



# Mission Holds Symposium on Violence Against Women

## Message from the Mission

*We in The Mission For Migrant Workers would like to extend our deepest sympathies to the families of the victims of the August 23 Manila Hostage Crisis Tragedy.*

*We are one with many of our friends and the people of Hong Kong in calling on the Philippine government to immediately investigate the said incident and punish all those held accountable.*

*We are one with you in calling for justice to all the victims.*

A Community Forum on Human Rights and Violence Against Women (VAW) organized by the MFMW was successfully held on August 6 in St. John's Cathedral. The said activity ended in a commitment from many of those who attended to make plans and activities to End Violence Against Women up to November 25 which was designated by the United Nations and its preceding month as VAW month.

More than 60 persons from various local and migrant organizations and institutions attended the activity. Main speakers were Ms. Ho Chui, a social worker from Harmony House and Aurora Victoria Herrera David, an undergraduate student from Stanford University who interned in the MFMW and Bethune House Migrant Women's Refuge for two months.

Ms. Chui dealt mainly on domestic violence on local and Mainland Chinese women married to Hong Kong men while Ms. David dwelt more on violence against foreign domestic workers.

The social worker dwelt on the causes of domestic violence and reasons why women, the more common victims, stay in abusive relationships. She also talked about the impact of domestic violence both on women and children, and showed the audience a growing trend of battered spouse cases in Hong Kong over the years. Ms. Chui ended her presentation with statistics on the profile of shelter residents of Harmony House and available services for families affected by domestic violence.

On the other hand, Ms. David shared her research on sexual violence against migrant domestic workers in Hong Kong which included interviews on the victims and representatives of migrant service providers. Her findings illustrated that institutionalized discriminatory labor policies in Hong Kong against domestic workers, together with the lack of socioeconomic security of the migrants, not only allow for sexual violence to

*Symposium on VAW, from p. 1*

# Rights Deprived: Why and How Domestic Helpers in Hong Kong Suffer

Iris Chan  
*former Mission volunteer*

Hong Kong on paper has the world's most stringent penalties for breaches of the minimum wage law, given that the government, through its Commissioner for Labor, once stated that 'Domestics workers in Hong Kong enjoy the same rights and benefits as local workers do under labor legislation.' On the surface, this statement is correct, but in reality it is haphazardly and incompletely made.

Apart from the minimum wage legislation, the relevant laws include the Employment Ordinance Cap. 57 (EO) and the Employment Agency Regulations Cap. 57A (EAR), which, some may argue, are sufficient to protect interests of domestic helpers in Hon Kong.

Yet, immigration law and policy in place are such that they render the employment laws and regulations unequally enforced. There are doubts whether such laws regarding domestic helpers will be enforced strictly enough to truly protect this vulnerable group of people. This article seeks to address the many loopholes found in the laws that effect domestic helpers' suffering, and how the law can put an end to that.

## The Rights Allegedly Secured

Under the EO, foreign domestic helpers are entitled to rest days, statutory holidays and paid annual leave. Except in unforeseen emergency, the employer shall not require the helper to work on her rest day. An employer who compels the helper to work on a rest day is in breach of the EO. An employer who contravenes the provision that he must not make any form of payment

to the helper in lieu of granting statutory holiday is liable to prosecution and, upon conviction, to a fine of HK\$50,000.

Moreover, it is illegal under the EO to dismiss a pregnant helper. The employer will be liable to prosecution and, on conviction, a fine of HK\$100,000. The helper may also claim remedies for unreasonable and unlawful dismissal under the part of Employment Protection of the EO.

The protection offered by the EAR which stipulates that an employment agency may not charge a successful job-seeker an agency fee of more than 10 per cent of the first month's wages, are as applicable to the migrant worker as they are to any other worker in Hong Kong.

Given the above, foreign domestic helpers in Hong Kong are seemingly well-protected or even better protected than other workers (with the minimum wage law applying only to them). However, the many clients I have met and their saddening stories I have heard during my internship must also be considered. The truth is that not only are they not better protected than others, they are also severely deprived of the proper rights that the law sought to protect.

## The Reality

The following is gathered from what I have learned throughout my internship.

If I were a foreign domestic helper coming to Hong Kong, before I arrived, I would have

*Rights Deprived, go to p. 4*


occur, but also deter victims from seeking redress.

David also asserted that labor-sending governments such as those of the Philippines and Indonesia provide inadequate legal assistance to victims. She concluded that service providers play a vital role in the empowerment of migrant domestic workers as these victims of sexual violence raise their consciousness about their rights and interact with an organized community that addresses the problem of violence against women.

She punctuated her discussions with a number of quotes from the victims.

After the two speakers there was a performance made by Tess Aquino who read *My Vagina Was My Village*, which is a passage from the *Vagina Monologues*, a play that has been widely used to advance women issues. The performer is a member of the Filipino Women Migrant Workers Association (FILWOM).

An open forum followed this where one of the participants opined and confirmed that foreign domestic workers are more vulnerable to sexual and physical violence. He even stated his and others experience in dealing with police officers who lack sensitivity in handling such cases. And in pinpointing policies such as the two week rule among others in deterring said workers to complain against the indignities heaped upon them.

The forum led to a very critical discussion on the issue of gender roles and inequality, discriminatory views of society on women, and means for crisis intervention. And it ended in an optimistic note when a number of those who attended agreed to conduct future activities leading to the UN's VAW month up to November 25. 



# The Story of Mira

## *Overworked, Maltreated and Underpaid*

Her friends call her Mira or Flor. She is 39 years old and is from San Rafael, Tarlac City. She went to Hong Kong as a domestic helper in order to escape her marriage problems and thought also for a better future for her daughter.

On her third year here starting February 2010, Mira slept at her employer's computer room at 1:30 am or sometimes at 4:30 am when her employers used the computer. She would also need attend to her ward.

Lacking sleep, Mira would experience a severe headache. If she slept late, she would wake up late and would be reprimanded for that. She apologized but the employers did not accept this.

Money was a problem. She was fed two pieces of vegetables with very little rice; she had steamed egg divided with her ward for four days a week for lunch and sometimes with minced pork. She was forced to use her money to buy for her and her ward's food because she pitied her ward. Her ward was fed seven ounces of milk in the morning and less at night. She told the male employer that the child would need complete nutrients but he just shrugged.

Due to insufficient food there are times that she had

*She was not allowed to have enough rest.  
She was forced to shell out money for her own  
food and even her employers' child.  
She was physically assaulted by her employer.  
She was underpaid.*

stomachache and became weak compounded also by lack of sleep.

She was paid only \$2,500. Although her employers wanted her to sign that she received \$3,580, she refused.

On May 1 she woke up early and went to the bathroom to find it locked. When she knocked at the door the female employer shouted at her when she came out and told her to prepare the baby's milk. After preparing the milk she went back to her room to fix her beddings but the female employer was there and scattered her belongings in the floor. The female employer then took a picture of it. Mira complained to her male employer but he just shrugged his shoulders.

Then the male employer told her why she woke up late and that she would ask permission first before she could eat. She was not feeling well and had her monthly period so she asked if she could rest. The male employer told her that

if she will not work, her salary would be cut.

One night she was awakened by the police. She was asked if she was hurt but she told the police she had stomach and severe head ache so they brought her to the hospital. She was given medicine for two days and because she did not know how to get back to her employer's flat she waited for him to pick her at 4:00am. It was Sunday; she said she wanted to rest but her male employer told her to have her day-off. She went out to rest in a boarding house but had to remit money.


She then went to the agency to inform them that she did not receive her April salary and the balance of the previous month. Her employers then arrived and talked with the agency's staff in Chinese. After that she was told that she was given a notice of termination on May 2, 2010.

Because she was still not well, she asked if she could sleep at the boarding house. On May

3, she went home at 10:00PM. The female employer was so angry that she almost hit her with the clock and it was not the first time that she did that to her. She went to her room and dialed 999 for police assistance. When the police came, she was told to take out her belongings.

After this, her employer brought her to meet the staff of the agency and she was not given any compensation. She sought help from the MFMW and later filed her claims at the Labour Department. On the first two hearings her employer did not show up. Later she accepted a settlement from her employer in the amount of \$6,300 out of \$9,418.92.

After two weeks, the employer still refused to pay her. She decided to go home and wait for the employer to pay her as she was needed by her daughter.

She is now back in HK and waiting for her former employer to pay her. 



*Rights Deprived, from p. 2*

had to pay a placement fee to an agency in my country of origin. When I arrive, unless I am very fortunate to go to the one or two employment agencies which charge the legal amount of 10 per cent of my first month's wages, I would then have to pay 100 per cent of my first month's wages (illegal, but it appears tolerated) to an agency here.

If I ran into trouble here, I would go to the Philippine Consulate. I would have to sit on the broken-down, damaged chairs in the Overseas Worker Welfare Association office while waiting for my conciliation meeting with my agency. I know how they feel as I have sat on the broken chairs with helpers as they wait, soothing their anxious selves, reassuring (albeit being unsure) them that everything would be fine.

I have gone with them to their employment agencies, and have heard employment agency representatives shout at the helpers (who have legitimate claims) in the presence of a Philippine official whose job it is to protect the rights of Filipino workers here in Hong Kong.

I have heard stories of employers who are told by agency representatives that if they are dissatisfied with their helper after a month they can replace her

(thereby making sure that more money as placement fees to the agency).

I know of employers who do not pay the wages in lieu of service and who just throw the helpers out with no money and nowhere to go. The helpers in plight are often left in huge debt for they are forced to take out a loan amounting to the agency fee, with the loan company paying off the agency fee. This is probably done to let fees larger than the maximum of 10 per cent of the first month's wages being go undetected.

### The Two-Week Rule

The two-week rule – the period in which a domestic helper must find a new job after her contract is up or terminated, or leave Hong Kong – has made the positions of helpers indefensible. The rule, introduced in 1987 by the government, is arguably effective in preventing helpers from job-hopping. Permission to change employment in Hong Kong after a contract has been prematurely terminated may be given in “exceptional circumstances”, including death, emigration, external transfer or the employer experiencing financial difficulties.

Another “exceptional circumstance” is when there is evidence that the helper has been exploited or abused by the employer. Yet, what is left unsaid is that there is often a long court process before

exploitation or abuse can be proved. After filing a complaint with the police or the Labor Department, the helper gets her visitor's permit from the Immigration Department and then goes to the Labor Tribunal or District Court, which may take up to two years, meaning that when they stay here in Hong Kong with their case pending, they are not allowed to work. They have no choice but to live of charity, and as Cynthia Tellez, Director of the Mission for Migrant Workers, rightly points out in a newspaper interview, these workers would be much better-off if they are allowed to work and support themselves during this time.

Indeed, the two-week rule has been condemned by the United Nations' Committee on the Convention on the Elimination of All Forms of Discrimination Against Women and its Committee on Economic, Social and Cultural Rights. “The different UN human rights committees have made it clear that the rule is against human rights and equality. When the message is so clear, so black and white, the government should abolish this rule as soon as possible.”

The accused employer is free to hire a new maid – a fact that pinpoints the serious injustice of the two-week rule, which obviously leans in favor of the employer. However, as Andrew Hicks pertinently commented in his 1983 article, it is usually the helper rather than the employer who pays the agency fee, meaning that the employer's interests are not as great as might have been thought. Given that the helper would be acting illegally should she work during the period of case pending, it seems so unfair a rule to impose, for in the majority of cases, they are the ones who suffer most.

Hence, should the two-week rule continue to prevail in Hong Kong, it is only expected that these victimized domestic helpers would be further prevented from reporting abuse and maltreatment.

### Questionable Law Enforcement

It is an offence under the Immigration Ordinance Cap. 115 (IO) that an employer asks his helper to work for another person other than the employer named in her visa or ask the helper to perform non-domestic duties. As the Practical Guide for Employment of Domestic Helpers states, “Employers found to have breached the IO may face prosecution.”

Yet, so often are cases that the domestic helper is forced to work at another household by their employer or, more commonly, to work at the employer's business premises. The helper, not wanting to lose her job, is compelled to keep her mouth shut, and when the time comes that the law enforcement body i.e. the Immigration Department finds out, the employer is most likely to deny everything, and it will be the helper that faces legal sanctions.

It is not surprising that helpers are not aware of the fact that it is illegitimate to work for someone other than their contractual employer. In a large number of cases, employers often deny helpers of their access to the contract. And even if they do have their contract on hand, they may not understand it for the Immigration Department's notorious green document is written in one single language – English. This means that helpers from Indonesia, Nepal, Sri Lanka, etc. barely know what rights they are entitled to.

Nor is it uncommon that the helper only finds out her "real" contractual employer at the first conciliation meeting at the Labor Department (Employment Relations Division), who turns out to be a total stranger to the helper! Given their very unfavorable position in Hong Kong, they are most certainly the ones who suffer more than anybody else, employers and agencies alike, but for the askew law enforcement here.

Underpayment is another area that the law fails to protect the domestic helpers. An employer who underpays wages as stated in the standard employment contract is liable, upon conviction, to a maximum fine of HK\$350,000 and three years' imprisonment. 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 and imprisonment for 14 years, and any person convicted of the offence of conspiracy to defraud is liable to imprisonment for 14 years.

The law sounds harsh enough. But the truth is, upon any suspicion that a helper agrees to be paid a wage lower than the statutory minimum wage (currently \$3,580), it is the helper, much more likely than her employer, who is likely to be investigated and prosecuted. Although,

***The fact that these abuses go largely unnoticed sits comfortably with Hong Kong's reputation, but everyone should feel ashamed of such behavior that is running amok in our society.***

as mentioned above, it is common that helpers often do not know of the minimum wage, it is often the case that they are prosecuted for being underpaid, probably due to the notion of "ignorance of the law is not an excuse".

With this questionable system by which our laws are enforced, the destined consequence would only be that rough justice alone will stand, stripping more helpers of their rights and driving them to the brink of desperation.

#### Conclusion

Hong Kong has constantly patted itself on the back for its internationally admired individual freedoms and human rights. Its society and culture are diverse and sophisticated. The agony of helpers is henceforth clearly at odds with the City's prosperity and, making these people's lives nothing but a misery, shame is perhaps to be felt in this place that we call a civilized society. Verbal and physical abuse by employers is common, as is financial extortion by employment agencies. To put a halt to this dire

situation, certain changes in the law are likely to be helpful.


Firstly, the two-week rule should be abolished. With the jobless rate running high in Hong Kong these days, it is only wishful thinking that sacked helpers would be able to find a new employer within two weeks. The government's rationale for the rule was to prevent helpers from job hopping, however, no policy was put in place to protect helpers from abusive employers who frequently hire and fire helpers and from unscrupulous agencies that profit from this state of affairs.

Secondly, helpers should be permitted to seek employers and work legally during the time when their case is still pending. Opportunity cost should also be awarded to them once they win their case, so as to compensate for their consideration expenses and emotional distress.

Thirdly, the law enforcement bodies must review their policy on investigation and prosecution. It is high time they recognized that it is often the employers that are behind the wheel, and prosecuting the helper is as unfair as sending an innocent man to jail. The fact is that so many of them are ignorant of the minimum wage they are entitled to each month and underpayment and working outside the contractual household is most unlikely come from their mind.

Lastly, the standard domestic helper contractual agreement should be available in various languages, and upon entering Hong Kong, helpers should be allowed to ask their employer for a copy. It is only by this means that they would be able to know of the rights they have.

The abuse of domestic workers is significant and its incidence is widespread. It is a serious problem and it needs to be addressed. The fact that these abuses go largely unnoticed sits comfortably with Hong Kong's reputation, but everyone should feel ashamed of such behavior that is running amok in our society.

Hong Kong needs to address these issues at the political, legal and social levels. Although, as Tan correctly puts it, social attitudes toward foreign domestic helpers can never be easily legislated, given the role of the rule of law, I am hopeful that domestic helpers in Hong Kong would regale on the rights they so legitimately deserve. 

# The Unnamed and Unmourned Woman and the Continuing Violence Against Women

OUR FAITH,  
OUR  
STRUGGLE



The rest of vss.3-9 talk of the woman's father's hospitality and bonding of the men exclusive of the woman. The trip intended to speak to the woman's heart became a transaction between the two men.

Jebus (Jerusalem) is just 8 miles away from Bethlehem; the servant proposes they seek shelter there for the night but the Levite proposed Gibeah or Ramah instead. He did not feel safe in the "city of foreigners, who do not belong to the people of Israel." No one consulted the woman where she would want to lodge. Finally at sunset they arrived in the Benjaminite city of Gibeah. But no one offered them hospitality hence they have to stay in the city square. (vss 10-15).

An old man finally found them. In verse 18 he answers the old man's questions: "We are passing from Bethlehem in Judah to the remote parts of the hill country of E'phraim, from which I come" then talks only about himself, "I went to Bethlehem in Judah; and I am going to my home; and nobody takes me into his house."

As he needs a place to stay, he persuades the old man, he will not be a burden to him, "[19] We have straw and provender for our asses, with bread and wine for me and your maidservant and the young man with your servants; there is no lack of anything." But more than that he refers to his own concubine as "your maidservant" thereby subtly proposing to the old man to do what he wish with her.

Sometime into the night, "22] As they were making their hearts merry," evil threatened the safety offered by the old man's abode. "...behold, the men of the city, base fellows, beset the house round about, beating on the door; and they said to the old man, the master of the house, "Bring out the man who came into your house, that we may know him." They want to sexually violate the old man's guest.

*Our Faith, go to p. 7*

***Indeed  
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Judges 19:1-30 may not be a biblical text we want to read. It tells about rape and murder and war. But read it we must if we only to strengthen our resolve to stop violence against women.

The cast are predominantly male: the Levite, his attendant, his concubine's father, an old man, a group men. Two are females whose voices we never hear, the concubine and the old man's virgin daughter. All characters are nameless.

The story begins with, "[1] In those days, when there was no king in Israel, a certain Levite was sojourning in the remote parts of the hill country of E'phraim, who took to himself a concubine from Bethlehem in Judah." The readers are immediately confronted with social and geographical contradictions: Levite, a man with standing and honor in the community versus concubine, a position not equal to a wife taken by man for his own purpose; and Ephraim, in the north versus Bethlehem in the south.

The Levite must have grievously offended the woman that she left him and went back to her father in Bethlehem (v.2). But he resolved to follow her, "to speak kindly to her and bring her back" (v.3) Some scholars however translate the text as, "to speak to the heart" and bring her back. The same phrase used in Genesis 34:3 and Hosea 2:14/16.

## REFLECTIONS

# Learning with and from Migrant Workers

*Ann Suk, former Bethune House Volunteer*

As an American undergraduate student from the University of North Carolina spending a semester abroad at the University of Hong Kong, I was searching for a way to have a positive impact. I was fortunate enough to find Bethune House, where I not only felt that I could provide useful service as a volunteer, but also felt that I was being welcomed into a true community.

My visits to Bethune House involved recording and editing the legal statements of some of the women who were staying there. Through the women's stories, I had the chance to learn a lot about the conditions in Hong Kong for migrant workers from different backgrounds, and also gained a basic understanding of the legal resources available to these women. As I grew closer with the women at Bethune House, I had the opportunity to learn about their perspectives while



sharing my own. Through conversations with them, I learned about cultures and lifestyles in Indonesia and the Philippines, and about the experiences of these women in Hong Kong.

My involvement with Bethune House allowed me to experience aspects of Hong Kong that I never would have considered otherwise. I was motivated to educate myself about workers' rights in Hong Kong, especially after joining some friends from Bethune House in the May Day demonstration to include foreign domestic workers in the minimum wage. I gained insight into the political issues important to women migrant workers from the Philippines by attending a celebration in support of the Gabriela Women's Party. Volunteering with Bethune House definitely broadened my understanding of social justice issues in Hong Kong.

Bethune House offered an experience that afforded me a unique outlook on my time in Hong Kong, and that allowed me to develop lasting friendships that will also continue to shape my perspective.

*Our Faith, from p. 6*

The men want violate the rule hospitality. The old man wants to keep it and protect his male guest. "23] No, my brethren, do not act so wickedly; seeing that this man has come into my house, do not do this vile thing." And offered them an alternative, his virgin daughter and the Levite's concubine in exchange of the Levite's safety: "[24] Behold, here are my virgin daughter and his concubine; let me bring them out now. Ravish them and do with them what seems good to you; but against this man do not do so vile a thing." (cf Genesis 19:1-29) Clearly the rule of hospitality in those times applies only to men.

But the men did not listen to the old man: "So the man seized his concubine, and put her out to them;" And in that one short verse (vs. 25) that belies the horror of the crime, "...they knew her, and abused her all night until the morning. And as the dawn began to break, they let her go." Scholars say that the third person plural verbs and the time reference do not leave any doubt that she was raped, abused and tortured repeatedly, not by just one man but by many.

The sunrise did not end the violence against this sinned against woman. Intending to leave alone, the Levite found

the woman sprawled on the doorstep with her hand on the threshold (vs. 28). Weak and unable to stand, the Levite brought her home, "[29] And when he entered his house, he took a knife, and laying hold of his concubine he divided her, limb by limb, into twelve pieces, and sent her throughout all the territory of Israel. [30] And all who saw it said, "Such a thing has never happened or been seen from the day that the people of Israel came up out of the land of Egypt until this day; consider it, take counsel, and speak."

(For its sequel please read Judges 20-21.)

This unnamed but resolute woman appears alone and dies a gruesome death without friends and family to mourn. She was not even allowed to rest in peace. Ancient story as it is, nevertheless we must recognize that violence against women is a continuing offense. Rape, murder and other forms of violence against women continue.

These happen in areas of conflicts, in offices, in the streets and in the relative safety of the homes. Indeed Judges 19:1-30 may not be a biblical text we want to read. But read it we must if we only to strengthen our resolve to stop violence against women.

# Know Your Rights Seminar Held in Discovery Bay




MFMW Ltd., through its volunteers, facilitated a Know Your Rights seminar to a group of Filipino migrant workers in Discovery Bay on 15 August 2010 as part of their monthly meeting.

Computation of claims was the topic of the day to equip the group in understanding one of the issues and problems of foreign domestic helpers here in Hong Kong when they are being terminated from their employment.

The group was very much interested in the topic and they became keener to know what their rights are as well as their responsibilities not only as a migrant but also as a friend and a member of an organization.

On the other hand, a group of women from the International Women's Baptist Church talked about "Abuse And Violence" as part of their spiritual service to their fellowship of local and women migrants.

The topic was about women in general; on how they are being abused and how violence happened in the very core of society which is the "home".

It gave them also the knowledge about their rights when they are abused and what certain steps and things can they do to prevent these to happen again. It was also an eye opener for these women and imparted to them that migrant workers also have rights. 



## MIGRANT FOCUS

Migrant Focus is a monthly publication of the Mission For Migrant Workers (MFMW Ltd.)

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