

## **DRAFT CODE OF PRACTICE FOR EMPLOYMENT AGENCIES**

### **Oral Intervention at the Panel on Manpower Special meeting on Tuesday, 24 May 2016**

While Justice Centre Hong Kong welcomes efforts to create a Code of Practice, we do have some concerns and recommendations on the draft. More details can be found in our written submission.

I want to first highlight that we produced a major piece of statistically significant research in March that found that of 1,000 domestic workers surveyed across Hong Kong, 17% were found to be in forced labour. That is one in six workers. A copy of this report was sent to every LegCo member's office and I have copies with me.

Our study found that domestic workers with excessive recruitment debt were far more likely to be in forced labour and that this debt was being incurred both here in Hong Kong and in source countries.

It is therefore not helpful, and not factual, that the Administration often mentions that recruitment debt is only a problem of home countries. It's a real problem here. Saying otherwise does not send the message to employment agencies that you mean business when it comes to illegal overcharging.

The CoP's aim is stated to promote professionalism and quality services in the EA industry. We recommend that this include specific reference to ethical conduct, outlining what this means in practice. The CoP could then empower the Commissioner of Labour to include ethical conduct as a "relevant factor" in the exercise of his/her discretionary power (para. 4.1.2).

Codes of Conducts in other countries have also specified that employment agencies shall not be party to forced labour or human trafficking through their placement. Given the vulnerability of MDWs to exploitation, and concerns raised by several international human rights bodies over the years, this merits specific mention in the CoP.

The CoP should require EAs to exercise due diligence to ensure their partner recruitment agencies in sending countries do not engage in coercive, deceptive or unethical practices as well, and should ask that EAs monitor the employee/employer situation beyond the initial placement.

None of this, however, absolves the government itself from the duty to monitor, regulate and sanction parties that engage in malpractices, labour violations or human rights abuses. We have several questions that are not sufficiently addressed in the draft:

- For example, how will the CoP be enforced in practice and what resources will be allocated to this end?
- How will its effectiveness be assessed if passing much-needed legislative reform is contingent on evaluating the CoP's performance?
- How will the Labour Department work with civil society and other government departments to monitor the CoP?
- What will be done to address the concerns about penalties being too low to deter unscrupulous employment agencies?
- Will the government draw on the technical expertise of international bodies, such as the International Labour Organisation, which have offered guidance to other countries in the development of their own codes of conduct for employment agencies?

Lastly, the CoP is one step, but not the end of the road in the need to address the systemic exploitation of migrant domestic workers in Hong Kong. Responsibility for this cannot rest on the Labour Department alone. Migrant domestic workers comprise 1/10 of the working population here. It's high time there be more concerted efforts.