the-clock and have benefits in kind, such as on-site care workers, are not excluded from MWO [Minimum Wage Ordinance]. While the government claims that the migrant domestic workers are "enjoying" in-kind benefit but there is no measurement and calculation of costs of accommodation and food to be provided by the employers. The "significant socio-economic ramifications" and erosion of policy on migrant domestic workers is unjustifiable and the government has not been able to provide any proof."*[420]

In 2013, the ILO Committee of Experts on the Application of Conventions and Standards, while noting the Government's explanation of the remuneration package of migrant domestic workers including additional benefits in kind, concluded that:

> *"while the treatment applied by the State to migrant workers does not have to be identical to that enjoyed by nationals, it should nonetheless be equivalent in its effects (General Survey on migrant workers, 1999, paragraph 371)."*

And recommended that the Government of Hong Kong SAR:

> *"take steps to examine, in consultation with workers' and employers' organizations, existing inequalities in the remuneration package between local and foreign workers arising from the applicable laws and regulations concerning foreign domestic workers so as to verify that no less favourable treatment is being applied to foreign domestic workers than to nationals, and to report on the results achieved."*[421]

The 2013 Domestic Workers Convention (article 12.2) also stipulates that measures should be taken to ensure that any such benefits in kind "are agreed to by the worker, are for the personal use and benefit of the worker, and that the monetary value attributed to them is fair and reasonable".

Where Hong Kong laws and regulations on labour standards either exclude domestic workers completely or provide a lower level of protection to domestic workers than to other workers, the authorities must demonstrate that this distinction does not result in discrimination on the basis of sex, national origin, or any other status. The overwhelming majority of domestic workers in Hong Kong are migrant women. In addition, domestic work generally is a form of work that is most often carried out by women. It involves tasks associated with stereotypical female gender roles, for example cooking, family care, and cleaning. As a result, even exclusions or distinctions that seem neutral (e.g. they apply to all domestic workers) may constitute discrimination because they have a disparate impact on a specific population defined by its sex and national origin (migrant women). The authorities must show that there are legitimate reasons for the distinctions made.[422]

11.2. LIVE-IN REQUIREMENT

The live-in requirement for migrant domestic workers places workers at greater risk of abuse and contributes to an environment in which they are unlikely to file complaints. Furthermore, the same requirement is not applied to Hong Kong nationals performing similar jobs. As such, it has a discriminatory impact.

Mandatory live-in requirements have been highlighted as a key risk factor leading to abuse and are not accepted by ILO Convention No 189 concerning Decent Work for Domestic Workers (article 9(a)).

In their 2012 ILO submission, the HKCTU and FADWU also raised concerns that the live-in requirement:

> *"has made migrant domestic workers more prone to working and sexual abuses. There is no law defining decent accommodation. There is no way for workers to complain specifically on indecent accommodation to Labour Department which governs working conditions. [...] There are reportedly cases when workers sleep in the living room, in kitchen, in toilet and inside the wardrobe.*[423]

In 2013, the UN Human Rights Committee raised concerns with the Government of Hong Kong SAR about the "discriminatory [sic] and exploitation suffered by a large number of migrant domestic workers and the lack of adequate protection and redress provided for them". The Committee recommended adoption of "measures to ensure that all workers enjoy their basic rights, independently of their migrant status, and establish affordable and effective mechanisms to ensure that abusive employers are held accountable". Like several other UN bodies, it further recommended repealing the live-in requirement and the Two-Week Rule (see section 12.1). The Committee requires the Government to inform them on the implementation of this recommendation within one year.[424]

The Hong Kong SAR government responded to the Human Rights Committee asserting that:

> *"The live-in requirement is the cornerstone of our policy on importing FDHs. […] HKSAR Government's established policy is to accord priority to local workforce in employment; importation of workers should only be allowed where there is genuine manpower shortage in a particular trade or occupation that could not be filled locally. Under this general principle, FDHs were allowed to work in Hong Kong to meet the*

> *shortfall of local live-in domestic workers. Such live-in requirement is made clearly known to the FDHs before their admission into the HKSAR, and specified in the Standard Employment Contract signed by the FDHs before they assume duty."*[425]

Furthermore in 2009, the UN Committee on the Elimination of Racial Discrimination expressed concern that Hong Kong's definition of racial discrimination was "not completely consistent with article 1 of the Convention" and recommended that:

> *"indirect discrimination with regard to language, immigration status and nationality be included among the prohibited grounds of discrimination in the Race Discrimination Ordinance".*[426]

In response to the List of Issues presented by the UN Human Rights Committee on 16 November 2012, the Hong Kong government pointed out that:

> *"The EOC [Equal Opportunities Commission] has [...] published a "Code of Practice on Employment" under the RDO [Racial Discrimination Ordinance] which provides practical guidance on how to comply with the RDO in relation to employment matters, and a "Guide for Foreign Domestic Helpers and their Employers" which provides a general overview of the provisions of the RDO as they apply to employers and foreign domestic helpers (FDHs)."*[427]

11.3. RIGHT OF ABODE

Under section 2.4(a)(vi) of the Immigration Ordinance, "a domestic helper who is from outside Hong Kong" "shall not be treated as ordinarily resident in Hong Kong". The same restriction applies to migrant workers employed as contract workers under a government importation of labour scheme. As a result of this restriction, these two categories of migrant worker are not eligible to become Hong Kong permanent residents after having ordinarily resided in Hong Kong for a continuous period of at least seven years (Immigration Ordinance, Schedule 1). Hong Kong permanent residents have the "right of abode" in Hong Kong, which means they are not subject to any restriction in respect of employment, place of residence and duration of stay in Hong Kong.[428]

In September 2011, Hong Kong's High Court ruled that the exclusion of migrant domestic workers from those eligible to obtain the right of abode after seven years of residency in Hong Kong under the Immigration Ordinance was incompatible with the definition of "permanent residents" under article 24.2.4 of the Basic Law. At the same time, however, the Court considered that the case was "not about discrimination", as "it must be up to the sovereign authority to decide the extent to which [the status of permanent residents] is to be granted".[429]

This case was later overturned. In March 2012, the Court of Appeal upheld the Government of Hong Kong SAR's appeal and declared that there was no incompatibility between relevant provisions of the Immigration Ordinance and the Basic Law. The Court also reaffirmed that "it must be up to the sovereign authority to decide the extent to which the status of permanent resident should be conceded to foreign nationals".[430]

In March 2013, the Court of Final Appeal ruled that migrant domestic workers are not

eligible to apply for permanent residency stating that: "The FDH is obliged to return to the country of origin at the end of the contract and is told from the outset that admission is not for the purposes of settlement and that dependants cannot be brought to reside in Hong Kong."[431]

States are entitled to regulate the entry and residence of non-citizens. However, immigration policies must respect, protect and fulfil the human rights of migrant workers. The UN Committee on the Elimination of Discrimination against Women has emphasised that states must ensure that their laws, policies, programmes, and practices do not have a "discriminatory effect in practice on women".[432] In the list of issues for the second periodic report of Hong Kong SAR, the UN Committee on Economic, Social and Cultural Rights in May 2013 also requested the Government to inform them on:

> *"whether measures, legislative or otherwise, have been envisaged to extend coverage of the Race Discrimination Ordinance to all public functions, including […] foreign domestic workers, as well as to all grounds of discrimination, including nationality, citizenship and residence."* [433]

As nearly 100 per cent of migrant domestic workers in Hong Kong are women,[434] their exclusion from eligibility for permanent residence has the effect of disproportionately impairing women's access to permanent residence in Hong Kong on an equal basis with men. It is therefore discriminatory, contrary to Hong Kong's obligations under the ICCPR, ICESCR, and CEDAW.

Additionally, the categorical exclusion of domestic workers from eligibility for permanent residence does not consider the time they have lived in Hong Kong and had regular employment. It also does not consider the prospect of continued employment in the future, their established ties to the host country, or the personal circumstances of the individual applicant, including countervailing factors such as a serious criminal record.

12. HKSAR GOVERNMENT'S FAILURE TO PREVENT HUMAN AND LABOUR RIGHTS VIOLATIONS

"The biggest problem is that Hong Kong does have laws to ensure that agency fees do not exceed 10 per cent of the migrant domestic worker's first month salary and that the workers get the statutory Minimum Allowable Wage, which is currently HK$3,920 [US$505, in May 2013] per month. But these unconscionable agencies defy Hong Kong law by 'extorting' money from the migrant domestic workers' salaries, in order to maximise their own profits. Therefore, I believe that we, as Hong Kong people, should not tolerate or condone any longer these acts which go against the rule of law."

Elizabeth Tang, International Coordinator of the International Domestic Workers Network (IDWN)[435]

Many placement agencies and employers are operating in violation of a number of Hong Kong's laws, resulting in a significant number of Indonesian migrant domestic workers being subject to serious violations of their rights in Hong Kong.

Amnesty International's research found that the majority of interviewees were physically or verbally abused by their employer;[436] did not receive a weekly day off;[437] and were prohibited from practising their faith.[438] A significant number of interviewees were also not paid even the Minimum Allowable Wage,[439] denied adequate food and their live-in accommodation was substandard with little or no privacy.[440]

Amnesty International also documented that some placement agencies and employers use coercion to maintain control over migrant domestic workers and force them to remain in abusive and exploitative jobs. These include restrictions on their freedom of movement, the confiscation of identity documents and the manipulation of their debt.

As the ILO has noted, "where migrant workers are induced by deceit, false promises and retention of identity documents or forced to remain at the disposal of an employer; such

practices represent a clear violation of the [Forced Labour] Convention".[441] Amnesty International found this to be the case for many migrant domestic workers in Hong Kong. In 2013, the ILO underlined that:

> *"Victims of forced labour, whether in the form of labour exploitation through abuse of their vulnerability or through trafficking in persons, should, regardless of their status within the national territory, receive adequate protection to guarantee the full enjoyment of their rights, including labour rights (such as wage arrears and social protection) and compensation for material and moral damages, while enforcement authorities have to ensure the punishment of perpetrators."* [442]

As party to the ICESCR, the Government of Hong Kong SAR has an obligation to "recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure", particularly:

> *"(a) Remuneration which provides all workers, as a minimum, with:*
> *(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;*
> *(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;*
> *(b) Safe and healthy working conditions;*
> *[…]*
> *(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays".* (article 7)

In 2005, the UN Committee on Economic, Social and Cultural Rights, in its concluding observations on Hong Kong SAR, expressed its concern about:

> *"the particularly precarious situation of foreign domestic workers, a majority of whom are from South-East Asia, who are underpaid and are not entitled to social security."*[443]

This was followed with the Committee's request in 2013 for further information on a variety of issues, including:

> *"steps taken to ensure that migrant domestic workers do not receive a wage below the minimum allowable wage currently in place for this category of workers. Please clarify whether the Minimum Wage Ordinance will be amended to also cover live-in migrant domestic workers. Please also specify which steps are taken to ensure that migrant domestic workers are granted weekly rest days in accordance with section 17 of the Employment Ordinance"*[444]

12.1. FAILURES WITH RESPECT TO ACCESS TO JUSTICE

The Employment Agencies Administration (EAA) under the HKSAR Labour Department is responsible for ensuring that placement agencies comply with the law. This is done through licensing, inspection and investigating complaints lodged against placement agencies. Furthermore, agencies which are:

> *"convicted of an offence under the relevant legislation in the course of operation are subject to a maximum fine of HK$50,000. The Commissioner for Labour may also consider refusing to issue or renew the licence, or revoking the licence of an employment agency on justifiable ground. FDHs who have been overcharged on commission by the employment agencies can file a complaint with the Employment Agencies Administration which will conduct investigation accordingly."*[445]

The Government of Hong Kong SAR asserts that it "takes a serious view of overcharging" by placement agencies and under the EAA, makes regular and unannounced inspections to placement agencies, investigates complaints regarding overcharging or malpractices, and where there is sufficient evidence, take out prosecution. In 2012, the EAA:

> *"conducted 1,328 inspections of EAs [employment or placement agencies], with over 70% of such inspections made to EAs placing FDHs. A total of 347 inspections of EAs placing FDHs were conducted in the first four months in 2013."*[446]

Similarly, the Labour Department stated that it:

> *"takes rigorous enforcement action against offences under the labour legislation. Any such claims or complaints will be promptly investigated. Prosecution will be instituted where there is sufficient evidence and the FDH concerned is willing to stand as prosecution witness. Aggrieved workers are encouraged to come forward to lodge complaints with the relevant authorities and to make use of the conciliation service provided by the LD [Labour Department] and adjudication under the independent Judiciary. In the course of civil or criminal investigation, the LD would render assistance to the FDH in applying for extension of stay in HK [Hong Kong] with the ImmD [Immigration Department]."*[447]

In October 2013, the Labour Department informed Amnesty International that there were two types of inspections conducted by the EAA to ensure compliance with Hong Kong laws. Regular inspections include checks on whether the placement agency's licence and maximum fees are displayed, and examination of its employment records. Unannounced inspections are normally conducted if the Department receives a complaint from either an employer or employee. In 2012, Labour Department conducted 958 inspections to agencies placing migrant domestic workers in Hong Kong, whereas in the first eight months of 2013, 702 inspections were conducted.[448]

Despite these provisions, the Hong Kong authorities have not adequately enforced sanctions against those who violate the law. This is reflected in the data provided by the Hong Kong authorities to the ILO in 2012, which shows that, out of a total population then of 307,151 migrant domestic workers, just 342 cases of underpayment were lodged between the first of June 2010 to 31 May 2012, and of these, 150 were settled through conciliation.[449]

During the same period, only two per cent of all migrant domestic workers lodged claims for alleged breaches of the Employment Ordinance or the terms of the Standard Employment Contract (6,726 claims) and only just over one quarter of these (1,792) went on to the Labour Tribunal or the Minor Employment Claims Adjudication Board for resolution.[450]

Furthermore, the Commissioner for Labour has the authority, under section 53.1 of the Employment Ordinance, to refuse to issue or renew a licence or revoke a licence:

> *"In 2012, we revoked two EA [employment or placement agency] licences subsequent to the concerned licensee's conviction of overcharging, as well as aiding and abetting an FDH to breach her condition of stay, conspiracy to defraud and conspiracy to make false representation to an Immigration Officer. In the first four months of this year, we have revoked the licence of an EA after the licensee was convicted of an offence involving dishonesty. The renewal of another EA's licence was refused as the licensee was considered not fit and proper after repeatedly failing to provide information to EAA under section 72(1) of the EO [Employment Ordinance]."*[451]

These very few administrative sanctions issued by the Commissioner of Labour do not reflect the widespread exploitation and abuse experienced by many migrant domestic workers at the hands of their placement agencies.

For example, the IMWU survey identified 258 individuals who stated that they were underpaid.[452] If the percentage of people claiming underpayment in the IMWU survey (28 per cent)[453] is representative of the situation for all Indonesian migrant domestic workers in Hong Kong, this would mean that more than 40,000 Indonesian women are not receiving the minimum salary they are entitled to by law.

This indicates that the authorities are failing to identify and prosecute violations of its labour laws (e.g. paying under the Minimum Allowable Wage and charging recruitment fees above the legally permitted maximum).

Moreover, there is no government monitoring or inspection system in place to ensure that migrant domestic workers are not subject to abuse or exploitation by their employers, as confirmed by the Labour Department in October 2013. The Department stated that it would be difficult to do so due to the number of workers and the place of work being a private residence. However, it stated that an inspection can take place in regard to a specific complaint.[454]

It must also be stressed that some government regulations are increasing migrant domestic workers' vulnerability to exploitation and forced labour. For example, the live-in requirement isolates migrant workers and prevents them from moving out of the employing household even when they feel they are being exploited or are in danger.

Furthermore, the Two-Week Rule makes it particularly difficult for migrant domestic workers to access the systems for redress in Hong Kong. Unless the migrant can find another job in two weeks, which would be difficult given the average 4-6 week processing time by the Immigration authorities, they will have to apply for a visa extension at a cost of HK$160 (US$20). To take a case to the Labour Tribunal, it takes on average around two months.[455] During this time, they will have to renew their visa and pay for their own accommodation, food and other expenses without any income. Most migrant domestic workers are unable to afford these costs.

In this respect, the Two-Week Rule provides a disincentive for migrant domestic workers to denounce exploitative or abusive practices and pursue criminal charges and/or compensation though the appropriate channels. This in turn makes the effective investigation and prosecution of those responsible for human and labour rights violations extremely difficult.

The UN has specifically and repeatedly called on Hong Kong SAR to reform the policies highlighted above in order to ensure that migrant domestic workers' rights are better protected and that the Government is in full compliance with its international obligations.

In 2005, the UN Committee on Economic, Social and Cultural Rights urged the Government to:

> *"review the existing 'two-week rule', with a view to eliminating discriminatory practices and abuse arising from it, and to improving the legal protection and benefits for foreign domestic workers so that they are in line with those afforded to local workers, particularly with regard to wages and retirement benefits."*[456]

A year later, the UN Committee on the Elimination of Discrimination against Women, called on the Government of Hong Kong SAR to:

> *"repeal the 'Two Week Rule' and to implement a more flexible policy regarding foreign domestic workers. It also calls upon the State party to strengthen its control of employment agencies and to provide migrant workers with easily accessible avenues of redress against abuse by employers and permit them to stay in the country while seeking redress. The Committee further urges the State party to make migrant workers aware of their rights so that they have access to justice and can claim their rights."*[457]

The UN Committee on the Elimination of Racial Discrimination also recommended in 2009 that the Hong Kong authorities should take effective measures to:

> *"…ensure that domestic migrant workers are not discriminated against. It calls upon repealing of the 'two-weeks rule' as well as the live-in requirement and that the State party adopt a more flexible approach to domestic migrant workers in relation to their working conditions and work requirements, including employment rules and practices with discriminatory purposes or effects […]."*[458]

In 2013, the UN Human Right Committee stated that it was "concerned about the discrimination and exploitation suffered by a large number of migrant domestic workers and the lack of adequate protection and redress provided for them (articles 2 and 26)." It also urged the Government to:

> *"adopt measures to ensure that all workers enjoy their basic rights, independently of their migration status, and establish affordable and effective mechanisms to ensure that abusive employers are held accountable. It is also recommended to consider repealing the 'two-week rule' […] as well as the live-in requirement."*[459]

Despite these consistent recommendations from the UN, the Hong Kong government continues to uphold the Two-Week Rule and live-in requirement. Specifically in regards to the Two-Week Rule, the Labour Department acknowledged that some migrant domestic workers claim that the Rule "prevents them from coming forward to lodge claims and following through the legal process for fear of losing their jobs and being forced to leave Hong Kong within two weeks of the termination or expiry of their contract". However, the Government continues to justify this policy:

> *"the same rule in fact applies to all imported workers, including FDHs, when their employment contract is prematurely terminated. In such circumstances, the worker can stay in Hong Kong for up to two weeks from the date of termination of contract. The 'two-week rule' is required for maintaining effective immigration control, preventing job-hopping and imported workers working illegally after the termination of contracts. However, it does not preclude the workers concerned from working in Hong Kong again after returning to their place of domicile."*[460]

12.2. FAILURE TO ADOPT AND IMPLEMENT TRAFFICKING AND FORCED LABOUR LEGISLATION

Despite having ratified the Forced Labour Convention (1997), Hong Kong still does not have a law that clearly defines illegally exacted forced or compulsory labour and its penalties, as required under article 25 of the Convention.[461] This was confirmed by the HKSAR Labour Department in a meeting with Amnesty International in October 2013.[462]

Furthermore, Hong Kong does not have a comprehensive trafficking law and there have not been any prosecutions for the trafficking of persons for forced labour.[463] In correspondence with Amnesty International, the Labour Department stated that:

> *"Under section 129 of the Crimes Ordinance (Cap.200), "trafficking in persons" [TIP] means taking part in bringing another person into, or taking another person out of, Hong Kong for the purpose of prostitution. According to the Hong Kong Police Force's information, 14 TIP cases were effected between 2008 and 2012. 28 victims were involved, but none of them involved FDHs."*[464]

Hong Kong's trafficking law is narrower than the definition provided in international law under article 3(a) of the Trafficking Protocol, which defines "exploitation" to include at a minimum "the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery". While prohibiting certain forms of trafficking, the Hong Kong government has not addressed the more general problem of trafficking for labour exploitation that affects migrant domestic workers.

Specifically in regards to this issue, the UN Human Rights Committee in 2013 expressed concern about the "persistence of the phenomenon of trafficking in persons in Hong Kong" where "men, women and teenage girls" from Hong Kong, mainland China and Southeast Asia are "subjected to human trafficking and forced labour". The Committee, highlighting Hong Kong's "reluctance" to "take steps" towards ratifying the Trafficking Protocol,[465] called on the Government to intensify its efforts to combat trafficking and to:

> *"support private shelters offering protection to victims, strengthen victim assistance by ensuring interpretation, medical care, counselling, legal support for claiming unpaid wages and compensation, long term support for rehabilitation and stability of legal status to all victims of trafficking. The Committee recommends the inclusion of certain practices regarding foreign domestic workers in the definition of the crime of human trafficking."* [466]

In response, the Hong Kong SAR government maintained that:

> *"Hong Kong has a solid framework of legislation to underpin our robust efforts to combat human trafficking. Although there is no sign or evidence that Hong Kong is a source or destination for human trafficking or a place of origin for exporting illegal immigrants, our law enforcement agencies and relevant departments will continue to maintain close co-operation with partners and counterparts locally and overseas to combat human trafficking."*[467]

In 2013, UN Committee on Economic, Social and Cultural Rights, in its list of issues, asked the Government of Hong Kong to:

> *"provide more detailed information on practical steps taken to prevent and combat trafficking in persons in Hong Kong, China, as a source, destination and transit point, and specify whether these efforts have also focused on abusive practices regarding foreign domestic workers."*[468]

In 2013, the US State Department Trafficking in Persons report urged Hong Kong to "enact a comprehensive anti-trafficking law that prohibits all forms of trafficking and defines terms according to established international standards as set forth in the 2000 UN TIP [Trafficking in Persons] Protocol".[469]

13. CONCLUSION AND RECOMMENDATIONS

Amnesty International's research found that significant numbers of Indonesian recruitment agencies, along with their partner placement agencies and some employers in Hong Kong, are manipulating debts relating to recruitment fees, confiscating documents and restricting migrant workers' freedom of movement in order to coerce them into working in situations of forced labour. The research also documented that migrant domestic workers are subject to a range of other human rights abuses during the migration process.

To date, both the Indonesian and Hong Kong governments have failed to take adequate action to enforce domestic legislation in their own territories which could have protected migrant workers from trafficking, exploitation and forced labour, and provided some effective remedy in cases of abuse. In particular, they have not properly monitored, regulated or punished recruitment and placement agencies who are not complying with the law.

Furthermore, some of the actions of both governments have increased migrant domestic workers' vulnerability to trafficking and forced labour. For example, the Indonesian authorities have not properly informed migrant workers of their basic rights during the pre-departure training for which they are directly responsible, while the Hong Kong government's Two-Week Rule and the live-in requirement have made it more difficult for migrant domestic workers to leave exploitative situations and to access redress mechanisms in Hong Kong.

The findings of this report are supported by ILO research which "has consistently shown that the manipulation of credit and debt, either by employers or recruitment agents, is still a key factor in entrapping vulnerable workers in forced labour conditions".[470] The ILO also highlighted that:

> *"victims of forced labour are often from the most vulnerable categories of workers, who encounter greater difficulties in denouncing their situation. This is particularly true of migrant workers, whose regular or irregular situation on the national territory may affect their ability to turn to the competent authorities, and domestic workers, who are often engaged in 'hidden' work and may be subject to restrictions on their freedom of movement."*[471]

Amnesty International therefore calls on both governments to fully implement their domestic laws which are designed to protect migrant domestic workers from labour and human rights violations and to amend existing regulations so that migrant domestic workers are not dependent on recruitment and placement agencies. Amnesty International also urges both governments to set up structures that would enable and empower migrant domestic workers to challenge exploitative employers and agencies.

Amnesty International's specific recommendations in this regard are outlined below.

13.1. RECOMMENDATIONS

The Government of Indonesia should:

- Fully implement *Law No. 39/2004 concerning the Placement and Protection of Indonesian Overseas Workers* (Law No. 39/2004). In particular, implement the provisions which state that prospective Indonesian migrant workers can depart independently without the assistance of a recruitment agency (article 7) and that they can extend their work agreement directly with an employer without going through a recruitment or placement agency (article 57).

- Register and monitor brokers through the National Board for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI), ensuring that when brokers are involved in deception, trafficking, or any other human rights abuse, they and the recruitment agencies they work for face adequate sanctions including, where appropriate, criminal sanctions.

- Ensure that recruitment agencies provide migrant domestic workers with a written contract in Indonesian with standard terms and conditions offering them appropriate employment law protection and an itemised receipt for the recruitment fee charges which reflects the structure set out in Ministerial Decree No. 98/2012.

- Oblige recruitment agencies to assess migrant workers' skills on arrival at the training centre, to set a training period based on existing skills and needs, and reduce charges proportionately. Ensure that the training and assessment system is not open to abuse.

- Consider reducing the maximum 110-day training period,[472] end its mandatory imposition of this maximum on all trainees and reduce the recruitment fee accordingly.

- Guarantee that migrant workers who are working and living with families as "interns" while at the training centres are paid wages that are commensurate with the local area and that they are not charged for accommodation, food or training while they are working as "interns".

- Review and improve the quality of the Government's general oversight of the training provided by recruitment agencies.

- Review and improve the quality of the Government's Final Pre-departure Programme (PAP) in Indonesia and its welcome and exit programmes in Hong Kong. Migrants should be informed of their rights and duties in the destination territories (particularly their right to retain possession of their personal identity and travel documents and employment contract); relevant contact details if problems should occur (e.g. agency staff, nearest Indonesian embassy/consulate, local NGO or trade union); and details of how to access complaints and compensation mechanisms in Indonesia.

- Strengthen the capacity of the embassy/consulate staff so that they can play a more active role in supporting and assisting migrant domestic workers, and resolving problems when they arise.

- Involve IGOs, NGOs and/or trade unions in the Final Pre-departure Programme (PAP) in Indonesia, and welcome and exit programmes in Hong Kong.

- Strengthen the monitoring of recruitment agencies, including through increased capacity for regular and unannounced inspections, and fully enforce Law No. 39/2004, in particular the following provisions:

    - Penalise recruitment agencies which do not treat trainees "humanely and in a normally acceptable manner" (article 103), including practices that restrict freedom of movement, the confiscation of documents, enforced contraception and carrying out unpaid work for staff or exploitative "internships". Where appropriate agencies' licences should be revoked and criminal sanctions applied;

    - Ensure that recruitment agencies compensate workers if they receive a salary which is below the minimum standard in the destination territory or lower than the wages they were promised (article 8); and

    - Sanction recruitment agencies if workers do not have a written work contract or KTKLN (article 103).

- Cooperate with the Government of Hong Kong SAR and other destination territories to ensure that abuses carried out in the destination are also properly sanctioned.

- Use the 2007 anti-trafficking regulations to prosecute recruitment agencies which are involved in the trafficking of migrant domestic workers and amend Law No. 39/2004 so that the use of deception as a means of trafficking faces adequate punishments rather than the administrative sanctions currently outlined in article 72 of the Law.

- Publish annual reports on the number of recruitment agencies that had their placement licences (SIPPTKI) revoked for failing to properly protect migrant domestic workers, and that have been investigated, charged and prosecuted for violations of the Law No. 39/2004, and if convicted, what sentences they received.

- Incorporate the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families into domestic law and implement it in policy and practice.

- Ratify and fully implement ILO Convention No.189 concerning Decent Work for Domestic Workers (2011), incorporate its provisions into domestic law and implement it in policy and practice. In particular, take measures to ensure that fees charged by recruitment agencies are not deducted from the remuneration of domestic workers.

The Government of Hong Kong SAR should:

- Thoroughly regulate and monitor placement agencies in its territory and sanction those which are operating in violation of Hong Kong's laws (e.g. in respect to illegal wage deductions and confiscation of contracts or identity documents), including the application of criminal sanctions when appropriate.

- Take action to prevent and address human rights abuses and violations of Hong Kong's domestic legislation by employers, including through the application of criminal sanctions when appropriate.

- Amend the Two-Week Rule to allow migrant domestic workers a reasonable period to find new employment, including incorporating the average time of 4-6 weeks it takes to issue a new visa.

- Amend current legislation which forces migrant domestic workers to live with their employers and excludes them from the Minimum Wage Ordinance.

- Review current legislation which completely excludes migrant domestic workers from ever being considered for right of abode.

- Waive the costs of visa extensions for migrant domestic workers who are seeking compensation for human and labour rights abuses, and ensure that they have effective access to appropriate support measures, such as shelters and interpretation, at all stages of redress, including the conciliation process at the Labour Department.

- Provide trafficked migrant workers with appropriate support and a temporary residency permit which allows them to work.

- Ensure that the prohibition of illegally exacted forced or compulsory labour is clearly defined in law with penalties that are adequate and strictly enforced, in accordance with obligations under article 25 of the ILO Convention No. 29 concerning Forced or Compulsory Labour (1930).

- As a matter of priority, extend the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) to Hong Kong SAR (ratified by the People's Republic of China in 2010), incorporate its provisions into Hong Kong law and implement them in policy and practice.

- Pursue with the Central Government in Beijing the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and ILO Convention No.189 concerning Decent Work for Domestic Workers (2011), incorporate their provisions into Hong Kong law and implement them in policy and practice.

APPENDIX 1: ACRONYMS AND OTHER TERMS

BNP2TKI (*Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia*) – National Board for the Placement and Protection of Indonesian Overseas Workers;

Disnaker (*Dinas Tenaga Kerja*) – Local labour office under the Ministry of Manpower and Transmigration;

FADWU – Hong Kong Federation of Asian Domestic Workers Unions;

FDH (Foreign Domestic Helper) – the term officially used by the Hong Kong SAR government for migrant domestic workers;

HKCTU – Hong Kong Confederation of Trade Unions;

IMWU – Indonesian Migrant Workers Union in Hong Kong;

KTKLN (*Kartu Tenaga Kerja Luar Negeri)* – foreign employment identity card;

MAW (Minimum Allowable Wage) – minimum monthly wage of migrant domestic workers in Hong Kong, which is currently HK$4,010 (US$517);

PAP (*Pembekalan Akhir Pemberangkatan*) - Final Pre-departure Programme run by the Indonesian government to provide migrant workers with information about their employment, and the laws and regulations of the destination territory;

Petugas lapangan – a broker, also locally known as a sponsor;

PJTKI (*Perusahaan Jasa Tenaga Kerja Indonesia*) – a recruitment agency;

Placement agency – private agencies in Hong Kong contracted by the recruitment agencies in Indonesia to find employment for migrant domestic workers;

Recruitment agency – private agencies in Indonesia licensed by the Indonesian government to administer and organise services associated with the placement of Indonesian migrant workers for employment in foreign countries;

SIP (*Surat Ijin Pengerahan*) – a recruitment licence authorising recruitment agencies to place migrant workers abroad for work;

TKI (*Tenaga Kerja Indonesia*) – Indonesian migrant worker.

APPENDIX 2: SAMPLE INTERVIEW QUESTIONS FOR INDONESIAN MIGRANT DOMESTIC WORKERS

Name: **Age:**

Hometown:

Arrival in Hong Kong:

Last day of work (specify who terminated):

Date of interview: **Mobile:**

In Indonesia

1. Did a broker organise the job for you? Yes / No
2. Did the broker give you money? Yes / No If so, did you have to pay it back? Yes / No
3. Was there any pressure from the broker to adhere to verbal agreement? Yes / No If so, what?
4. Did you get the same job and wages in the country of destination as promised to you by the broker? Yes / No
5. Did you have to get family permission? Yes / No
6. Which documents did the broker take while in your hometown?
7. Were these documents returned to you or given to the recruitment agency?

Training centre

8. Where is the training centre located? How far is the travel from your hometown?
9. How long did you have to live in the training centre?
10. Did you know the training would be this long beforehand? Yes / No
11. Were you properly informed about how much the agency fee, training, accommodation, subsistence (breakdown) would cost? Yes / No
12. Was there a difference between the salary promised by the broker and the recruitment agency? If so, what?
13. Did you have to pay for additional expenses while at the training centre (e.g. for exams or compulsory purchases of books or uniforms)? Yes / No
14. Did you have to buy these at the training centre? Yes /No. If so, do you think they were more expensive than at the market, etc.? Yes / No Explain how you know

15. How many hours did you have to work or do training each day? (a) Less than 8 hours (b) Between 8-10 hours (c) More than 10 hours

16. Did you get a rest day? Yes / No

17. Were you able to leave the training centre when you wanted to? Yes / No If not, explain restrictions.

18. Were you able to keep your mobile phone with you? Yes / No If not, explain restrictions.

19. Were there restrictions on family visits? Yes / No If so, explain restrictions.

20. Did you get a written contract? Yes / No. If so, when: From the broker / at the training centre / at the airport / in the country of destination?

21. Did you have enough time to read and properly understand the contract? Yes / No / Did not receive contract

22. Were you given a copy of the contract? Yes / No

23. After how long after your arrival in the training centre did you sign the contract?

24. Did the contract have false information (e.g. about your name, date of birth, etc.)? Yes / No

25. Did the contract have different terms and conditions (e.g. wages, holidays, etc.) to those you had previously been promised? Yes / No / Did not receive contract

26. Did you get enough food while you were in the training centre? Yes / No

27. How would you describe the living and working conditions in the training centre: (a) Extremely bad (b) Bad (c) OK (d) Good (e) Very good

28. Were you physically or verbally threatened by staff while in the training centre? Yes / No

29. Were you physically abused or sexually harassed by staff while in the training centre? Yes / No

30. Did the training centre properly prepare you for working abroad and improve your existing skills? Yes / No Explain in detail.

31. Did you wash clothes, clean or take care of the children of the staff or recruitment agency owner? Yes / No

32. Did you have to work as a domestic worker for a family as part of an "internship" while at the training centre? Yes / No If so, how much were you paid for this?

33. Were you forced, against your will, to do any of the following while at the training centre: Cut your hair short or have a contraception injection? Yes / No

34. Do you know if you are covered by Indonesian insurance? Yes / No / I don't know

35. Were you given a foreign employment ID card (KTKLN)? Yes / No

36. Did you have to hand over important documents that were not returned to you before you left to take up your job in Hong Kong? Yes / No

In Hong Kong

37. Were your wages or working conditions different to what you were promised in Indonesia? Yes / No

38. What is your monthly salary after the deduction period?

39. How much of your salary did you actually receive each month during the deduction period?

40. For how many months were deductions made from your salary to repay the agency fees (or if ongoing, for how many months will the deductions go on)?

- How was payment made?
- If underpaid, did you sign a document stating that you were paid the full salary?

41. How many hours do you work per day?

42. Do you get one rest day per week? Yes / No If so, was this a full 24 hours? Yes / No

43. Are you given a day off for statutory holidays? Yes / No

44. Are you free to leave your employer's home during rest periods or days off? Yes / No

45. Has your employer or agent ever taken away your passport, identity documents or your contract? Yes / No

46. Does your employer try to stop you calling home or meeting other people (e.g. friends, family or organisations that might provide you with advice and help)? Yes / No

47. Do you have your own room? Yes / No

48. Are you given enough to eat? Yes / No If not, were you given food allowance?

49. Are you allowed to practise your religion/faith? Yes / No

50. Have you been threatened or punished by your employer (e.g. physically or verbally threatened, beaten, deprived of food, etc.)? Yes / No

51. Have you been sexually harassed or abused in your workplace? Yes / No

52. Was your job terminated before or just after your salary deduction period ended? Yes / No If so, why?

53. Did you get the compensation you were entitled to when your contract was terminated early by the employer? Yes / No

54. Did you encounter difficulty retrieving your documents (passport, contract, etc.) after your contract finished or was terminated? Yes / No

55. Did you look for a new job? Yes / No. If so, did you have to pay a new agency fee? Yes / No

56. Did you complain to the placement agency or Indonesian Consulate about your treatment? Yes / No. If so, were they helpful in trying to resolve your problem? Yes / No

Return to Indonesia

57. If you left your job during the salary deduction period, did someone from the recruitment agency wait for you at the airport or go to your home to ask you to pay the rest of the money? Yes / No

58. Did you try to use your insurance to claim for losses? Yes / No If so, were you successful? Yes / No

APPENDIX 3: INDONESIA'S MANPOWER AND TRANSMIGRATION MINISTERIAL DECREE NO. 98/2012 ON COMPONENTS AND AMOUNT OF PLACEMENT FEE FOR INDONESIAN DOMESTIC WORKERS EMPLOYED IN HONG KONG SAR

No.	Components	Amount (IDR)	Amount (HK$)	Explanation
I.	**Paid by the employer**			
1.	Legalizing the working contract	341,000	310	Currency exchange: HK$1 = IDR 1,100
2.	Indonesia migrant workers insurance in Hong Kong SAR (2 years)	1,320,000	1,200	
3.	Indonesia migrant workers medical check up in Hong Kong SAR	660,000	600	
4.	Employment Visa	176,000	160	
5.	Transportation: Round way ticket from Java to Hong Kong Round way ticket from outside Java to Hong Kong Airport Tax and handling	 4,000,000 7,000,000 300,000	 3,636 6,363 272	Depending on the distance from workers' city of origin to Hong Kong
6.	Hong Kong SAR agency service	5,500,000	5,000	
	Total amount paid by employer **Workers from Java** **Outside Java**	 **12,297,000** **15,297,000**	 **11,179** **13,906**	
II.	**Paid by workers**			
1.	Insurance of migrant workers protection	400,000	363	
2.	Psychology test	250,000	227	
3.	Medical check up	700,000	636	
4.	Passport	255,000	231	
5.	Training fee (600-hour learning) -Accommodation and meals at the training venue/shelter (110 days) -Training equipment	5,500,000 3,000,000	5,000 2,727	
6.	Competency test	150,000	136	
7.	Service of Private Recruitment and Placement Agency (PPTKIS) –(one month worker's wages)	4,114,000	3,740[473]	
8.	Agency Service (10 % of worker's first month wages)	411,400	374	
	Total amount paid by worker	**14,780,400**	**13,436**	

APPENDIX 4: HKSAR STANDARD EMPLOYMENT CONTRACT FOR MIGRANT DOMESTIC WORKERS (SOURCE: HKSAR IMMIGRATION DEPARTMENT)

D. H. Contract No. A 000001

EMPLOYMENT CONTRACT
(For A Domestic Helper recruited from abroad)

This contract is made between .....
("the Employer", holder of Hong Kong Identity Card/Passport No.* .....) and
..... ("the Helper") on ..... and
has the following terms:

1. The Helper's place of origin for the purpose of this contract is .....
.....
.....

2. (A)† The Helper shall be employed by the Employer as a domestic helper for a period of two years commencing on the date on which the Helper arrives in Hong Kong.

(B)† The Helper shall be employed by the Employer as a domestic helper for a period of two years commencing on ....., which is the date following the expiry of D.H. Contract No. ..... for employment with the same employer.

(C)† The Helper shall be employed by the Employer as a domestic helper for a period of two years commencing on the date on which the Director of Immigration grants the Helper permission to remain in Hong Kong to begin employment under this contract.

3. The Helper shall work and reside in the Employer's residence at .....
.....

4. (*a*) The Helper shall only perform domestic duties as per the attached Schedule of Accommodation and Domestic Duties for the Employer.

(*b*) The Helper shall not take up, and shall not be required by the Employer to take up, any other employment with any other person.

(*c*) The Employer and the Helper hereby acknowledge that Clause 4 (*a*) and (*b*) will form part of the conditions of stay to be imposed on the Helper by the Immigration Department upon the Helper's admission to work in Hong Kong under this contract. A breach of one or both of the said conditions of stay will render the Helper and/or any aider and abettor liable to criminal prosecution.

5. (*a*) The Employer shall pay the Helper wages of HK$ ..... per month. The amount of wages shall not be less than the minimum allowable wage announced by the Government of the Hong Kong Special Administrative Region and prevailing at the date of this contract. An employer who fails to pay the wages due under this employment contract shall be liable to criminal prosecution.

(*b*) The Employer shall provide the Helper with suitable and furnished accommodation as per the attached Schedule of Accommodation and Domestic Duties and food free of charge. If no food is provided, a food allowance of HK$ ..... a month shall be paid to the Helper.

(*c*) The Employer shall provide a receipt for payment of wages and food allowance and the Helper shall acknowledge receipt of the amount under his/her* signature.

6. The Helper shall be entitled to all rest days, statutory holidays, and paid annual leave as specified in the Employment Ordinance, Chapter 57.

7. (*a*) The Employer shall provide the Helper with free passage from his/her* place of origin to Hong Kong and on termination or expiry of this contract, free return passage to his/her* place of origin.

(*b*) A daily food and travelling allowance of HK$100 per day shall be paid to the Helper from the date of his/her* departure from his/her* place of origin until the date of his/her* arrival at Hong Kong if the travelling is by the most direct route. The same payment shall be made when the Helper returns to his/her* place of origin upon expiry or termination of this contract.

8. The Employer shall be responsible for the following fees and expenses (if any) for the departure of the Helper from his/her place of origin and entry into Hong Kong:—

(i) medical examination fees;
(ii) authentication fees by the relevant Consulate;
(iii) visa fee;
(iv) insurance fee;
(v) administration fee or fee such as the Philippines Overseas Employment Administration fee, or other fees of similar nature imposed by the relevant government authorities; and
(vi) others: .....

In the event that the Helper has paid the above costs or fees, the Employer shall fully reimburse the Helper forthwith the amount so paid by the Helper upon demand and production of the corresponding receipts or documentary evidence of payment.

9. (*a*) In the event that the Helper is ill or suffers personal injury during the period of employment specified in Clause 2, except for the period during which the Helper leaves Hong Kong of his/her* own volition and for his/her* own personal purposes, the Employer shall provide free medical treatment to the Helper. Free medical treatment includes medical consultation, maintenance in hospital and emergency dental treatment. The Helper shall accept medical treatment provided by any registered medical practitioner.

(*b*) If the Helper suffers injury by accident or occupational disease arising out of and in the course of employment, the Employer shall make payment of compensation in accordance with the Employees' Compensation Ordinance, Chapter 282.

(*c*) In the event of a medical practitioner certifying that the Helper is unfit for further service, the Employer may subject to the statutory provisions of the relevant Ordinances terminate the employment and shall immediately take steps to repatriate the Helper to his/her* place of origin in accordance with Clause 7.

10. Either party may terminate this contract by giving one month's notice in writing or one month's wages in lieu of notice.

11. Notwithstanding Clause 10, either party may in writing terminate this contract without notice or payment in lieu in the circumstances permitted by the Employment Ordinance, Chapter 57.

12. In the event of termination of this contract, both the Employer and the Helper shall give the Director of Immigration notice in writing within seven days of the date of termination. A copy of the other party's written acknowledgement of the termination shall also be forwarded to the Director of Immigration.

13. Should both parties agree to enter into new contract upon expiry of the existing contract, the Helper shall, before any such further period commences and at the expense of the Employer, return to his/her* place of origin for a paid/unpaid* vacation of not less than seven days, unless prior approval for extension of stay in Hong Kong is given by the Director of Immigration.

14. In the event of the death of the Helper, the Employer shall pay the cost of transporting the Helper's remains and personal property from Hong Kong to his/her* place of origin.

15. Save for the following variations, any variation or addition to the terms of this contract (including the annexed Schedule of Accommodation and Domestic Duties) during its duration shall be void unless made with the prior consent of the Commissioner for Labour in Hong Kong:

(*a*) a variation of the period of employment stated in Clause 2 through an extension of the said period of not more than one month by mutual agreement and with prior approval obtained from the Director of Immigration;

(*b*) a variation of the Employer's residential address stated in Clause 3 upon notification in writing being given to the Director of Immigration, provided that the Helper shall continue to work and reside in the Employer's new residential address;

(*c*) a variation in the Schedule of Accommodation and Domestic Duties made in such manner as prescibed under item 6 of the Schedule of Accommodation and Domestic Duties; and

(*d*) a variation of item 4 of the Schedule of Accommodation and Domestic Duties in respect of driving of a motor vehicle, whether or not the vehicle belongs to the Employer, by the helper by mutual agreement in the form of an Addendum to the Schedule and with permission in writing given by the Director of Immigration for the Helper to perform the driving duties.

16. The above terms do not preclude the Helper from other entitlements under the Employment Ordinance, Chapter 57, the Employees' Compensation Ordinance, Chapter 282 and any other relevant Ordinances.

17. The Parties hereby declare that the Helper has been medically examined as to his/her fitness for employment as a domestic helper and his/her medical certificate has been produced for inspection by the Employer.

Signed by the Employer _____
(Signature of Employer)

in the presence of _____ _____
(Name of Witness) (Signature of Witness)

Signed by the Helper _____
(Signature of Helper)

in the presence of _____ _____
(Name of Witness) (Signature of Witness)

* Delete where inappropriate.

SCHEDULE OF ACCOMMODATION AND DOMESTIC DUTIES

1. Both the Employer and the Helper should sign to acknowledge that they have read and agreed to the contents of this Schedule, and to confirm their consent for the Immigration Department and other relevant government authorities to collect and use the information contained in this Schedule in accordance with the provisions of the Personal Data (Privacy) Ordinance.

2. Employer's residence and number of persons to be served

   A. Approximate size of flat/house ..... square feet/square metres*

   B. State below the number of persons in the household to be served on a regular basis:

   ..... adult ..... minors (aged between 5 to 18) ..... minors (aged below 5) ..... expecting babies.

   ..... persons in the household requiring constant care or attention (excluding infants).

   (Note: Number of Helpers currently employed by the Employer to serve the household .....)

3. Accommodation and facilities to be provided to the Helper

   A. Accommodation to the Helper

   While the average flat size in Hong Kong is relatively small and the availability of separate servant room is not common, the Employer should provide the Helper suitable accommodation and with reasonable privacy. Examples of unsuitable accommodation are: The Helper having to sleep on made-do beds in the corridor with little privacy and sharing a room with an adult/teenager of the opposite sex.

   ☐ Yes. Estimated size of the servant room ..... square feet/square metres*

   ☐ No. Sleeping arrangement for the Helper:

   ☐ Share a room with ..... child/children aged .....

   ☐ Separate partitioned area of ..... square feet/square metres*

   ☐ Others. Please describe .....

   .....

   .....

   B. Facilities to be provided to the Helper:

   (Note: Application for entry visa will normally not be approved if the essential facilities from item (*a*) to (*f*) are not provided free.)

(*a*) Light and water supply	☐ Yes	☐ No
(*b*) Toilet and bathing facilities	☐ Yes	☐ No
(*c*) Bed	☐ Yes	☐ No
(*d*) Blankets or quilt	☐ Yes	☐ No
(*e*) Pillows	☐ Yes	☐ No
(*f*) Wardrobe	☐ Yes	☐ No
(*g*) Refrigerator	☐ Yes	☐ No
(*h*) Desk	☐ Yes	☐ No

(*i*) Other facilities (Please specify) _____

_____

_____

4. The Helper should only perform domestic duties at the Employer's residence. Domestic duties to be performed by the Helper under this contract exclude driving of a motor vehicle of any description for whatever purposes, whether or not the vehicle belongs to the Employer.

5. Domestic duties include the duties listed below.

   Major portion of domestic duties:—

   1. Household chores
   2. Cooking
   3. Looking after aged persons in the household (constant care or attention is required/not required*)
   4. Baby-sitting
   5. Child-minding
   6. Others (please specify)

   .....
   .....
   .....
   .....

6. The Employer shall inform the Helper and the Director of Immigration of any substantial changes in item 2, 3 and 5 by serving a copy of the Revised Schedule of Accommodation and Domestic Duties (ID 407G) signed by both the Employer and the Helper to the Director of Immigration for record.

Employer's name and signature	Date	Helper's name and signature	Date

* delete where inappropriate

☐ tick as appropriate

APPENDIX 5: RELEVANT ARTICLES OF ILO CONVENTION NO.189 CONCERNING DECENT WORK FOR DOMESTIC WORKERS, 2011 (ENTRY INTO FORCE: 5 SEPTEMBER 2013)

Article 3

1. Each Member shall take measures to ensure the effective promotion and protection of the human rights of all domestic workers, as set out in this Convention.
2. Each Member shall, in relation to domestic workers, take the measures set out in this Convention to respect, promote and realize the fundamental principles and rights at work, namely:
   (a) freedom of association and the effective recognition of the right to collective bargaining;
   (b) the elimination of all forms of forced or compulsory labour;
   (c) the effective abolition of child labour; and
   (d) the elimination of discrimination in respect of employment and occupation.
3. In taking measures to ensure that domestic workers and employers of domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members shall protect the right of domestic workers and employers of domestic workers to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing.

Article 6

Each Member shall take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions and, if they reside in the household, decent living conditions that respect their privacy.

Article 7

Each Member shall take measures to ensure that domestic workers are informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner and preferably, where possible, through written contracts in accordance with national laws, regulations or collective agreements, in particular:

(a) the name and address of the employer and of the worker;
(b) the address of the usual workplace or workplaces;
(c) the starting date and, where the contract is for a specified period of time, its duration;
(d) the type of work to be performed;
(e) the remuneration, method of calculation and periodicity of payments;
(f) the normal hours of work;
(g) paid annual leave, and daily and weekly rest periods;
(h) the provision of food and accommodation, if applicable;
(i) the period of probation or trial period, if applicable;
(j) the terms of repatriation, if applicable; and
(k) terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer.

Article 8

1. National laws and regulations shall require that migrant domestic workers who are recruited in one country for domestic work in another receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed, addressing the terms and conditions of employment referred to in Article 7, prior to crossing national borders for the purpose of taking up the domestic work to which the offer or contract applies.
2. The preceding paragraph shall not apply to workers who enjoy freedom of movement for the purpose of employment under bilateral, regional or multilateral agreements, or within the framework of regional economic integration areas.
3. Members shall take measures to cooperate with each other to ensure the effective application of the provisions of this Convention to migrant domestic workers.
4. Each Member shall specify, by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation on the expiry or termination of the employment contract for which they were recruited.

Article 9

Each Member shall take measures to ensure that domestic workers:

(a) are free to reach agreement with their employer or potential employer on whether to reside in the household;
(b) who reside in the household are not obliged to remain in the household or with household members during periods of daily and weekly rest or annual leave; and
(c) are entitled to keep in their possession their travel and identity documents.

Article 10

1. Each Member shall take measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave in accordance with national laws, regulations or collective agreements, taking into account the special characteristics of domestic work.
2. Weekly rest shall be at least 24 consecutive hours.
3. Periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls shall be regarded as hours of work to the extent determined by national laws, regulations or collective agreements, or any other means consistent with national practice.

Article 11

Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex.

Article 12

1. Domestic workers shall be paid directly in cash at regular intervals at least once a month. Unless provided for by national laws, regulations or collective agreements, payment may be made by bank transfer, bank cheque, postal cheque, money order or other lawful means of monetary payment, with the consent of the worker concerned.

2. National laws, regulations, collective agreements or arbitration awards may provide for the payment of a limited proportion of the remuneration of domestic workers in the form of payments in kind that are not less favourable than those generally applicable to other categories of workers, provided that measures are taken to ensure that such payments in kind are agreed to by the worker, are for the personal use and benefit of the worker, and that the monetary value attributed to them is fair and reasonable.

Article 14

1. Each Member shall take appropriate measures, in accordance with national laws and regulations and with due regard for the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity.
2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 15

1. To effectively protect domestic workers, including migrant domestic workers, recruited or placed by private employment agencies, against abusive practices, each Member shall:

(a) determine the conditions governing the operation of private employment agencies recruiting or placing domestic workers, in accordance with national laws, regulations and practice;
(b) ensure that adequate machinery and procedures exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies in relation to domestic workers;
(c) adopt all necessary and appropriate measures, within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of domestic workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations that specify the respective obligations of the private employment agency and the household towards the domestic worker and provide for penalties, including prohibition of those private employment agencies that engage in fraudulent practices and abuses;
(d) consider, where domestic workers are recruited in one country for work in another, concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment; and
(e) take measures to ensure that fees charged by private employment agencies are not deducted from the remuneration of domestic workers.

2. In giving effect to each of the provisions of this Article, each Member shall consult with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 16

Each Member shall take measures to ensure, in accordance with national laws, regulations and practice, that all domestic workers, either by themselves or through a representative, have effective access to courts, tribunals or other dispute resolution mechanisms under conditions that are not less favourable than those available to workers generally.

Article 17

1. Each Member shall establish effective and accessible complaint mechanisms and means of ensuring compliance with national laws and regulations for the protection of domestic workers.
2. Each Member shall develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations.
3. In so far as compatible with national laws and regulations, such measures shall specify the conditions under which access to household premises may be granted, having due respect for privacy.

APPENDIX 6: COUNTRY MAPS

Figure 12: Map of Indonesia (Source: UN)

Figure 13: Map of Hong Kong SAR (Source: CIA Factbook)

[1] Amnesty International interview with NS in Hong Kong on 21 June 2012.

[2] Figures as of 30 September 2013 provided by the HKSAR Labour and Immigration Departments on 15 October 2013.

[3] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013. Participants who answered a detailed questionnaire were approached in parks and other public places in Hong Kong where domestic workers meet on their rest day.

[4] The majority of Amnesty International's interviewees (53 out 54 who were asked and responded to this question) were not properly informed about the recruitment fees they would have to pay. This is consistent with IMWU's survey results in which more than three quarters of the respondents stated they were not properly informed about either the cost or the length of the training, and 60 per cent said that their actual work was different from the terms and conditions they were promised . ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p46.

[5] Fifty-seven out of 57 who responded to this question stated that they handed over important documents that were not returned to them before they left for Hong Kong.

[6] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p29.

[7] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p25.

[8] Of those interviewed who responded to this question, 41 out of 79 interviewees had to wash clothes, clean the living quarters or take care of the children of the staff and/or the owner of the recruitment agency.

[9] Of those interviewed who responded to this question, 34 out of 62 interviewees said they worked as domestic workers for a family outside the training centre as part of an "internship".

[10] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[11] Of those interviewed who responded to this question, 35 out of 81 interviewees said they were not given enough to eat at the training centres.

[12] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[13] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian*

Domestic Workers in Hong Kong (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[14] Of those who were asked and responded to the question, 86 out of 93 stated that their employer or placement agency in Hong Kong kept their identity documents, such as their passport, KTKLN, Hong Kong ID card, and/or employment contract.

[15] Of those interviewed who responded to this question, 34 out of 91 stated that they were not free to leave their employer's home.

[16] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p34.

[17] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[18] Of those who were asked and responded to the question, 33 out of 77 stated that they received a salary below the Minimum Allowable Wage.

[19] Of those who were asked and responded to the question, 63 out of 94 were physically or verbally abused by their employer.

[20] Of those who were asked and responded to the question, 62 out of 73 stated that they were not allowed to practise their religion.

[21] Of those who were asked and responded to the question, 51 out of 93 stated that they did not receive a weekly day off.

[22] Of those interviewed who responded to this question, 56 out of 94 said they did not have their own room.

[23] In 2012, the average waiting time for cases in the Labour Tribunal, from appointment to first hearing, was 50 days. See: http://www.judiciary.gov.hk/en/publications/annu_rept_2012/eng/caseload06.html, accessed 14 October 2013.

[24] US State Department, "Indonesia", *Trafficking in Persons Report 2012*, p188, available at: http://www.state.gov/documents/organization/192595.pdf, accessed 5 July 2013.

[25] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[26] This law defines trafficking as "Article 2.1 Anyone who recruits, transports, harbors, sends, transfers, or receives a person through the threat of force, use of force, abduction, incarceration, fraud, deception, abuse of authority or position of vulnerability, debt bondage or the giving of payment or benefit despite the giving of consent by another individual having charge over the person, for the purpose of exploiting the person within the territory of the Republic of Indonesia" or "(2) If the act as described in paragraph (1) results in a person being Exploited". The crime also applies to bringing persons into Indonesia or into transit through Indonesia with such intentions (article 3) or taking an Indonesian citizen outside the territory with such intentions (article 4).

[27] ILO, *Combating Forced Labour and Trafficking of Indonesian Migrant Workers*, available at: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/projectdocumentation/wcms_153145.pdf, accessed 5 March 2013.

[28] HKSAR Constitutional and Mainland Affairs Bureau, "HKSAR Government welcomes constructive dialogue with UN Human Rights Committee", Press Release, 28 March 2013, available at: http://www.cmab.gov.hk/en/press/press_3146.htm, accessed 6 October 2013.

[29] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[30] ILO Committee of Experts on the Application of Conventions and Standards, *Observation on Convention No.97 on Migration for Employment (Revised) for China – Hong Kong SAR*, 2013, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084699, accessed 5 July 2013.

[31] HKSAR Legislative Council Panel on Manpower, "Intermediary Charges for Foreign Domestic Helpers", LC Paper No. CB(2)1356/12-13(03), 18 June 2013, para6, available at: http://www.legco.gov.hk/yr12-13/english/panels/mp/papers/mp0618cb2-1356-3-e.pdf, accessed 8 October 2013.

[32] Amnesty International meeting with the HKSAR Labour and Immigration Departments in Hong Kong on 11 October 2013 and correspondence from the two Departments on 15 October 2013. See also US State Department, "Hong Kong", *Trafficking in Persons Report 2013*, p191, available at: http://www.state.gov/documents/organization/210739.pdf, accessed 26 September 2013.

[33] Statistical information provided by the National Board for the Placement and Protection of Indonesian Overseas Workers (*Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia* or BNP2TKI) on 19 August 2013. See also ILO, "Combating Forced Labour and Trafficking of Indonesian Migrant Workers", available at: http://www.ilo.org/jakarta/whatwedo/projects/WCMS_116048/lang--en/index.htm, accessed 5 July 2013.

[34] Amnesty International, *Disposable Labour: Rights of migrant workers in South Korea*, 21 October 2009 (AI Index: ASA 25/001/2009); *False Promises: Exploitation and forced labour of Nepalese migrant workers*, December 2011 (AI Index: ASA 31/007/2011); *Migrants Workers are also Human Beings*, August 2006 (AI Index: ASA 25/007/2006); and *Trapped: The exploitation of migrant workers in Malaysia*, 24 March 2010 (AI Index: ASA 28/002/2010).

[35] Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, *Report concerning the possible adoption of an ILO instrument to supplement the Forced Labour Convention, 1930 (No.29)*, ILO, 1 February 2013, p12.

[36] To date, ten countries have ratified the Convention: Bolivia, Germany, Guyana, Italy, Mauritius, Nicaragua, Paraguay, Philippines, South Africa and Uruguay have ratified the Domestic Workers Convention.

[37] In Hong Kong, interviews with migrant domestic workers were facilitated by the Indonesian Migrant Workers Union (IMWU) and Bethune House (shelter), and in Indonesia by Peduli Buruh Migran and Migrant Care.

[38] For the few migrant domestic workers who arrived in Hong Kong before 2008, only the data pertaining to 2008-2012 was used for the report.

[39] It should be noted that IMWU's survey does not include those domestic workers who are unable to leave their workplace and therefore is likely to exclude the Indonesian migrants who are subject to the worst human rights abuses.

[40] Hong Kong Island, Kowloon Peninsula and the New Territories.

[41] Amnesty International interview with DF in Hong Kong on 12 June 2012.

[42] Statistical information provided by the National Board for the Placement and Protection of Indonesian Overseas Workers (*Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia* or BNP2TKI) on 19 August 2013. See also International Organization for Migration (IOM), *Labour Migration from Indonesia: An overview of Indonesian migration to selected destinations in Asia and the Middle East*, 2010.

[43] Hugo, Graeme, *Labour Export from Indonesia: An overview*, ASEAN Economic Bulletin, Vol. 12, No. 2, Labour Migration in Asia, November 1995, pp275-298.

[44] World Bank, "Remittance Data: Inflows", available at: http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/0,,contentMDK:21924020~pagePK:5105988~piPK:360975~theSitePK:214971,00.html, accessed 16 September 2013. These estimates are unlikely to reflect the true value of remittances sent back to Indonesia as they will not include money transferred through informal channels, particularly by undocumented migrant workers.

[45] Statistical information provided by the National Board for the Placement and Protection of Indonesian Overseas Workers (*Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia* or BNP2TKI) on 19 August 2013. Although government statistics for 2010-2012 suggest a decline in the number of women officially migrating overseas, this is most likely due to several bans on sending domestic workers overseas imposed by the Indonesian government during this period. For example, in June 2009 Indonesia banned domestic workers from travelling to work in Malaysia after a series of cases of abuse were reported in the country. The ban was lifted after the two countries agreed on a new Memorandum of Understanding (MOU) in May 2011; however, NGOs have expressed concern that the revised MOU still does not sufficiently guarantee domestic workers' rights. Meetings with the Indonesian Embassy in London (5 March 2013), Consulate General of Indonesia in Hong Kong (11 March 2013), and the Ministry of Manpower and Transmigration (10 April 2013) clearly indicate that the Government of Indonesia has been reluctant to approve applications for domestic workers to Malaysia. See "M'sia-Indonesia MOU: No joy for domestic workers", *Malaysiakini*, 1 June 2011, available at: http://www.malaysiakini.com/letters/165700, accessed 1 October 2013 and "Indonesia ends Malaysia maids row", *BBC News*, 31 May 2011, available at: http://www.bbc.co.uk/news/world-asia-pacific-13601362, accessed 16 September 2013. Also in August 2011, the Indonesian government banned the placement of domestic workers in Saudi Arabia after Ruyati binti Satubi, an Indonesian migrant domestic worker, was executed. See "President: Indonesia to ban labor export to Saudi by Aug. 1", *The Jakarta Post*, 23 June 2011, available at: http://www.thejakartapost.com/news/2011/06/23/president-indonesia-ban-labor-export-saudi-aug-1.html, accessed 16 September 2013 and "Migrant workers in Saudi Arabia: Beheading the golden goose", *The Economist*, 3 July 2011, available at: http://www.economist.com/blogs/banyan/2011/07/migrant-workers-saudi-arabia, accessed 16 September 2013.

[46] National Bureau of Statistics (*Badan Pusat Statistik*, BPS), http://www.bnp2tki.go.id/statistik-penempatan/6779-penempatan-berdasar-daerah-asal-kotakabupaten-2011-2012.html, accessed 8 March 2013. See also Hugo, Graeme, "Women's international labour migration", in Kathryn May

Robinson and Sharon Bessell (Eds), *Women in Indonesia: Gender, equity and development*, Singapore Institute of Southeast Asian Studies, 2002.

[47] Figures as of September 2012. See National Bureau of Statistics (*Badan Pusat Statistik* or BPS), http://www.bps.go.id/tab_sub/view.php?kat=1&tabel=1&daftar=1&id_subyek=23&notab=1, accessed 16 September 2013.

[48] According to September 2012 statistics from the Indonesian National Bureau of Statistics (*Badan Pusat Statistik* or BPS), 11.66 per cent of people across the country were living below the national poverty line. See "Number and Percentage of Poor People, Poverty Line, Poverty Gap Index, Poverty Severity Index by Province, September 2012", available at: 2012http://www.bps.go.id/eng/tab_sub/print.php?id_subyek=23%20&notab=1, accessed 16 September 2013. The latest (2011) figures from the World Bank put this number at 12.5 per cent. See World Bank, "Data: Indonesia", available at: http://data.worldbank.org/country/indonesia, accessed 8 February 2013.

[49] According to statistical information provided by BNP2TKI on 19 August 2013, of those who officially migrated for work in 2012, 29.75 per cent finished elementary education (ages 6-12 years), with a further 39.44 per cent having completed junior high school education (ages 12-15 years).

[50] National Board for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI), http://www.bnp2tki.go.id/statistik-penempatan/6756-penempatan-per-tahun-per-negara-2006-2012.html, accessed 8 October 2013.

[51] National Board for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI), http://www.bnp2tki.go.id/statistik-penempatan/6758-penempatan-berdasarkan-jenis-kelamin-2006-2012.html, accessed 8 October 2013.

[52] Although that is the official HKSAR government's term for workers in this occupation, Amnesty International uses throughout the report the internationally accepted term of "migrant domestic workers", denoting their status as employees engaged in "work performed in or for a household or households" "within an employment relationship" (article 1, Domestic Workers Convention).

[53] Amnesty International meeting with the HKSAR Labour and Immigration Departments in Hong Kong on 11 October 2013 and correspondence from the two Departments on 15 October 2013.

[54] National Board for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI), http://www.bnp2tki.go.id/statistik-penempatan/6758-penempatan-berdasarkan-jenis-kelamin-2006-2012.html, accessed 8 October 2013.

[55] Information provided by the National Board for the Placement and Protection of Indonesian Overseas Workers (*Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia* or BNP2TKI) on 19 August 2013. The 2012 survey conducted by IMWU (Indonesian Migrant Workers Union) in Hong Kong also found that out of 930 Indonesian migrant domestic workers, 51.3 per cent were from East Java.

[56] See Chapter 1, paragraph 5 of Law No. 39/2004:"Undang-Undang Nomor 39 Tahun 2004 tentang Penempatan dan Perlindungan Tenaga Kerja Indonesia di Luar Negeri", available at: http://ppid.bnp2tki.go.id/jdih/index.php/component/attachments/download/29, accessed 24 May 2013 (in Indonesian).

[57] See "Undang-Undang Nomor 39 Tahun 2004 tentang Penempatan dan Perlindungan Tenaga Kerja Indonesia di Luar Negeri", available at: http://ppid.bnp2tki.go.id/jdih/index.php/component/attachments/download/29, accessed 24 May 2013

(in Indonesian).

[58] Amnesty International meeting with the Ministry of Manpower and Transmigration in Jakarta, Indonesia on 10 April 2013.

[59] Of those interviewed who responded to this question, 74 out of 81 had a broker organise their job for them.

[60] The remaining respondents were recruited through a friend, an advertisement or other means. [60] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p20.

[61] Information provided by Erna Murniaty, Chairperson, Indonesian Migrant Workers Union (*Serikat Buruh Migran Indonesia* or SBMI) in a correspondence on 29 April 2013 and migrant domestic workers interviewed by Amnesty International. It is important to note that domestic workers in Indonesia, including Jakarta, may receive less or no salary.

[62] Amnesty International interview with a broker in Malang, Indonesia on 25 March 2013.

[63] Of those interviewed who responded to this question, 43 out of 74 were offered cash rewards by brokers if they agreed to "sign" with them.

[64] Where individual cases are cited in the report, the period of time they worked in Hong Kong is also included in brackets. The first year corresponds to when they started working in Hong Kong and the second year is when they finished their job and returned to Indonesia. Where there is only one year cited followed by a dash, this means that the migrant worker was still employed as a domestic worker and/or living in Hong Kong when the interview took place. Where there is only one year cited, this means that the migrant worker was employed only during that year.

[65] Amnesty International interview with RE in Hong Kong on 13 June 2012.

[66] Amnesty International interview with UM in Ponorogo, Indonesia on 29 March 2013. A total of six interviewees did not receive any or the full amount promised to them by their broker.

[67] Amnesty International interview with SK in Hong Kong on 6 June 2012.

[68] Under article 51(c) of Law No. 39/2004, all prospective migrant workers, irrespective of gender, are required to submit a letter of permission to migrate from their spouse, parent or guardian.

[69] Of those interviewed who responded to this question, 25 out of 64 said they were deceived by their broker in relation to key aspects of their terms and conditions of work.

[70] Amnesty International interview with TI in Ponorogo, Indonesia on 21 March 2013.

[71] Amnesty International interview with RT in Trenggalek, Indonesia on 24 March 2013.

[72] Amnesty International interview with WS in Ponorogo, Indonesia on 23 March 2013.

[73] Placement agencies are in Hong Kong and contracted by the recruitment agencies in Indonesia to facilitate the employment of migrant domestic workers in Hong Kong.

[74] Amnesty International interview with RM in Ponorogo, Indonesia on 22 March 2013.

[75] The remaining respondents were lured by gifts, promises of a severance and one-week vacation. ITUC,

IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p17.

[76] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[77] Amnesty International interview with NE in Ponorogo, Indonesia on 29 March 2013.

[78] Amnesty International interview with IR in Ponorogo, Indonesia on 22 March 2013.

[79] Amnesty International interview with RA in Hong Kong on 14 October 2012.

[80] Amnesty International interview with SP in Ponorogo, Indonesia on 23 March 2013.

[81] Explanatory Notes for article 37 of Law No. 39/2004.

[82] Amnesty International interview with a broker in Malang, Indonesia on 25 March 2013.

[83] Amnesty International meeting with the Ministry of Manpower and Transmigration in Jakarta, Indonesia on 10 April 2013.

[84] Migrant domestic workers should receive the Minimum Allowable Wage (MAW), which is lower than the national minimum wage. The MAW is set by the Hong Kong government and adjusted periodically. For example, the previous MAWs were set at HK$3,920 (US$505, since 20 September 2012), HK$3,740 (US$480, since 2 June 2011) and HK$3,580 (US$460, since 10 July 2008).

[85] Amnesty International interview with JH in Hong Kong on 6 June 2012.

[86] Amnesty International interview with YT in Hong Kong on 19 June 2012.

[87] Amnesty International interview with AK in Ponorogo, Indonesia on 29 March 2013.

[88] Amnesty International interview with RT in Ponorogo, Indonesia on 24 March 2013.

[89] Amnesty International interview with GH in Hong Kong on 14 October 2012.

[90] Manpower and Transmigration Ministerial Decree No. 98/2012.

[91] Article 42.2 of Law No. 39/2004.

[92] Information provided by the National Board for the Placement and Protection of Indonesian Overseas Workers (Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia or BNP2TKI) on 19 August 2013. Also see: http://bsnp-indonesia.org/id/, accessed 5 October 2013.

[93] Article 44 of Law No. 39/2004.

[94] Information provided by the Consulate General of Indonesia in Hong Kong on 11 March 2013.

[95] Based on interviews by Amnesty International with 55 migrant domestic workers who were asked and responded to the question.

[96] Only one out of 97 interviewees commuted from home. Information from recruitment agencies and the BNP2TKI also indicate that this is extremely unusual.

[97] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian*

Domestic Workers in Hong Kong (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p29.

[98] Eighty-one out of 97 interviewees responded to the question.

[99] Eighty-one out of 97 interviewees responded to the question.

[100] The Director General for Training and Manpower Placement issued Decree No. KEP.186/PPTK/VII/2008.

[101] The most current decree was issued in May 2012 (see Appendix 3). However, the 2008 version is generally referred to in this report because most of the interviewees arrived in Hong Kong from 2008-2012.

[102] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p32.

[103] The current Minimum Allowable Wage sets the monthly wage at HK$4,010 (US$517). See section 9.1.

[104] Indonesia's Manpower and Transmigration Ministerial Decree No. 98/2012 on components and amount of placement fee for Indonesia domestic workers working in Hong Kong SAR.

[105] Amnesty International interview with Drs Mokh Kurdi, President of Tritama Bina Karya Overseas Employment Agency in Malang, Indonesia on 25 March 2013.

[106] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p32.

[107] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p31.

[108] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[109] Amnesty International interview with HM in Hong Kong on 26 September 2012.

[110] Amnesty International interview with AU in Hong Kong on 30 May 2012.

[111] Amnesty International interview with IR in Ponorogo, Indonesia on 22 March 2013.

[112] Amnesty International interview with NU in Ponorogo, Indonesia on 21 March 2013.

[113] Amnesty International interview with HS in Ponorogo, Indonesia on 24 March 2013.

[114] Amnesty International interview with LJ in Hong Kong on 23 September 2012.

[115] Of those interviewed who responded to this question, 42 out of 42 women said that their recruitment agency imposed restrictions on family visits.

[116] Amnesty International interview with LR in Hong Kong on 28 September 2012. Of those interviewed who responded to this question, 41 out of 79 interviewees had to wash clothes, clean the living quarters

or take care of the children of the staff and/or the owner of the recruitment agency.

[117] Amnesty International interview with GM in Hong Kong on 20 June 2012.

[118] Of those interviewed who responded to this question, 34 out of 62 worked as a domestic worker for a family outside the training centre as part of an "internship".

[119] Information provided by Erna Murniaty, Chairperson, Indonesian Migrant Workers Union (*Serikat Buruh Migran Indonesia* or SBMI) in a correspondence on 29 April 2013 and migrant domestic workers interviewed by Amnesty International. It is important to note that domestic workers in Indonesia, including Jakarta, may receive less or no salary.

[120] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[121] Amnesty International interview with HM in Hong Kong on 26 September 2012.

[122] Amnesty International interview with NP in Ponorogo, Indonesia on 21 March 2013.

[123] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[124] Amnesty International interview with JH in Hong Kong on 6 June 2012.

[125] Amnesty International interview with IR in Ponorogo, Indonesia on 22 March 2013.

[126] Amnesty International interview with HI in Ponorogo, Indonesia on 22 March 2013.

[127] Amnesty International interview with HS in Ponorogo, Indonesia on 24 March 2013.

[128] Amnesty International interview with RA in Hong Kong on 14 October 2012.

[129] Amnesty International interview with GN in Hong Kong on 26 September 2012.

[130] Amnesty International interview with JE in Ponorogo, Indonesia on 24 March 2013.

[131] Eight women interviewed by Amnesty International stated that they were forced to have a contraception injection.

[132] Amnesty International interview with ST in Hong Kong on 20 June 2012.

[133] Amnesty International interview with DL in Hong Kong on 30 May 2012.

[134] Amnesty International interview with TY in Ponorogo, Indonesia on 21 March 2013.

[135] Amnesty International interview with NW in Ponorogo, Indonesia on 22 March 2013.

[136] Amnesty International interview with TS in Hong Kong on 13 June 2012.

[137] Amnesty International interview with TR in Hong Kong on 7 August 2012.

[138] Amnesty International interview with RH in Ponorogo, Indonesia on 22 March 2013.

[139] Of those interviewed who responded to this question, 35 out of 81 said they were not given enough food at the training centre.

[140] Amnesty International interview with WS in Ponorogo, Indonesia on 23 March 2013.

[141] Amnesty International interview with RT in Ponorogo, Indonesia on 24 March 2013.

[142] Amnesty International interview with YT in Hong Kong on 19 June 2012.

[143] Of those interviewed who responded to this question, 38 out of 80 felt that the training provided at the centre did not improve their existing skills and/or prepare them for working abroad.

[144] Amnesty International interview with GN in Hong Kong on 26 September 2012.

[145] Amnesty International interview with HW in Ponorogo, Indonesia on 23 March 2013.

[146] Amnesty International interview with MI in Blitar, Indonesia on 28 March 2013.

[147] Amnesty International interview with TS in Hong Kong on 13 June 2012.

[148] Amnesty International interview with IA in Ponorogo, Indonesia on 23 March 2013.

[149] Amnesty International interview with RP in Ponorogo, Indonesia on 24 March 2013.

[150] Amnesty International interview with GH in Hong Kong on 14 October 2012.

[151] Amnesty International interview with Ibu Siti, Director of Operations, PT. ASA Jaya Labour International Employment Agency in Blitar, Indonesia on 27 March 2013.

[152] Article 52.1 of Law No. 39/2004.

[153] Article 52.4 of Law No. 39/2004.

[154] Article 54.2 of Law No. 39/2004.

[155] Amnesty International interview with DL in Hong Kong on 30 May 2012.

[156] Amnesty International interview with FI in Hong Kong on 3 October 2012.

[157] Amnesty International interview with WS in Ponorogo, Indonesia on 23 March 2013.

[158] Amnesty International interview with YM in Hong Kong on 3 October 2012.

[159] Article 35 of Law No. 39/2004.

[160] Amnesty International meeting with the Ministry of Manpower and Transmigration in Jakarta, Indonesia on 10 April 2013.

[161] Amnesty International interview with RA in Hong Kong on 14 October 2012.

[162] Amnesty International interview with GM in Hong Kong on 20 June 2012.

[163] Amnesty International interview with DL in Hong Kong on 30 May 2012.

[164] IOM, *Guidelines for the Investigation and Prosecution of Human Trafficking: Cases and the treatment of victims*, 2005, available at: http://www.iom.or.id/publications/pdf/18_CTGuidelines.pdf, accessed 14 February 2013.

[165] Sanctions include written warnings; suspension of some or all activities associated with the placement of Indonesian workers abroad; revocation of permits to operate as recruitment agencies; cancellation of the departure of the prospective migrant worker; and/or repatriation of Indonesian migrant workers from foreign countries at their own expense (article 100.2 of Law No. 39/2004).

[166] Article 55.3 of Law No. 39/2004.

[167] Article 55.5 of Law No. 39/2004.

[168] Of those interviewees who responded to this question, 18 out of 84 did not sign an employment contract or were not given one prior to their departure for Hong Kong.

[169] Amnesty International interview with UR in Hong Kong on 30 May 2012.

[170] Amnesty International interview with GH in Hong Kong on 14 October 2012.

[171] Amnesty International interview with ST in Hong Kong on 20 June 2012.

[172] Amnesty International interview with LR in Hong Kong on 28 September 2012.

[173] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2013.

[174] Amnesty International interview with YJ in Ponorogo, Indonesia on 21 March 2013.

[175] Amnesty International interview with HM in Hong Kong on 26 September 2012.

[176] Amnesty International interview with LE in Hong Kong on 23 September 2012.

[177] Amnesty International interview with HH in Ponorogo, Indonesia on 24 March 2013.

[178] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[179] See "Pelayanan Penerbitan KTKLN (SE /KA/V/2011) [Publishing Services KTKLN (SE /KA/V/2011)]", available at: http://www.bnp2tki.go.id/peraturan-ka-bnp2tki-mainmenu-175/6822-pelayanan-penerbitan-ktkln-se-kav2011.html, accessed 14 May 2013 (in Indonesian).

[180] Articles 62-64 of Law No. 39/2004.

[181] Amnesty International meeting with the Ministry of Manpower and Transmigration in Jakarta, Indonesia on 10 April 2013.

[182] Ministerial Decree No. PER-05/MEN/III/2005. See "Ketentuan Sanksi Administrasi dan Tata Cara Penjatuhan Sanksi Dalam Pelaksanaan Penempatan dan Perlindungan Tenaga kerja Indonesia di Luar Neger", available at: http://naker.tarakankota.go.id/produkhukum/permen05-2005.pdf, accessed 24 May 2013 (in Indonesian).

[183] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[184] Amnesty International interview with YM in Hong Kong on 3 October 2012.

[185] Amnesty International interview with YT in Hong Kong on 19 June 2012.

[186] Amnesty International interview with OT in Ponorogo, Indonesia on 24 March 2013.

[187] Cost of insurance outlined in both Decrees No. KEP.186/PPTK/VII/2008 and No. 98/2012 (see Appendix 3) on recruitment fees.

[188] Amnesty International meeting with the Ministry of Manpower and Transmigration in Jakarta, Indonesia on 10 April 2013. See also "Jenis Resiko yang Ditanggung Asuransi TKI [Indonesian Migrant Workers' Insurance Coverage]", available at: http://www.asuransi-tki.com/p/jenis-resiko-yang-ditanggung-asuransi.html, accessed 14 May 2013 (in Indonesian).

[189] Amnesty International interview with TJ in Hong Kong on 26 September 2012.

[190] Amnesty International interview with LE in Hong Kong on 23 September 2012.

[191] Amnesty International interview with KM in Ponorogo, Indonesia on 23 March 2013.

[192] Amnesty International interview with DY in Ponorogo, Indonesia on 24 March 2013.

[193] Amnesty International interview with HW in Ponorogo, Indonesia on 23 March 2013.

[194] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[195] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p27.

[196] Amnesty International interview with TY in Ponorogo, Indonesia on 21 March 2013.

[197] Amnesty International interview with RP in Ponorogo, Indonesia on 24 March 2013.

[198] Interview with Ir. Revina Purnama Panjaitan, MM, Deputy Director, BNP2TKI, in Jakarta, Indonesia on 8 April 2013.

[199] A family certificate is issued by the local authority (e.g. district office) and includes personal details of the family members, including their name, gender, place and date of birth, ID number, religion, education and profession. This certificate is required for accessing certain social security payments, such as welfare benefits.

[200] Fifty-seven out of 57 who responded to this question stated that they handed over important documents that were not returned to them before they left for Hong Kong.

[201] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p29.

[202] Amnesty International interview with Ibu Siti, Director of Operations, PT. ASA Jaya Labour International Employment Agency in Blitar, Indonesia on 27 March 2013.

[203] Amnesty International interview with SK in Hong Kong on 6 June 2012.

[204] Amnesty International interview with GH in Hong Kong on 14 October 2012.

[205] Amnesty International interview with DY in Ponorogo, Indonesia on 24 March 2013.

[206] Amnesty International interview with GS in Ponorogo, Indonesia on 23 March 2013.

[207] Amnesty International interview with WR in Ponorogo, Indonesia on 24 March 2013.

[208] Amnesty International interview with NM in Blitar, Indonesia on 28 March 2013.

[209] Amnesty International interview with AU in Hong Kong on 30 May 2012.

[210] Amnesty International interview with JH in Hong Kong on 6 June 2012.

[211] Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, *Report concerning the possible adoption of an ILO instrument to supplement the Forced Labour Convention, 1930 (No.29)*, ILO, 1 February 2013, p7.

[212] Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, *Report concerning the possible adoption of an ILO instrument to supplement the Forced Labour Convention, 1930 (No.29)*, ILO, 1 February 2013, p7.

[213] Information provided by Erna Murniaty, Chairperson, Indonesian Migrant Workers Union (*Serikat Buruh Migran Indonesia* or SBMI) in a correspondence on 29 April 2013 and migrant domestic workers interviewed by Amnesty International. It is important to note that domestic workers in Indonesia, including Jakarta, may receive less or no salary.

[214] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p25.

[215] It is worth highlighting that the ILO Committee of Experts has repeatedly stated "that trafficking in persons for the purpose of exploitation [...] is encompassed by the definition of forced or compulsory labour in article 2.1 of the Convention No.29", See for example the Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, *Report concerning the possible adoption of an ILO instrument to supplement the Forced Labour Convention, 1930 (No.29)*, ILO, 1 February 2013, pp4, 15 and 39.

[216] Statement presented at the 100th International Labour Conference in Geneva, Switzerland on 14 June 2011, available at: http://www.ilo.org/ilc/ILCSessions/100thSession/media-centre/speeches/WCMS_157638/lang--en/index.htm, accessed 5 July 2013.

[217] While article 16.2 of the draft provides that terms and conditions of work must include accumulated hours of work; weekly rest; leave entitlements; time off during working hours and holiday allowances, these are not sufficiently defined.

[218] Amnesty International, "Indonesia: Ensure legal protection for domestic workers", 16 June 2013, (AI Index: ASA 21/020/2013) and *Indonesia: Briefing to the UN Committee on the Elimination of Discrimination against Women*, 25 June 2012 (AI Index: ASA 21/022/2012).

[219] Ratified in 2006.

[220] Ratified in 2009.

[221] Ratified in 1984.

[222] Ratified in 2006.

[223] Article 6.1 of the ICESCR.

[224] ILO International Labour Conference, Conference Committee on the Application of Standards, *Examination of Indonesia on the Forced Labour Convention, 1930 (No. 29)*, June 2004.

[225] ILO, "Indonesia: Forced Labour Convention, 1930 (No. 29) (ratification: 1950)", *Report of the*

Committee of Experts on the Application of Conventions and Recommendations, 2009, p219.

[226] ILO, *Combating Forced Labour and Trafficking of Indonesian Migrant Workers*, available at: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/projectdocumentation/wcms_153145.pdf, accessed 5 March 2013.

[227] Committee on the Elimination of Discrimination against Women, *Concluding observations on Indonesia*, UN Doc. CEDAW/C/IDN/CO/6-7, 27 July 2012, para44.

[228] On at least five occasions since July 2013, Amnesty International has requested information from the Indonesian government on the number of recruitment agencies that have been investigated, charged and prosecuted in the last five years (2008-2012) for treating migrant domestic workers inhumanely and in an unreasonable and unacceptable manner. However to date, Amnesty International has not received a reply.

[229] Article 69.1 of Law No. 39/2004.

[230] Amnesty International meeting with the Ministry of Manpower and Transmigration in Jakarta, Indonesia on 10 April 2013.

[231] Article 69.2 of Law No. 39/2004.

[232] Amnesty International meeting with the Ministry of Manpower and Transmigration in Jakarta, Indonesia on 10 April 2013.

[233] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[234] Explanatory Notes on the Draft Bill of the Republic of Indonesia No. 39/2004 concerning the Protection for Indonesian Overseas Workers.

[235] Article 103: Liable to a minimum penalty of one year in prison and a maximum penalty of five years in prison and/ or a minimum fine of IDR 1,000,000,000 (US$88,000) and a maximum fine of IDR 5,000,000,000 (US$440,000). Sending a migrant worker abroad without a KTKLN also falls under article 104 (see reference below).

[236] Article 103: Liable to a minimum penalty of one year in prison and a maximum penalty of five years in prison and/ or a minimum fine of IDR 1,000,000,000 (US$88,000) and a maximum fine of IDR 5,000,000,000 (US$440,000).

[237] Article 104: Liable to a minimum penalty of one month in prison and a maximum penalty of one year and/ or a minimum fine of IDR 100,000,000 (US$8,800) and a maximum fine of IDR 1,000,000,000 (US$88,000).

[238] Article 102: Liable to a minimum penalty of two years in prison and a maximum penalty of 10 years in prison and/ or a minimum fine of IDR 2,000,000,000 (US$176,000) and a maximum fine of IDR 15,000,000,000 (US$1,320,000).

[239] Amnesty International meeting with Djohar Arifin, Head of the Disnaker (labour office) in Blitar, Indonesia on 27 March 2013.

[240] The database collects Indonesian National Police (INP) statistics on prosecutions and convictions at the district and provincial levels. See US State Department, "Indonesia", *Trafficking in Persons Report*

2013, p199, available at: http://www.state.gov/documents/organization/210739.pdf, accessed 26 September 2013.

[241] US State Department, "Indonesia", *Trafficking in Persons Report 2012*, p187, available at: http://www.state.gov/documents/organization/192595.pdf, accessed 5 July 2013.

[242] US State Department, "Indonesia", *Trafficking in Persons Report 2013*, pp199-200, available at: http://www.state.gov/documents/organization/210739.pdf, accessed 26 September 2013.

[243] On at least five occasions since July 2013, Amnesty International has requested information from the Indonesian government on official statistics on trafficking for labour exploitation. However to date, Amnesty International has not received a reply.

[244] "Police arrest two in migrant worker Sumiati torture case", *Antara News*, 9 December 2010, available at: http://www.antaranews.com/en/news/1291903798/police-arrest-two-in-migrant-worker-sumiati-torture-case, accessed 26 September 2013 and Migrant Care, "Kasus Trafficking di Surabaya Meningkat 50 Persen", 24 May 2011, available at: http://www.migrantcare.net/mod.php?mod=publisher&op=viewarticle&cid=5&artid=1196, accessed 26 September 2013 (in Indonesian).

[245] Amnesty International interview with Drs Mokh Kurdi, President of Tritama Bina Karya Overseas Employment Agency in Malang, Indonesia on 25 March 2013.

[246] High Court of Hong Kong, Vallejos v. Commissioner of Registration (HCAL 124/2010), 30 September 2011, para38, available at: http://archive.is/nrEw, accessed 9 October 2013.

[247] HKSAR Constitutional and Mainland Affairs Bureau, "HKSAR Government welcomes constructive dialogue with UN Human Rights Committee", Press Release, 28 March 2013, available at: http://www.cmab.gov.hk/en/press/press_3146.htm, accessed 6 October 2013.

[248] Amnesty International meeting with the HKSAR Labour and Immigration Departments in Hong Kong on 11 October 2013 and correspondence from the two Departments on 15 October 2013.

[249] ILO, "Measuring the economic and social value of domestic work", *Domestic Work Policy Brief No.3*, p6, available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_156071.pdf, accessed 18 September 2013.

[250] HKSAR Constitutional and Mainland Affairs Bureau, "Response to the List of Issues presented by the Human Rights Committee on 16 November 2012", March 2013, paras4(3) and15.2, available at: http://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/the_rights_of_the_individuals/response_to_list_of_issues_mar_2013.pdf, accessed 8 October 2013.

[251] Of those interviewed who responded to this question, 45 out of 69 stated that their wages or work conditions in Hong Kong were different to what they have been promised in Indonesia.

[252] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p46.

[253] This is for Standard Employment Contracts made on or after 1 October 2013. As all the migrant domestic workers interviewed for this report had employment contracts before this date, their salary entitlement is less than HK$4,010 (US$517). Previous MAW include HK$3,920 (US$505, since 20 September 2012), HK$3,740 (US$480, since 2 June 2011), HK$3,580 (US$460, since 10 July

2008), HK$3,480 (US$450, since 6 June 2007), HK$3,400 (US$440, since 31 May 2006), HK$3,320 (US$430, since 19 May 2005) and HK$3,270 (US$420, since April 2003). See also HKSAR Government, "Minimum Allowable Wage and food allowance for foreign domestic helpers to increase", 30 September 2013, available at: http://www.info.gov.hk/gia/general/201309/30/P201309300438.htm, accessed 6 October 2013.

[254] Amnesty International interview with RM in Ponorogo, Indonesia on 22 March 2013.

[255] Amnesty International interview with WS in Ponorogo, Indonesia on 23 March 2013.

[256] Amnesty International interview with RH in Ponorogo, Indonesia on 22 March 2013.

[257] Amnesty International interview with OH in Hong Kong on 18 October 2012.

[258] HKSAR Labour Department, *Practical Guide for Employment of Foreign Domestic Helpers: What foreign domestic helpers and their employers should know*, September 2012, p8, available at: http://www.labour.gov.hk/eng/public/wcp/FDHguide.pdf, accessed 13 February 2013.

[259] Of those interviewed who responded to this question, 33 out of 77 received a salary below the Minimum Allowable Wage.

[260] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p40.

[261] Correspondence from the HKSAR Labour Department (Headquarters) on 15 August 2013.

[262] 94 interviewees provided information on their hours of work.

[263] HKSAR Labour Department, *Report of the Policy Study on Standard Working Hours*, June 2012, pp1-2, available at: http://www.labour.gov.hk/eng/plan/pdf/swh/swh_report.pdf, accessed 6 October 2013.

[264] Ratified in 1976 under the territorial application of the United Kingdom of Great Britain and Northern Ireland. Upon resuming sovereignty over Hong Kong in 1997, the People's Republic of China notified the UN that the Covenant will also apply to the Hong Kong SAR, pursuant to the provisions of the Basic Law of the Hong Kong SAR.

[265] Article 7(d) of the ICESCR.

[266] Amnesty International interview with DE in Hong Kong on 19 June 2012.

[267] Under the Immigration Ordinance, it is an offence for a migrant domestic worker to perform non-domestic duties and employers who breach the Ordinance may face prosecution. See HKSAR Labour Department, *Practical Guide for Employment of Foreign Domestic Helpers: What foreign domestic helpers and their employers should know*, September 2012, p5, available at: http://www.labour.gov.hk/eng/public/wcp/FDHguide.pdf, accessed 18 September 2013.

[268] Amnesty International interview with MI in Blitar, Indonesia on 28 March 2013.

[269] An employee who has been employed continuously by the same employer for four weeks or more, with at least 18 hours worked in each week is regarded as being employed under a continuous contract. See HKSAR Labour Department, "Labour Legislation: Frequently Asked Questions about the Employment Ordinance, Cap. 57", available at: http://www.labour.gov.hk/eng/faq/cap57b_whole.htm, accessed 1 October 2013.

[270] Section 17 Grant of rest day, Cap 57A Employment Agency Regulation, Employment Ordinance of HKSAR, available at: http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/277C0DAA6FCB2973482575EE00348F4E/$FILE/CAP_57_e_b5.pdf, accessed 9 February 2013.

[271] Of those interviewed who responded to this question, 51 out of 93 did not receive a weekly rest day.

[272] Amnesty International interview with YT in Hong Kong on 19 June 2012.

[273] Amnesty International interview with JH in Hong Kong on 6 June 2012.

[274] Section 2 Interpretation, Cap 57A Employment Agency Regulation, Employment Ordinance of HKSAR, available at: http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/277C0DAA6FCB2973482575EE00348F4E/$FILE/CAP_57_e_b5.pdf, accessed 9 February 2013.

[275] Amnesty International interview with FR in Blitar, Indonesia on 27 March 2013.

[276] Amnesty International interview with HH in Ponorogo, Indonesia on 24 March 2013.

[277] The first day of January; Lunar New Year's Day; the second day of Lunar New Year; the third day of Lunar New Year; Ching Ming Festival; the first day of May; Tuen Ng Festival; the day following the Chinese Mid-Autumn Festival; Chung Yeung Festival; Chinese Winter Solstice Festival or Christmas Day (at the option of the employer); the first day of July; and the first day of October.

[278] HKSAR Labour Department, *Practical Guide for Employment of Foreign Domestic Helpers: What foreign domestic helpers and their employers should know*, September 2012, p12, available at: http://www.labour.gov.hk/eng/public/wcp/FDHguide.pdf, accessed 16 May 2013.

[279] Correspondence from the HKSAR Labour Department (Headquarters) on 15 August 2013.

[280] Cap 3 (Fundamental Rights and Duties of the Residents), article 32.2 [Religion] of the Basic Law, available at: http://www.hkhrm.org.hk/english/law/basic4.html, accessed 18 September 2013.

[281] Of those interviewed who responded to this question, 62 out of 73 stated that they were not allowed to practise their religion.

[282] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[283] Amnesty International interview with TJ in Hong Kong on 26 September 2012.

[284] Amnesty International interview with SL in Hong Kong on 4 October 2012.

[285] Under the territorial application of the United Kingdom of Great Britain and Northern Ireland. Upon resuming sovereignty over Hong Kong in 1997, the People's Republic of China notified the UN that the Covenant will also apply to the Hong Kong SAR.

[286] Amnesty International meeting with the HKSAR Labour and Immigration Departments in Hong Kong on 11 October 2013 and correspondence from the two Departments on 15 October 2013.

[287] As this was introduced in 1 October 2013, the food allowance entitlement of all the migrant domestic workers interviewed for this report was less. Previously, the food allowance was HK$875 (US$110, since 20 September 2012), HK$775 (US$100, since June 2011) and HK$750 (US$97,

since July 2008). See also HKSAR Government, "Minimum Allowable Wage and food allowance for foreign domestic helpers to increase", 30 September 2013, available at: http://www.info.gov.hk/gia/general/201309/30/P201309300438.htm, accessed 6 October 2013.

288 HKCTU and FADWU, *Joint report on Hong Kong SAR of the People's Republic of China on the government's application of Migration for Employment Convention (Revised), 1949 (No. 97) (Ratification 1997)*, submitted to the ILO on 31 August 2012, para27.

289 Of those interviewed who responded to this question, 39 out of 94 said they were not given enough to eat by their employers.

290 Amnesty International interview with NS in Hong Kong on 21 June 2012.

291 Amnesty International interview with HM in Hong Kong on 26 September 2012.

292 Amnesty International interview with LR in Hong Kong on 28 September 2012.

293 Amnesty International interview with YM in Hong Kong on 3 October 2012.

294 Amnesty International interview with AA in Hong Kong on 6 June 2012.

295 The only exception is "employers who have obtained the Director of Immigration's approval before 1 April 2003 to let their Helpers live out can continue to do so, so long as they continue to employ Helpers without a break of more than 6 months". See HKSAR Government, Guidebook for the Employment of Domestic Helpers from Abroad (ID 969), available at: http://www.immd.gov.hk/en/forms/forms/id-e-969.html, accessed 9 February 2013.

296 HKSAR Government, *Guidebook for the Employment of Domestic Helpers from Abroad (ID 969)*, available at: http://www.immd.gov.hk/en/forms/forms/id-e-969.html, accessed 9 February 2013.

297 Of those interviewed who responded to this question, 38 out of 94 said they had their own room.

298 Amnesty International interview with AU in Hong Kong on 30 May 2012.

299 Amnesty International interview with FH in Ponorogo, Indonesia on 21 March 2013.

300 Amnesty International interview with SN in Hong Kong on 6 July 2013.

301 Regulation 10(2) (Part II of Schedule 2), Cap 57A Employment Agency Regulation, Employment Ordinance of HKSAR, available at: http://www.legislation.gov.hk/blis_pdf.nsf/6799165D2FEE3FA94825755E0033E532/38DB2DFF314A22BB482575EE0034A5D2/$FILE/CAP_57A_e_b5.pdf, accessed 8 February 2013.

302 HKSAR Legislative Council Secretariat, "Fact Sheet: Employment agencies placing foreign domestic helpers", File Ref.: FS30/12-13, 17 June 2013, para4.3, available at: http://www.legco.gov.hk/yr12-13/english/sec/library/1213fs30-e.pdf, accessed 8 October 2013.

303Most of this money will be sent back to the recruitment agency in Indonesia. It is not clear what proportion of this payment is retained by the placement agency, as the process is far from transparent (see section 9.2 for details).

304 Seventy-seven women interviewed by Amnesty International stated that they had to hand over the vast majority of their salary to their placement agency for the initial months, normally seven, of their contract.

305 ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian*

Domestic Workers in Hong Kong (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p44.

[306] Amnesty International interview with DL in Hong Kong on 30 May 2012.

[307] Amnesty International interview with TN in Hong Kong on 6 June 2012.

[308] Amnesty International interview with RE in Hong Kong on 13 June 2012.

[309] Amnesty International interview with UR in Hong Kong on 30 May 2012.

[310] Ministerial Decree No. 98/2012 sets the maximum total fee at IDR 14,780,400 or HK$13,436 (US$1,730). See Appendix 3.

[311] Peggy W.Y. Lee and Carole J. Petersen, *Forced Labour and Debt Bondage in Hong Kong: A Study of Indonesian and Filipina Migrant Domestic Workers*, Centre for Comparative and Public Law, Faculty of Law, University of Hong Kong, May 2006, pp26-27.

[312] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[313] Amnesty International interview with FI in Hong Kong on 3 October 2012.

[314] Amnesty International interview with LJ in Hong Kong on 23 September 2012.

[315] Sheridan Prasso and Cathy Chan, "Indentured Servitude in Hong Kong Abetted by Loan Firms" *Bloomberg*, 13 November 2012, available at: http://www.bloomberg.com/news/2012-11-13/indentured-servitude-in-hong-kong-abetted-by-loan-firms.html, accessed13 February 2013.

[316] Amnesty International interview with NA in Hong Kong on 4 October 2012.

[317] Sheridan Prasso and Cathy Chan, "Indentured Servitude in Hong Kong Abetted by Loan Firms" *Bloomberg*, 13 November 2012, available at: http://www.bloomberg.com/news/2012-11-13/indentured-servitude-in-hong-kong-abetted-by-loan-firms.html, accessed13 February 2013.

[318] Amnesty International interview with YS in Ponorogo, Indonesia on 23 March 2013.

[319] Amnesty International interview with YT in Hong Kong on 19 June 2012.

[320] Amnesty International interview with WS in Ponorogo, Indonesia on 23 March 2013. Amnesty International has no evidence to confirm whether this money was taken by the placement agency – as suggested by many migrant domestic worker interviewees – or the employer.

[321] Of those interviewed who responded to this question, 34 out of 68 migrant domestic workers looked for a new job in Hong Kong after the completion or termination of their first contract. Of these 21 had to pay a new fee to their placement agency.

[322] Amnesty International interview with RE in Hong Kong on 13 June 2012.

[323] Amnesty International interview with ST in Hong Kong on 20 June 2012.

[324] Amnesty International interview with PS in Hong Kong on 30 September 2012.

[325] Amnesty International interview with BL in Hong Kong on 6 July 2013.

[326] Committee on the Elimination of Discrimination against Women, General Recommendation 26 on

Women Migrant Workers, UN Doc. C/2009/WP.1/R, 5 December 2008, para20.

[327] Of those interviewed who responded to this question, 63 out of 94 had been subjected to physical or psychological (verbal) abuse, and/or threats.

[328] Amnesty International interview with NE in Ponorogo, Indonesia on 29 March 2013.

[329] Amnesty International interview with NS in Hong Kong on 21 June 2012.

[330] Amnesty International interview with AU in Hong Kong on 30 May 2012.

[331] Amnesty International interview with TR in Hong Kong on 11 June 2012.

[332] Amnesty International interview with DE in Hong Kong on 19 June 2012.

[333] Amnesty International interview with GM in Hong Kong on 20 June 2012.

[334] Jonathan Levine, "Survey reveals extent of abuse of foreign maids in Hong Kong", *South China Morning Post*, 4 August 2013, available at: http://www.scmp.com/news/hong-kong/article/1294210/survey-reveals-extent-abuse-foreign-maids-hong-kong?page, accessed 20 September 2013.

[335] Winnie Chong, "Tied-up, beaten maid recalls life in hell flat", *The Standard*, 27 August 2013, available at: http://www.thestandard.com.hk/news_detail.asp?pp_cat=30&art_id=136913&con_type=3, accessed 21 September 2013; Julie Chu, "Domestic helper Kartika Puspitasari tells court of horrific abuse over two years", *South China Morning Post*, 19 September 2013, available at: http://www.scmp.com/news/hong-kong/article/1312504/domestic-helper-kartika-puspitasari-tells-court-horrific-abuse-over, accessed 21 September 2013; Grace Li, "Hong Kong couple jailed for torturing maid who was 'forced to wear diaper'", *Reuters*, 18 September 2013, available at: http://uk.reuters.com/article/2013/09/18/uk-hongkong-maid-idUKBRE98H0D420130918, accessed 21 September 2013.

[336] Amnesty International interview with ZR in Hong Kong on 12 June 2012.

[337] Amnesty International interview with RY in Hong Kong on 4 October 2012.

[338] Amnesty International interview with NE in Ponorogo, Indonesia on 29 March 2013.

[339] Of those interviewed who responded to this question, 34 out of 91 stated that they were not free to leave their employer's home.

[340] Amnesty International interview with HM in Hong Kong on 26 September 2012.

[341] Amnesty International interview with WS in Ponorogo, Indonesia on 23 March 2013.

[342] Under the Registration of Persons Ordinance, all Hong Kong residents aged 11 or above must register for a Hong Kong ID card, except for genuine travellers in transit through Hong Kong or persons who have been permitted to stay for not more than 180 days; the aged, the blind and the infirm whose exemption has been approved by the Commissioner of Registration. For more information, see "General Information on Hong Kong Identity Cards", available at: http://www.gov.hk/en/residents/immigration/idcard/hkic/geninfor.htm, accessed 6 March 2013.

[343] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p34.

[344] Amnesty International interview with GM in Hong Kong on 20 June 2012.

[345] Amnesty International interview with TW in Ponorogo, Indonesia on 21 March 2013.

[346] Amnesty International interview with NU in Ponorogo, Indonesia on 21 March 2013.

[347] Amnesty International interview with RM in Ponorogo, Indonesia on 22 March 2013.

[348] Amnesty International interview with TD in Hong Kong on 28 September 2012.

[349] Amnesty International interview with IR in Ponorogo, Indonesia on 22 March 2013.

[350] Amnesty International interview with SL in Hong Kong on 4 October 2012.

[351] Amnesty International interview with GH in Hong Kong on 14 October 2012.

[352] Amnesty International interview with RH in Ponorogo, Indonesia on 22 March 2013.

[353] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p54.

[354] Of those interviewed who responded to this question, 28 out of 33 said that contract was terminated by their employer before or just after their salary deduction period ended.

[355] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p47.

[356] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[357] Amnesty International interview with HI in Ponorogo, Indonesia on 22 March 2013.

[358] This is also stated in para10 of the Standard Employment Contract (see Appendix 4). Moreover, employers "may summarily dismiss your helper without notice or payment in lieu of notice if your helper, in relation to the employment: wilfully disobeys a lawful and reasonable order; misconducts himself/herself; is guilty of fraud or dishonesty; or is habitually neglectful of his/her duties". Equally, migrant domestic workers "may terminate your employment contract without notice or payment in lieu of notice if: you reasonably fear physical danger by violence or disease; you are subjected to ill-treatment by your employer; or you have been employed for not less than five years and you are medically certified as being permanently unfit for the type of work you are engaged". See HKSAR Labour Department, *Practical Guide for Employment of Foreign Domestic Helpers: What foreign domestic helpers and their employers should know*, September 2012, pp18-19, available at: http://www.labour.gov.hk/eng/public/wcp/FDHguide.pdf, accessed 29 May 2013.

[359] Of those interviewed who responded to this question, 25 out of 27 said that their contract had been terminated without notice and without the due compensation.

[360] Amnesty International interview with LR in Hong Kong on 28 September 2012.

[361] Amnesty International interview with HS in Ponorogo, Indonesia on 24 March 2013.

[362] Amnesty International interview with YT in Hong Kong on 19 June 2012.

[363] Amnesty International interview with HM in Hong Kong on 26 September 2012.

[364] Amnesty International meeting with the HKSAR Labour and Immigration Departments in Hong Kong on 11 October 2013 and correspondence from the two Departments on 15 October 2013.

[365] HKCTU and FADWU, *Joint report on Hong Kong SAR of the People's Republic of China on the government's application of Migration for Employment Convention (Revised), 1949 (No. 97) (Ratification 1997)*, submitted to the ILO on 31 August 2012, para35.

[366] Correspondence from the HKSAR Labour Department (incorporating information provided by the HKSAR Immigration Department) on 15 August 2013.

[367] Normally, the cost of transportation and living expenses is either borne by the migrant domestic workers or initially by their agency, which is then factored into the workers' agency fee.

[368] Amnesty International interview with NE in Ponorogo, Indonesia on 29 March 2013.

[369] Amnesty International interview with IW in Ponorogo, Indonesia on 23 March 2013.

[370] The Convention on the Elimination of All Forms of Discrimination against Women was ratified in 1986 under the territorial application of the United Kingdom of Great Britain and Northern Ireland. Upon resuming sovereignty over Hong Kong in 1997, the People's Republic of China notified the UN that the Convention with the reservation made by China will also apply to the Hong Kong SAR.

[371] Committee on the Elimination of Discrimination against Women, *Concluding comments on China*, UN Doc. CEDAW/C/CHN/CO/6, 25 August 2006, para41.

[372] The Convention on the Elimination of All Forms of Racial Discrimination was ratified in 1969 under the territorial application of the United Kingdom of Great Britain and Northern Ireland. Upon resuming sovereignty over Hong Kong in 1997, the People's Republic of China notified the UN that the Convention with the reservation made by China will also apply to the Hong Kong SAR.

[373] Committee on Economic, Social and Cultural Rights, *List of issues in relation to the second periodic report of China (E/C.12/CHN/2) including Hong Kong, China (E/C.12/CHN-HKG/3) and Macao, China (E/C.12/CHN-MAC/2), adopted by the pre-sessional working group at its fifty-first session (21-24 May 2013)*, UN Doc. E/C.12/WG/CHN/Q/2, 13 June 2013, para40.

[374] HKSAR Constitutional and Mainland Affairs Bureau, "HKSAR Government welcomes constructive dialogue with UN Human Rights Committee", Press Release, 28 March 2013, available at: http://www.cmab.gov.hk/en/press/press_3146.htm, accessed 6 October 2013.

[375] Amnesty International, "Solidarity and song", 20 December 2012, available at: http://livewire.amnesty.org/2012/12/20/solidarity-and-song, accessed 16 September 2013.

[376] Interviewed by IMWU on 25 July 2011. ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, pp33-34.

[377] Amnesty International interview with ST on 20 June 2012.

[378] HKSAR Constitutional and Mainland Affairs Bureau, "Response to the List of Issues presented by the Human Rights Committee on 16 November 2012", LC Paper No. CB(2)1356/12-13(03), March 2013, para15.5, available at: http://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/the_rights_of_the_individuals/response

_to_list_of_issues_mar_2013.pdf, accessed 8 October 2013.

[379] Of those interviewed who responded to this question, 33 out of 34 said that the placement agency was not helpful in resolving their problems.

[380] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p50.

[381] Amnesty International interview with JE in Ponorogo, Indonesia on 24 March 2013.

[382] Amnesty International interview with UM in Ponorogo, Indonesia on 29 March 2013.

[383] Amnesty International interview with TS in Hong Kong on 13 June 2012.

[384] Amnesty International interview with NM in Blitar, Indonesia on 28 March 2013.

[385] Amnesty International interview with RM in Ponorogo, Indonesia on 22 March 2013.

[386] Amnesty International meeting with the Consulate General of Indonesia in Hong Kong on 11 March 2013.

[387] Of those interviewed who responded to this question, 23 out of 48 were aware that the Indonesian Consulate existed.

[388] Amnesty International interview with AF in Hong Kong on 10 October 2012.

[389] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished), in collaboration with the Institute for National and Democratic Studies (INDIES), June 2012, p52.

[390] Amnesty International interview with IR in Ponorogo, Indonesia on 22 March 2013.

[391] Amnesty International interview with LE in Hong Kong on 23 September 2012.

[392] Amnesty International interview with KM in Ponorogo, Indonesia on 23 March 2013. On 19 September, Amnesty International corresponded with the Consulate General of Indonesia in Hong Kong and requested a response to KM's testimony. However to date, Amnesty International has not received a reply.

[393] HKSAR Immigration Department, "Immigration Department implements measure to deter abuse of arrangements for premature termination of contract by foreign domestic helpers", Press Release, 30 August 2013, available at: http://www.immd.gov.hk/en/press/press-releases/20130830.html, accessed 21 September 2013.

[394] ILO Committee of Experts on the Application of Conventions and Standards, *Observation on Convention No.97 on Migration for Employment (Revised) for China – Hong Kong SAR*, 2013, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084699, accessed 8 October 2013.

[395] ILO Committee of Experts on the Application of Conventions and Standards, *Observation on Convention No.97 on Migration for Employment (Revised) for China – Hong Kong SAR, 2013*, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084699, accessed 8 October 2013.

[396] Amnesty International interview with UR in Hong Kong on 30 May 2012.

[397] Amnesty International meeting with the HKSAR Labour and Immigration Departments in Hong Kong on 11 October 2013 and correspondence from the two Departments on 15 October 2013.

[398] The HKSAR government's funded services include shelter, welfare, counselling, medical and psychological assistance for victims of abuse, but they are not specifically for migrant domestic workers. Information provided by the HKSAR Labour Department (Headquarters) on 15 August 2013.

[399] Amnesty International meeting with the Consulate General of Indonesia in Hong Kong on 11 March 2013.

[400] Amnesty International meetings with NGOs and trade unions working on migrants' issues in Hong Kong, including HKCTU, IDWN, IMWU and Mission for Migrant Workers.

[401] Amnesty International meeting with the HKSAR Labour and Immigration Departments in Hong Kong on 11 October 2013.

[402] Statistical information provided by the Consulate General of Indonesia in Hong Kong on 11 March 2013.

[403] This covers cases for all workers. See: http://www.judiciary.gov.hk/en/publications/annu_rept_2012/eng/caseload06.html, accessed 21 September 2013. Employment claims involving a sum of money not exceeding HK$8,000 (US$1,030) are adjudicated by the Minor Employment Claims Adjudication Board (MECAB). Employment claims falling outside the jurisdiction of the MECAB are heard by the Labour Tribunal within the Judiciary. See: http://www.labour.gov.hk/eng/labour/content4.htm, accessed 21 September 2013. Migrant workers can appeal against a decision of the Tribunal or the Court of First Instance by submitting an application for leave to appeal to the Registrar of the High Court, but due to the cost and time, this is not a realistic option for most. See: http://www.judiciary.gov.hk/en/crt_services/pphlt/html/labour.htm#23, accessed 21 September 2013.

[404] ILO Committee of Experts on the Application of Conventions and Standards, *Observation on Convention No.97 on Migration for Employment (Revised) for China – Hong Kong SAR*, 2013, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084699, accessed 5 July 2013.

[405] Amnesty International meeting with the HKSAR Labour and Immigration Departments in Hong Kong on 11 October 2013 and correspondence from the two Departments on 15 October 2013.

[406] Both sides are not permitted to bring legal representation.

[407] Labour Relations Division, Shatin and Taipo, Hong Kong on 8 June 2012.

[408] Amnesty International interview with JP in Hong Kong on 8 June 2012.

[409] HKCTU and FADWU, *Joint report on Hong Kong SAR of the People's Republic of China on the government's application of Migration for Employment Convention (Revised), 1949 (No. 97) (Ratification 1997)*, submitted to the ILO on 31 August 2012, para38.

[410] HKCTU and FADWU, *Joint report on Hong Kong SAR of the People's Republic of China on the government's application of Migration for Employment Convention (Revised), 1949 (No. 97) (Ratification 1997)*, submitted to the ILO on 31 August 2012, para38.

[411] Amnesty International interview with DE in Hong Kong on 19 June 2012.

[412] Amnesty International interview with OH in Hong Kong on 18 October 2012.

[413] It should be noted that 31 per cent of the women did not answer this part of the questionnaire and therefore the total percentage of migrant workers encountering human and labour rights abuse without filing a complaint is likely to be higher. See ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[414] HKSAR Constitutional and Mainland Affairs Bureau, "HKSAR Government welcomes constructive dialogue with UN Human Rights Committee", Press Release, 28 March 2013, available at: http://www.cmab.gov.hk/en/press/press_3146.htm, accessed 6 October 2013.

[415] Reproduced from: Vallejos v. Commissioner of Registration (HCAL 124/2010), 30 September 2011, para40.

[416] The employer is responsible for providing the migrant domestic worker with "free return passage to his/her place of origin", as outlined in clause 7(a) of the Standard Employment Contract (see Appendix 4).

[417] HKSAR Labour and Welfare Bureau, "Legislative Council Brief: Minimum Wage Bill", File Ref.: LD SMW 1-55/1/4(C), June 2009, para15, available at: http://www.legco.gov.hk/yr08-09/english/bills/brief/b24_brf.pdf, accessed 6 October 2013.

[418] HKCTU and FADWU, *Joint report on Hong Kong SAR of the People's Republic of China on the government's application of Migration for Employment Convention (Revised), 1949 (No. 97) (Ratification 1997)*, submitted to the ILO on 31 August 2012, para18.

[419] ILO Committee of Experts on the Application of Conventions and Standards, *Observation on Convention No.97 on Migration for Employment (Revised) for China – Hong Kong SAR*, 2013, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084699, accessed 8 October 2013.

[420] HKCTU and FADWU, *Joint report on Hong Kong SAR of the People's Republic of China on the government's application of Migration for Employment Convention (Revised), 1949 (No. 97) (Ratification 1997)*, submitted to the ILO on 31 August 2012, para18.

[421] ILO Committee of Experts on the Application of Conventions and Standards, *Observation on Convention No.97 on Migration for Employment (Revised) for China – Hong Kong SAR*, 2013, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084699, accessed 5 July 2013. The Government has been asked to reply during 2014.

[422] See Amnesty International, *China: Submission to the UN Committee on Economic, Social and Cultural Rights, 51st Session (Pre-sessional Working Group 21-24 May 2013)*, 1 April 2013, (AI Index: ASA 17/009/2013), pp13-14.

[423] HKCTU and FADWU, *Joint report on Hong Kong SAR of the People's Republic of China on the government's application of Migration for Employment Convention (Revised), 1949 (No. 97) (Ratification 1997)*, submitted to the ILO on 31 August 2012, para26.

[424] Human Rights Committee, *Concluding observations on the third periodic report of Hong Kong, China*, UN Doc. CCPR/C/CHN-HKG/CO/3, 29 April 2013, para21.

[425] HKSAR Constitutional and Mainland Affairs Bureau, "HKSAR Government welcomes constructive dialogue with UN Human Rights Committee", Press Release, 28 March 2013, available at: http://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/the_rights_of_the_individuals/response_to_list_of_issues_mar_2013.pdf, accessed 8 October 2013.

[426] Committee on the Elimination of Racial Discrimination, *Concluding observations on the People's Republic of China (including Hong Kong and Macau Special Administrative Regions)*, UN Doc. CERD/C/CHN/CO/10-13, 15 September 2009, para27.

[427] HKSAR Constitutional and Mainland Affairs Bureau, "Response to the List of Issues presented by the Human Rights Committee on 16 November 2012", LC Paper No. CB(2)1356/12-13(03), March 2013, para4.3, available at: http://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/the_rights_of_the_individuals/response_to_list_of_issues_mar_2013.pdf, accessed 8 October 2013.

[428] However, under section 7, Cap 115 Schedule 1 of the Immigration Ordinance, "Permanent" resident status can be lost in certain scenarios. For example, for those who are not Chinese citizens, permanent resident status will be lost following an absence from Hong Kong for a continuous period of 36 months or more.

[429] Vallejos v. Commissioner of Registration (HCAL 124/2010), 30 September 2011 paras178-179. The Court found that Philippine national, Evangeline Banao Vallejos, a domestic worker employed in Hong Kong since 1986, should be allowed to apply for permanent residency. See also Kevin Drew, "Court Rules on Side of Maids' Rights to Residency", *New York Times*, 30 September 2011, available at: http://www.nytimes.com/2011/10/01/world/asia/court-rules-on-side-of-maids-rights-to-residency.html?_r=0, accessed 30 May 2013.

[430] Hong Kong Court of Appeal, Commissioner of Registration v. Valleios (CACV 204/201), 28 March 2012, para132. See also "Hong Kong government wins appeal in maid residency case", *BBC News*, 28 March 2012, available at: http://www.bbc.co.uk/news/business-17532723, accessed 13 February 2013.

[431] Hong Kong Court of Final Appeal, Vallejos and Domingo v. Commissioner of Registration (FACV Nos 19 & 20 of 2012), 25 March 2013. See also "Hong Kong court denies domestic workers residency", *BBC News*, 25 March 2013, available at: http://www.bbc.co.uk/news/world-asia-china-21920811, accessed 30 May 2013 and Austin Chiu and Patsy Moy, "Foreign helpers' plea for permanent residency fails", *South China Morning Post*, 26 March 2013, available at: http://www.scmp.com/news/hong-kong/article/1199312/hong-kongs-top-court-rejects-domestic-helpers-appeal-permanent, accessed 30 May 2013.

[432] CEDAW, *General Recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, para16. See also *General recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures*, 2004.

[433] Committee on Economic, Social and Cultural Rights, List of issues in relation to the second periodic report of China (E/C.12/CHN/2) including Hong Kong, China (E/C.12/CHN-HKG/3) and Macao, China (E/C.12/CHN-MAC/2), adopted by the pre-sessional working group at its fifty-first session (21-24 May 2013), UN Doc. E/C.12/WG/CHN/Q/2, 13 June 2013, para42.

[434] See *Second Periodic Report on the Hong Kong Special Administrative Region of the People's Republic of China in light of the Convention on the Elimination of All Forms of Discrimination against*

Women, Submission by Hong Kong Human Rights Monitor, July 2006, p22.

[435] Amnesty International interview with Elizabeth Tang, International Coordinator of the International Domestic Workers Network (IDWN), in Hong Kong on 8 May 2013.

[436] Of those interviewed who responded to this question, 63 out of 94 said they were physically or verbally abused by their employer.

[437] Of those interviewed who responded to this question, 51 out of 93 said they did not receive a weekly rest day.

[438] Of those interviewed who responded to this question, 62 out of 73 said they were prohibited from practising their faith.

[439] Of those interviewed who responded to this question, 33 out of 77 said they were not paid the Minimum Allowable Wage.

[440] Of those interviewed who responded to this question, 56 out of 94 said they did not have their own room.

[441] ILO, *Eradication of Forced Labour*, General Survey 2007, para39, Ilolex no. 252007G04, available at: http://www.ilo.org/ilolex/cglex/pdconv.pl?host=status01&textbase=iloeng&document=221&chapter=25&query=(%23docno%3D252007G*)+%40ref&hightlight=&querytype=bool&context=0, accessed 10 February 2013.

[442] Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, *Report concerning the possible adoption of an ILO instrument to supplement the Forced Labour Convention, 1930 (No.29)*, ILO, 1 February 2013, p39.

[443] Committee on Economic, Social and Cultural Rights, *Concluding observations on the People's Republic of China (including Hong Kong and Macao)*, UN Doc. E/C.12/1/Add.107, 13 May 2005, para83.

[444] Committee on Economic, Social and Cultural Rights, *List of issues in relation to the second periodic report of China (E/C.12/CHN/2) including Hong Kong, China (E/C.12/CHN-HKG/3) and Macao, China (E/C.12/CHN-MAC/2), adopted by the pre-sessional working group at its fifty-first session (21-24 May 2013)*, UN Doc. E/C.12/WG/CHN/Q/2, 13 June 2013, para46.

[445] HKSAR Legislative Council Secretariat, "Fact Sheet: Employment agencies placing foreign domestic helpers", File Ref.: FS30/12-13, 17 June 2013, paras3.2-3.3, available at: http://www.legco.gov.hk/yr12-13/english/sec/library/1213fs30-e.pdf, accessed 8 October 2013.

[446] HKSAR Legislative Council Panel on Manpower, "Intermediary Charges for Foreign Domestic Helpers", LC Paper No. CB(2)1356/12-13(03), 18 June 2013, para5, available at: http://www.legco.gov.hk/yr12-13/english/panels/mp/papers/mp0618cb2-1356-3-e.pdf, accessed 8 October 2013.

[447] HKSAR Constitutional and Mainland Affairs Bureau, "Response to the List of Issues presented by the Human Rights Committee on 16 November 2012", LC Paper No. CB(2)1356/12-13(03), March 2013, para15.4, available at: http://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/the_rights_of_the_individuals/response_to_list_of_issues_mar_2013.pdf, accessed 8 October 2013.

[448] Amnesty International meeting with the HKSAR Labour and Immigration Departments in Hong Kong on 11 October 2013 and correspondence from the two Departments on 15 October 2013.

[449] ILO Committee of Experts on the Application of Conventions and Standards, *Observation on Convention No.97 on Migration for Employment (Revised) for China – Hong Kong SAR*, 2013, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084699, accessed 5 July 2013.

[450] ILO Committee of Experts on the Application of Conventions and Standards, *Observation on Convention No.97 on Migration for Employment (Revised) for China – Hong Kong SAR*, 2013, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3084699, accessed 5 July 2013.

[451] HKSAR Legislative Council Panel on Manpower, "Intermediary Charges for Foreign Domestic Helpers", LC Paper No. CB(2)1356/12-13(03), 18 June 2013, para6, available at: http://www.legco.gov.hk/yr12-13/english/panels/mp/papers/mp0618cb2-1356-3-e.pdf, accessed 8 October 2013.

[452] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[453] ITUC, IMWU and HKCTU, *Final Report on Malpractices of Recruitment Agencies toward Indonesian Domestic Workers in Hong Kong* (unpublished, supplementary survey findings), in collaboration with the Institute for National and Democratic Studies (INDIES), 2013.

[454] Amnesty International meeting with the HKSAR Labour and Immigration Departments in Hong Kong on 11 October 2013 and correspondence from the two Departments on 15 October 2013.

[455] In 2012, the average waiting time for cases in the Labour Tribunal, from appointment to first hearing, was 50 days. See: http://www.judiciary.gov.hk/en/publications/annu_rept_2012/eng/caseload06.html, accessed 14 October 2013.

[456] Committee on Economic, Social and Cultural Rights, *Concluding observations on the People's Republic of China (including Hong Kong and Macao)*, UN Doc. E/C.12/1/Add.107, 13 May 2005, para95.

[457] Committee on the Elimination of Discrimination against Women, *Concluding comments on China*, UN Doc. CEDAW/C/CHN/CO/6, 25 August 2006, para42.

[458] Committee on the Elimination of Racial Discrimination, *Concluding observations on the People's Republic of China (including Hong Kong and Macau Special Administrative Regions)*, UN Doc. CERD/C/CHN/CO/10-13, 15 September 2009, para30.

[459] UN Human Rights Committee, *Concluding observations on the third periodic report of Hong Kong, China*, UN Doc. CCPR/C/SR.2974, 26 March 2013, paras20-21.

[460] HKSAR Legislative Council Panel on Manpower, "Intermediary Charges for Foreign Domestic Helpers", LC Paper No. CB(2)1356/12-13(03), 18 June 2013, para11, available at: http://www.legco.gov.hk/yr12-13/english/panels/mp/papers/mp0618cb2-1356-3-e.pdf, accessed 8 October 2013.

[461] Article 25 of the Forced Labour Convention states that the "illegal exaction of forced or compulsory

labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced".

[462] Amnesty International meeting with the HKSAR Labour and Immigration Departments in Hong Kong on 11 October 2013 and correspondence from the two Departments on 15 October 2013. The Labour Department provided that "Any person, including an employer, who aids, abets, counsels or procures someone to contravene a condition of stay shall be guilty of an offence under Section 41 of the Immigration Ordinance and by virtue of Regulation 2(4) of the Immigration Regulations, and Section 89 of the Criminal Procedure Ordinance (Cap.221), and shall be liable on conviction to a fine of HK$ 50,000 [US$6,500] and to imprisonment for 2 years".

[463] Amnesty International meeting with the HKSAR Labour and Immigration Departments in Hong Kong on 11 October 2013 and correspondence from the two Departments on 15 October 2013.

[464] Amnesty International meeting with the HKSAR Labour and Immigration Departments in Hong Kong on 11 October 2013 and correspondence from the two Departments on 15 October 2013.

[465] The People's Republic of China ratified the UN Trafficking Protocol in February 2010 with a declaration stating: "Unless otherwise notified by the Government, the Protocol shall not apply to the Hong Kong Special Administrative Region of the People's Republic of China." See: http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en#EndDec, accessed 22 September 2013.

[466] Human Rights Committee, *Concluding observations on the third periodic report of Hong Kong, China*, UN Doc. CCPR/C/CHN-HKG/CO/3, 29 April 2013, para20.

[467] HKSAR Constitutional and Mainland Affairs Bureau, "HKSAR Government welcomes constructive dialogue with UN Human Rights Committee", Press Release, 28 March 2013, available at: http://www.cmab.gov.hk/en/press/press_3146.htm, accessed 6 October 2013.

[468] Committee on Economic, Social and Cultural Rights, *List of issues in relation to the second periodic report of China (E/C.12/CHN/2) including Hong Kong, China (E/C.12/CHN-HKG/3) and Macao, China (E/C.12/CHN-MAC/2)*, adopted by the pre-sessional working group at its fifty-first session (21-24 May 2013), UN Doc. E/C.12/WG/CHN/Q/2, 13 June 2013, para52.

[469] US State Department, "Hong Kong", *Trafficking in Persons Report 2013*, p191, available at: http://www.state.gov/documents/organization/210739.pdf, accessed 26 September 2013.

[470] Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, *Report concerning the possible adoption of an ILO instrument to supplement the Forced Labour Convention, 1930 (No.29)*, ILO, 1 February 2013, p11.

[471] Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, *Report concerning the possible adoption of an ILO instrument to supplement the Forced Labour Convention, 1930 (No.29)*, ILO, 1 February 2013, p30.

[472] This would bring Indonesia more in line with comparable training programmes in other countries. For example, in the Philippines migrant domestic workers are trained by the Technical Education and Skills Development Agency (TESDA) or training centres approved by TESDA for up to 216 hours (31 days).

[473] This is based on Hong Kong's Minimum Allowable Wage at the time the Manpower and Transmigration Ministerial Decree No. 98/2012 was enacted.

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EXPLOITED FOR PROFIT, FAILED BY GOVERNMENTS

INDONESIAN MIGRANT DOMESTIC WORKERS TRAFFICKED TO HONG KONG

Indonesian women make up almost half of the 300,000 migrant domestic workers employed in Hong Kong. They provide crucial services to local households and the community, freeing their employers for work.

Under Indonesian law, migrant domestic workers must use private recruitment agencies to find employment. These agencies provide them with mandatory training. But once at the training centres, prospective migrant workers find they cannot freely leave the premises and are forced to perform non-training work for little or no money. To guarantee the repayment of agency fees, recruitment agencies confiscate trainees' personal documents, force them to sign contracts without understanding the content, and fine those who change their mind.

The cycle continues in Hong Kong, where employers and local agencies confiscate migrant domestic workers' passport and contract upon arrival. The women often work excessive hours, many enduring physical and psychological abuse, with little or no hope of redress.

This report reveals how recruitment agencies in Indonesia and Hong Kong are complicit in trafficking migrant domestic workers to Hong Kong. Effective regulation of recruitment practices in both territories and better access to redress mechanisms in Hong Kong are critical first steps towards ensuring that Indonesian migrant domestic workers are free from the risk of forced labour.

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