

14th June 2021

Submission to Special Rapporteur: Impact of COVID-19 on the human rights of Migrants Domestic Workers (MDWs) in Hong Kong

The COVID-19 pandemic continues to impact millions of migrant workers around the world. Migrant Domestic Workers is one of the communities in Hong Kong that is hardest hit by COVID-19 pandemic welfare assistance and economic support of any kind.

A. General Working Condition

1. Overwork

During the COVID-19 pandemic, the workload of migrant domestic workers in HK increased drastically. Many of them took up the duties to ensure higher requirements of household cleaning and hygiene. They took over the responsibility to cook for the family when dine-in in restaurants was banned, and some also stepped in to help with children who stay at home for online learning. From self-reporting done by our service users, the MFMW discovered that 98% of MDWs suffered from long working hours in 2020, **7 out of every 10 report working 11 hours a day while 3 out of every 10 work more than 16 hours.** Working hours of MDWs are not stated and regulated in the Standard Employment Contract provided by the HKSAR government.

2. Denied Rest Days

Due to the social restrictions imposed by the Hong Kong government as response to the pandemic and the appeal for Migrant Domestic Workers to “stay home” during their rest days. Many workers were not able to leave the employer’s home on their rest days. According to our Service Report 2020, it is found that **1 out of every 2 workers who seek help on their cases are not given regular rest days or have to work on their rest day.** We have received cases wherein migrant workers called our hotline crying and expressed that they had not been granted rest day out of their employer’s house for more than half-year causing them a lot of mental stress and depression. As well we have received cases and complaints including those who were unreasonably fired as they were alleged to be COVID19 virus carriers after they went out for rest, or threatened to have their salary deducted when they take their regular rest day outside of their employer’ house.

Early in 2017, it is found in our research that 1 in 50 of MDWs in Hong Kong was suffering from unsuitable rest and living spaces, inadequate amenities, insufficient rest and sleep due to their unsuitable and inhumane accommodation and sleeping arrangements, such as sofa, store room, cupboard, toilet and kitchen. The situation is also aggravated during the COVID-19 pandemic.

B. Anti-Pandemic Measures

1. Social Distancing Policy

Social Distancing Policy is one of the several anti-pandemic measures the HKSAR Government introduced. It restricted the number of persons to gather publicly. The HKSAR Government frequently amend the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) to prohibit group gatherings. There were times group gatherings are limited to no more than two persons in public places. A person who participates in a prohibited group gathering may be charged a fixed penalty of HK\$5,000.

The HKSAR Government tightening of social distancing measures to further encourage people to “Stay Home”. However, MDWs are already required by their contracts to live-in with their employers and most of them are not allowed their private spaces. They are left no private places to stay but gather publicly on their rest days even before COVID-19. This social distancing policy made MDWs more vulnerable to their rights to rest with the harsh penalty which is more than their 1-month salary.

2. Mass COVID-19 Testing and Vaccination

MDWs are eligible to treatment, testing and free vaccination of COVID-19 in Hong Kong. Unfortunately, the HKID System that is required before COVID-19 testing and vaccination immediately puts to risk the undocumented migrants.

There were also times the HK Government implemented policies with discriminatory approach targeting or singling out MDWs. Chief Executive Carrie Lam once considered making COVID-19 vaccination mandatory for MDWs’ work visas in the future and ordered the whole population of MDWs to undergo mandatory testing while other communities in the society are not treated as such when confirmed cases of COVID-19 are found.

C. Protection and Assistance in response to COVID-19

1. Absence of public welfare assistance provision

Employment visa of MDWs in Hong Kong are restrictively associated with the specific contract with the specific employer. One of the conditions of them to stay in Hong Kong is to mandatorily live-in the residence where they perform domestic duties. Due to travel restrictions, there is also a shortage of shelters provided to migrant domestic workers under the pandemic. **Over 850** distressed migrants workers came to seek for shelter and food assistances in 2020 as they lost their jobs during the pandemic and were stranded due to flight cancellations. It is found that there is also insufficient support to new arrivals who underwent quarantine. Some were not given food in the quarantine facilities as they failed to communicate to local staffs working there. Government is reluctant to provide welfare assistance to MDWs and support is always absent. This is due to the policy that migrant workers is not considered local residents and welfare expenditures in Hong Kong does not serve “foreigners”.

One thing is the fact that even shelter for displaced migrant domestic workers run by the government is not available. Migrants with terminated contracts but have existing dispute with employers for unpaid wages, or are stranded because of flight cancellations and the like, depend much on charity because they have no right of abode in HK.

2. Insufficient provisions of PPEs

As workers who live where they work, the supply of PPEs depends greatly on employers' provision. There are cases wherein MDWs are not provided surgical masks and sanitizers. The survey conducted by the Asian Migrant Coordinating Body (AMCB) in March 2020 showed that between 11-14% of respondents reported that they did not receive masks or sanitizers from their employers. In absolute numbers, there are around 43,000 -55,000 migrant domestic workers who were not receiving enough protective materials from their employers.

3. Response and Recovery plans

The HKSAR Government have issued one-off financial relieve of HK\$10,000 to all the residents in Hong Kong. However, MDWs are excluded of the financial assistance. The HKSAR Government has NOT adopted or announced any COVID-19 socio-economic response and recovery plan that is including MDWs.

4. Extension of work visas and the accuse of “Job-hopping”

In early 2020 when the COVID-19 outbreak started, the HKSAR Government introduced flexibility arrangement for employers hiring MDWs to extend work visas of the latter beyond contract expiration, as well as allowing those MDWs who lost their jobs in Hong Kong to extend their stay as visitors to make themselves available for employers who could wait for someone who is not already here in Hong Kong. Obviously, such arrangement was mainly to cope with the unmet demand of Hong Kong employers who may not be able to hire MDWs from overseas affected by the lockdown and travel restrictions in some migrant-sending countries.

However, the HKSAR Government announced on the 30th of December 2020 that MDWs whose contract had been prematurely terminated would no longer be allowed to apply to extend their stay in Hong Kong as visitors in order to prevent flexibility arrangement implemented previously in light of COVID-19 situation being “abused” by MDWs to “job-hop”.

It is of major concern that the HKSAR Government labels MDW changing employers as “job hopping”. The term “job-hopping” is a malicious accusation and discrimination on MDWs who prematurely terminate their employment contracts. This further poses a potential danger in violating the rights that MDWs are entitled to in the Standard Employment Contract when MDWs are discouraged to take steps to protect themselves for fear of having bad records with the Immigration and would be made to return home before a contract application could start to be processed. MDWs who wish to exercise their legal rights are unfairly targeted and are prevented from ending an undesirable working condition. **This is the infamous two-week rule taking centre stage again.**

5. Safe and dignified return and sustainable reintegration

The HKSAR Government does not see that as their responsibility except to make sure they get rid of them in Hong Kong the quickest way possible once they lose their jobs.

D. Anti-discrimination and solidarity initiatives

1. Anti- Racial discrimination and hate speech

Hate speech and incidents of discrimination are experienced by MDWs both in daily life in restaurants, markets and social media. This is also due to HKSAR Government's policy targeting MDWs on virus spreading. We overserved that immediately after the Mandatory Testing of the whole MDWs community is announced, even if there is just 1 case found among the whole over 370,000 population, some MDWs are denied to dine-in in some restaurants and people avoiding them in public transportation.

2. Solidarity initiatives

There is still more room for improvement for the Hong Kong government to protect Hong Kong household families and migrant domestic workers from COVID19.

Their current situation during the COVID-19 outbreak not only highlights neglect and exclusion of MDWs but also exposes and magnifies the already existing problems of MDWs arising from some discriminatory government policies. Being restricted by the mandatory live-in requirement and 2- week rule, MDWs are made more vulnerable during this crisis.

Although the HKSAR Government promote to “Fight COVID-19 Together”, there is also a lack of appropriate information to ethnic communities and civil society organizations on updates and information involving them and COVID- 19. A controversial advisory for MDWs to stay where they work even on their rest days remain in force. Closing down Labour Department services impacted workers in the territory including MDWs who have no other access to grievance mechanisms.

It is observed that many of the policies left employers and their workers in difficult situations. Such as the non-provision of quarantine facilities by the HKSAR Government increased the burden of employers who have to shoulder the cost of 21-day hotel quarantine for newly arrived MDWs. As well as the appeal for MDWs to stay home on their rest days when workers have to be given 1 rest day in every 7 days.

Download Full version of “2020 Service Report” : <https://www.migrants.net/reports>

Reference:

mission@migrants.net

Cynthia Abdon
General Manager

johannie.yan@migrants.net

Johannie Tong
Community Relations Officer

MFMW Limited (Mission for Migrant Workers)

2/F, St. John's Cathedral, 4-8 Garden Road, Central, Hong Kong

Tel. #: (852) 2522-8264

Fax #: (852) 2526-2894

E-mail: mission@migrants.net

Website: www.migrants.net

