



## Churches, Organizations, Social Workers Come Together For CSPEM

# Coalition of Service Providers for Migrant Workers Launched

**N**ine Twenty in the morning of June 19, 2009, when the historic launching of the Coalition of Service Providers for Ethnic Minorities (CSPEM)– Hong Kong was held! The quiet Prayer Hall of the JIL Church at the 8/F of Peter Building at 58 Queen’s Road, Central, Hong Kong was where it took place.

*CSPEM aims to coordinate efforts in advocating the rights and welfare of ethnic minorities in HK*


The CSPEM is composed of eight Service Providers represented by the following: Ms. Edwina Antonio-Santoyo of the Bethune House Migrant Women’s Refuge (BHMWR), Sr. Felicitas Nisperos of the Diocesan Pastoral Centre for Filipinos (DPCF), Ms. Brenda Aguenza of DWXI El Shaddai PPFi, Adrielle Panares of the International Social Service (ISS Hong Kong), Pastor Edgar Robles of Jesus Is Lord Church (JIL), Cynthia Ca Abdon Tellez of the Mission For Migrant Workers (MFMW Limited), Pastor Danilo Borlado of the New Beginnings Christian Fellowship (NBCF), and Ms. Elijah Fung of St. John’s Cathedral’s HIV Education Centre.

The three official witnesses who have seen the development of the coalition from its inception were Ms. Eni Lestari, the Chairperson of Assosiasi Tenaga Kerja Indonesia and the current Chairperson of the International Migrants Alliance, indeed a grassroots representative; from the academe, Dr. Amy Sim of the University of Hong Kong, and The Very Revd Canon Andrew Chan, the Dean of St. John’s Anglican Cathedral.

There were other friends from the coalition member organizations and other partner organizations who shared the launching moment, namely Ms. Aida Guerrero of DPCF, Ms. Mary Lou Borlado of NBCF, and Mr. Eman Villanueva of the Filipino Migrant Workers’ Union (FMWU).



*Members of CSPEM sign the covenant as they formed the coalition*

Finally, after two national consultations of service providers for migrant workers in Hong Kong in 2006 and 2008, a coalition was born to maximize resources, both human and material resources, put together and coordinate efforts to respond to the needs of ethnic minorities in Hong Kong and advocate for the rights and welfare of ethnic communities in the Hong Kong territory. 

*Foreign domestic workers taking their time off on a Sunday.*



# The Law for Migrants in Hong Kong

*by Melville Boase, Solicitor and MFMW Legal Counsel*

**M**igrant workers are a substantial part of the Hong Kong work force. They are imported by Hong Kong employers to undertake work where there is insufficient local work force. This can be either for

temporary exceptional projects such as construction of the Chek Lap Kok airport or, on a more permanent basis, for instance factory workers or domestic helpers.

The use of migrant labour has a substantial history in the development of the modern world, both for industrial projects and for agricultural. With the development of more wealthy societies in some parts of the world, and with the growth of 'social conscience', regulation of the movement of workers became important, both to maintain the standard of living of workers already in the country, and to prevent exploitation of the imported workers.

The prime example of this was prohibition of slavery in the British empire.

With the League of Nations after the First World War, the International Labour Organisation was established. That continued after the Second World War under the United Nations.

This then led to the adoption of a number of Conventions under which signatory Governments agreed to basic practices in dealing with the import of migrant labour.

A number of these Conventions applied to Hong Kong when it was under British

rule and, with the hand over, to the Hong Kong Government. These are now listed and set out on the Department of Justice web site under 'Treaties and International Agreements'. The web site states that these are in force and applicable to the Hong Kong SAR.

The immediately relevant Convention for the purposes of this article is the Migration of Labour Convention of 1949.

This provides in its Annex 1 a fairly straight forward procedure where an employer wishes to import labour. Under Article 3, the prospective employer, who may, subject to approval and supervision of the competent authority if necessary in the interest of the migrant, or a private agency if authorised by the country of recruitment, recruit migrant workers.

Under Article 5, the Hong Kong Government undertakes to require that a copy of the contract of employment shall be delivered to the migrant before departure. The contract shall contain provisions indicating the conditions of work and particularly the remuneration offered to the migrant. Article 5 further requires that the migrant shall receive in writing before departure information concerning the general conditions of life and work applicable to him in the territory of immigration, i.e. Hong Kong.

Paragraph 3 of Article 5 requires that the competent authority shall ensure that these provisions are enforced and that appropriate penalties are applied in respect of violations.

That seems simple, but how does it work in practice?

I draw on a recent case where a local company satisfied the Immigration Department that it needed to recruit 40 engineers from overseas. One of the managers of the company knew that in a nearby country wages were much lower for suitably qualified staff. He carried out recruiting trips, offering candidates jobs at twice the wage they were receiving, plus accommodation and other benefits.

In fact the current wage level for the jobs in Hong Kong was nearly four times higher than their wages in their home country, but they were not told of that. They were asked to sign contracts with a higher wage written in them, but told that was only a formality, and the salary

they would receive would be the amount he told them, not the written amount. That was the last the workers saw of those contracts. The workers were also asked to complete documents and supply copies of their qualifications, being told that they were needed for submission to Immigration Department to obtain their visas to come to Hong Kong. The documents were brought back to the company who then submitted them to Immigration Department, who approved them, particularly that the wage in them was in accordance with local wage levels, and obtained the visas for their workers. The company did not return those contracts to the workers.

All the workers were qualified professionals in their fields, with excellent characters, and with families to support at home.

The workers were supplied with the visas by the company, and came to Hong Kong. On entry, the Immigration officer did not ask to see any contract of employment, and did not ensure in any way that the workers had any document containing the general conditions of work, nor of the wage that they were to receive. They had not been supplied with any document informing them of what steps to take if the employer did not comply with the terms of the contract on which the visas had been granted.

Having been here about two weeks, the workers were then given substituted contracts showing a wage of about half that on the contracts they had signed in their home country, but still about twice the wage they had been receiving there. If they did not accept, they would have to pay their own fare to return to their home country.

With no copies of the original contracts, having left their previous jobs and their families, isolated in Hong Kong, they had little choice to accept.

However, after some time, one of the workers informed Immigration of the wage that was actually being paid. Immigration carried out a raid on the company, and found the original contracts, and proof that confirmed the actual amount paid to the workers.

Under the Convention – and also one would have thought under the Employment Ordinance – one would have

thought the logical step would be for the Hong Kong Government to follow the terms of the Convention, ensure that the provisions of contracts approved by the Immigration Department were enforced and the appropriate penalties applied. Of the original 40 workers, 16 had already left Hong Kong, leaving 24 here.

Quite the contrary: eleven of the workers were charged with conspiring with the company to work for a wage less than that approved by Immigration Department. They were detained here for 4 months. There was no explanation by the prosecution as to why these eleven were chosen to be prosecuted, and the others not.

*It is the Hong Kong Government's duty under the Convention to see that the terms of the contract of a migrant worker are enforced, but as we see, that is not done.*

Eventually the prosecution was persuaded to offer no evidence against them – and at the same time then offered no evidence against the company.

However, the manager of the company who had recruited them, on the company's orders, was prosecuted, and the workers were invited back to Hong Kong to give evidence in those proceedings, where the contracts approved by Immigration Department was described by the court as 'bogus contracts', instead of making any attempt to enforce them.

The workers made a complaint to the Labour Department. They were told that the 'International covenant' (sic) did not apply as they had accepted the lower wage, and no action could be taken against the company.

The workers lodged a claim with the Labour Tribunal, and were told that each had to be here in person for all stages of the proceedings, otherwise their claims would be struck out. Clearly, having been out of work for over 4 months, and detained here, thus not being able to be with their families, they were anxious to return to their homes and find employment.

The company in the meantime has escaped scot free. It has profited by nearly HK\$3 million from the underpayment of wages for the eleven who were prosecuted. The documents seized showed that the others had been treated in a similar fashion by the company, so the total amount the company benefited by the underpayment was substantially more than that. It also meant that the company had a substantial commercial advantage over its rivals by the reduced overhead.

S.s 23 and 63C of the Employment Ordinance Cap.57 give ample power to prosecute on underpayment of wages, whilst S.65 gives the Court power, when convicting, to order payment of any wages outstanding in addition to any penalty, thus saving duplication of proceedings in the Labour Tribunal. These are provisions that should be enforced, not least in compliance with Paragraph 3 of Article 5 of the Annex 1 to the Convention. The Prosecution chose not to do so.

The eleven applied for Legal Aid in January, which has still not been granted, and were then required to re-apply because of their change in circumstances, being now free to find work elsewhere.

This case illustrates one aspect of the difficulties that migrant workers face, and the lack of action by the Government to take any enforcement action against the employers.

Another aspect is that honest employers, paying the proper wage, which forms the

# Indonesian Migrants Hold Campaign on the Issue of Insurance

by Ade Ahmed Faidulloh, APMM Staff

Indonesians tackle the issue of insurance they pay for and supposed to be given to them.



Every year, more than 700,000 Indonesian are forced to leave the country because of poverty and seek a job abroad.

In Hong Kong alone, there are about 135,000 IMWs, all of whom are women and working as domestic workers. Based on Indonesian policy, all Indonesians willing to work abroad have to go through a recruitment agency. The Indonesian government, however, does not have a strict regulation on how much the agency could charge the IMWs for their services.

In result, a lot of IMWs are heavily overcharged by their recruitment agencies, with an illegal deduction of 70-85% from the IMWs salary in 6-7 months. In many cases, the IMWs lose their jobs after finishing the deduction period.

According to the Indonesian government policy, all IMWs, before they leave the country, have to pay an insurance of Rp400,000 (US\$40). The insurance is supposed to cover all the risks of IMWs during their work, including termination.

The government has collected around RP280 billion a year from insurance fees of 700,000 IMWs. Most of IMWs sadly are unaware of their insurance. As a result, IMWs never get to claim this insurance even if they have experienced several problems.

According to the Indonesian consulate in HK, they received a report that, in 2008, an insurance company already approved a lot of claims from IMWs in Hong Kong but they believed the money does not go to migrants but to the recruitment agencies.

In response to this, the APMM, MFMW, ATKI and Bethune House, together with networks in Indonesia, have conducted a series of trainings for IMWs on the issue of insurance. They also have developed a system that helps IMWs claim their insurance both in HK and Indonesia.

Aside from the legal assistance, ATKI also will lead the campaign on the insurance both in HK and in Indonesia.

## *The Law for Migrants from page 3*

basis on which Immigration Department approve the contracts, are entitled to see that wage level enforced for migrant workers, to prevent unscrupulous employers gaining the advantage of greatly reduced overheads. Similarly, local workers, receiving the current wage, are entitled to see that is not under-cut by the Government failing to enforce the wage in the approved contract for the migrant workers.


There is also the more common matter of domestic helpers who are subject to the 'Two Weeks rule'. On underpayment of wages, the Labour Department does not take action against the employer unless the worker has succeeded in a claim against the employer in the Labour Tribunal (see press release by the Labour Department of 3rd October 2005). To

obtain such an award, the worker has to spend many months in Hong Kong without work, depending on charity for sustenance, and having to pay for visa extensions from the Immigration Department. This applies even where the worker is simply claiming the cost of her passage home. It is a very strong discouragement to any migrant worker, who often ends up paying more in visa fees than her claim is worth.

It is the employer who applies for and obtains the visa to bring a worker here, but if the employer breaks the contract by for instance requiring the worker to do work other than that in the contract, it is the worker who is prosecuted. The employer may be added in as 'aiding and abetting' but that is illogical as it is the employer who creates the situation. It is the employer who should be prosecuted for breach of the statutory conditions imposed by Immigration Department in

the contract on the granting of the visa to enable the employer to bring the worker here.

The migrant workers place their trust in the Hong Kong employer and the Hong Kong Government in coming here. It is the Hong Kong Government's duty under the Convention to see that the terms of the contract of a migrant worker are enforced, but as we see, that is not done. At present all the worker can do is either give up and pay his or her own way home, or bring their own civil proceedings, at considerable cost in not being permitted to work, having to find a means to live whilst the proceedings are in course, and having to pay for extension of visa.

The system simply encourages abuse of migrant workers, and the local and international image of the Hong Kong Government observing the rule of law loses yet more of its lustre. 

# HERS KORY

Putting a Face to the Case  
Stories of Suffering, Struggle and Success

# Imelda Galera: Struggling to Fight

by *Edwina Antonio-Santoyo, BHMWR Director*

Imelda has grown her hair, was very tan and gained some weights after returning to the Philippines in November 2008.

It was good that typhoon Emong had already left the country otherwise it would be very hard for Imelda to travel from their province in Abra. She had to cross a river, rode a tricycle to reach the town proper to get a bus to Manila. She took the night bus to avoid the heavy traffic, despite this; it took her 8 hours to reach Manila.

Imelda's story was published by the South China Morning Post on 5th October when Queen Elizabeth Hospital refused her treatment because she did not have money to pay the hospital bill. She stayed in Bethune House for almost 10 months while undergoing chemotherapy and radio therapy.

She was with her brother and daughter Hazel who used to call her Auntie when I met them in Quezon City for her follow-up check up. I was very happy to see her and meet her daughter. Hazel was only 1 year 2 months when Imelda left her to work in HK. Six months in the Philippines did not change that situation. Hazel still prefers to sleep with her grandmother rather than with her Mom. According to Imelda, looking after Hazel is like having six children to attend to because she is so hyperactive.

I have met Imelda's doctor, the good hearted Dr. Rainy Abad who was referred by a friend of Wendy Wang from the




The author (right most) with Imelda (middle) and her family

American Women Association. This is her second time to be seen by Dr. Abad. According to him, Imelda needs to have a regular check-up every three months to ensure that the cancer cells are monitored. Her condition is still satisfactory at the moment, nothing to worry about. She has a maintenance medicine that she needs for the next five years. However, her present supply would only last until November 2009.

According to Imelda, life in the Philippines is so hard; she is contemplating of returning to HK. One thing that prevents her though from leaving again is her present health condition. She worries a lot and afraid that the cancer cells would spread to her other breast. She is teary-eyed when she said that she is not sure whether she could endure another operation again in case the cancer cells recur. She worries about her family so

much if something happens to her.

To augment the family's income, she sells barbeque items – chicken feet, chicken intestines and chicken neck. If everything is sold, she earns around P100 a day, not enough to cover their basic needs everyday. Her husband helps her by raising hogs and chicken. They need to wait a few months before they could turn them into cash by selling them in the market. It is better than nothing, according to Imelda.

She is hoping that the compassionate individuals who donated when she was still in HK could support her continuous medication. She is grateful to everyone who have helped her to have this second chance in life and she wishes that she would grow old to see her daughter live a full life and that she would be spared from this very frightening illness. 

# An American Mom in Hong Kong Gets Help

by Doris Lee

## I HAD BEEN LIVING FOUR YEARS IN HONG KONG ALREADY WHEN I HIRED FELY.

She joined our household just two weeks before my first child Leni was born. I was unaccustomed to the concept of living with a maid who was not a family member. Do we watch TV together? Do we eat together at the same time or separately? Does she buy her own toothpaste or we buy it? Odd questions I never thought I'd be thinking about.

Very quickly, she became indispensable. She helped Sidney and me cook and clean, saving much time especially for the laundry, and making the place a lot less dusty than it used to be. With my baby, Leni, she was ready with a towel or diaper any time I needed. When I had problems with breastfeeding, or some unfamiliar symptom when Leni got sick, she recalled some advice for me from her previous experience raising her two children, and made me feel very comforted. We had many worries and laughs together. We delighted in the trips to the maternal health centres. We would lovingly dress Leni up in a full 3-month-old or 6-month old baby girl outfit, hat and socks and all, take photos of her on the sofa and at the clinic, and be as contented as two women and a little firstborn baby could be.

I had quit four years of banking, for the long-awaited chance to be a full-time mom caring for my first lovely baby. On some occasions, Fely would bathe my baby, such as when I was having a nap. It happened a few times and I told her, trying to make it clear, please don't! I quit my job so that I could be the one to do these things! And she told me she had been accustomed in her previous job, to do everything for the baby, from feeding, to bathing, to clipping fingernails, to putting her to sleep. I was amazed. What does the mother do then, if she is at home? I asked her to please help me with those things only those times when I am not in the house and am outside for some errand.

Fely also amazes us and commands our devotion because of her excellent cooking. It seems that we are always eating something that is 'our favorite'. She also manages to make fresh breads, muffins and other sweet treats for breakfast or afternoon snack. Do we love to eat because she is so good, or she got so good because we love to eat so much and respond so positively to

her cooking? Either way, it's a definite common love in our house – exploring and enjoying food of all kinds. None of us is getting any skinnier.

Now I have two children. They are 6 and 8 years old. Except for a period when my younger son Benji was hard to put to sleep and I was still training Leni to sleep on her own, it has always been Sidney and me to put the children to sleep. It takes time and is sometimes exasperating, but I wanted Fely to have a decent amount of rest after a long day, and more than that, I wanted to keep the pleasure that is the other side of the pain of parenthood. How sad it would be, if my very young children did not need me at all! Did not plead for a story or a tickle, was indifferent to my coming or going. My young children would not be young for long.

For a while I was not working full-time. I have now been working full-time for over two years. The work for Fely has certainly increased. My daughter goes to school nearby, and aside from preparing breakfast and dinner, Fely prepares a fresh lunch each day for her. She picks up my son from the school bus. She makes them do their homework, and takes them outside to play. On the increasingly frequent times I come home late from work, she puts them to sleep.

The time that we spent together while not working, possibly adds up to more hours together than I have spent with my husband. We share worries, stories of the children, plan birthday parties together. I often cry to think of her kindness and goodness to me and our family, and what we will do when she eventually returns to her family in the Philippines, which we now suppose will be two years later.

*Doris Lee with her domestic worker and friend, Fely*




I will give myself two years to take down all those recipes, train our family to do our own laundry, homework and cleaning, and shop for and cook our own food. If it seems impossible, it is the burden that families without domestic helpers face already...and I would simply have to join the collective demand for a more family-friendly work life and society!

Behind the loving face and hands of my helper and friend Fely, is a woman with the heart and memories of a wife and mother to people still in the Philippines. It is a mind-boggling concept – that she could stay away from her family, two years at a time – to do the work of caring for another person's family!! What a piercing yearning she must carry.

I grew up in Brooklyn, New York, and had gone to a school which still had separate toilets with Black and White over the doors – though they were not in practice separated that way. Our school heavily impressed on all the children, mostly black, of the legacy of Martin Luther King, Jr. and of black heroes and heroines before him, such as Harriet Tubman and Frederick Douglass, who contributed to the movement to make black Americans free and equal in the US. While society was not yet a place where blacks and whites were truly equal, at least in public, we all accepted the 'should' – that all people should be regarded as equal human beings.

I still cannot fully comprehend the utter disdain and inhumanity of treatment that I have seen and heard about, among some employers of domestic helpers in Hong Kong. The disdain is so strong as to be almost a hatred, and strong enough that it makes a person coolly abuse another, in a way that surely no parent would ever encourage a child to do. Yet as Martin Luther King, Jr. has said, "We will have to repent in this generation not merely for the hateful words and actions of the bad people but for the appalling silence of the good people."

I hope that students, school teachers, civic leaders of all kinds and above all religious citizens and leaders who condemn evil and inhumane treatment of people, will contribute actively to eliminating slavery and abuse of young foreign women in this place. 

*Doris Lee is part of Families for Domestic Workers, a group of families that respect the domestic workers in their lives and are willing to show their support with action. You can check them out at their website: <http://www.OpenDoor.hk>.*

# Bethune House Residents Enjoy Their Day at the Beach

by Wong Long Yan,  
Summer intern, Mission for Migrant Workers




BHMWR residents with interns having fun at the beach

The outdoor workshop for Bethune House shelter residents was held on June 16 at Deep Water Bay. Its purpose is to offer an opportunity for Filipino and Indonesian BH residents to know more about themselves, enhance mutual understanding and increase their awareness towards their problems.

Offering the amazing natural sea view, participants were given a chance to know each other briefly by the ice-breaking game. Due to cultural indifference, they seldom talk to each other but in this workshop they could at least achieve a breakthrough beyond languages. Apart from that, it was a good time for them to share their problems that worry them.

The most common one they were facing was homesickness. What made the activity better was that it was not only about sharing but then they can learn something through the process like learning how to seek assistance must be one of them. "It is surely not a shame to ask for help," said by Cynthia Abdon-Tellez, the Director of the Mission for Migrant Workers during the activity.

When asked about their corresponding response to several events, they can understand oneself more and improve their position in the future. Everyone was having fun at that time. We played and laughed. It was sure to be one of the most unforgettable experience for us. 

## The Wizard of OZ: A Musical Benefit Show


The Bethune House Women Migrants Refuge would like to thank the group of people from different walks of life, children and grown-ups who got together in a musical charity show.

The Wizard of OZ Musical Charity Show was successfully held at Discover Bay College in Discovery Bay Island Resort. It was an event of fun and entertainment with a cause.

It was a wonderful show with a bunch

of wonderful performers, especially the two very young performers who played as "Toto" deserved a whole lot of applause.

The show was being organized by Witness Productions to raise funds for charity and BHMWR was one of the beneficiaries of the show.

On behalf of the BHMWR staff, volunteers and residents, from the bottom of our hearts, thank you very much! 

# Asian Migrants push for FDWs inclusion in SMW

The Asian Migrants' Coordinating Body (AMCB), the biggest grassroots alliance of migrant workers from the Philippines, Indonesia, Thailand, Nepal and Sri Lanka, joined the Hong Kong people's "BIG WALK" for the annual July 1st rally.

Thousands of AMCB members marched alongside with local people calling for the legislation of the Statutory Minimum Wage (SMW) and the recognition of domestic work as work.

Last June 26, the Executive Council (ExCo) of HK government submitted its proposal to HK


Legislative Council (LegCo) to exclude live-in domestic workers, most of whom are foreign domestic workers, in the SMW. Immediately, the AMCB condemned the ExCo decision because this is discriminatory, anti-worker and promoted slavery.

The ExCo decision to exclude the FDWs in the SMW clearly did not protect the interest of lower-income workers like



the FDWs. Likewise, the HK government did not recognize that FDWs are one of the very vulnerable sectors in the society that are prone to abuses and exploitation.

Now, the battle for the inclusion of FDWs in the SMW is with the LegCo. Included in the AMCB demands are for the HK government to scrap its discriminatory and anti-migrant policies like the "Two-Week Rule" and policy ban on entry of Nepalese workers in HK and act on the erring recruitment agencies.

The participation of the AMCB in the annual HK people's march every July 1st sends out a strong statement that FDWs are a part of Hong Kong and domestic workers are workers. 

## Canadian International School Fair


The Canadian International School hosted a Creativity, Action, Service (CAS) Fair on the morning of May 19th 2009 for students to learn more about the CAS program at the school and to learn of the opportunities to volunteer at the non-government organizations in Hong Kong that was being lead by Mr. Jonathan Hamilton.

There are several NGOs at the fair and Bethune House Women Migrant Workers Refuge is one of them.

Form 6 Students had an opportunity to visit display boards set up in the LLAC lobby run by representatives of local NGOs. There were display boards, information booklets, photos, examples of

their fund raising merchandise, brochures and newsletters and other display items. The purpose is to raise awareness of the organizations among the students; to communicate the type of activities the organization is involved in.

The students had the chance to talk to different representatives of these NGOs that most of them showed interest and support by asking how they can help and support each particular NGOs.

It was a very successful event and ended with a simple but sumptuous breakfast of fruits and muffins that were shared by the participants and the organizers while they are sharing the experiences of the event. 



## MIGRANT FOCUS

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

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