

**The Hong Kong SAR's Legislative Council's Subcommittee on Children's Rights**

**'Children's Expectation on the Government'**

**25 March 2017**

My name is Vivian Cheung. I am a Legal Case Manager at PathFinders. PathFinders is a Hong Kong charity. We ensure that the most vulnerable children born in HK and their migrant mothers, are respected and protected.

From inception in 2007 to date, we have helped over 4,300 babies and their migrant mothers. The majority of the mothers are current or former migrant domestic workers. In 2016, 86% of the biological fathers were in Hong Kong.

Every day at PathFinders, we see how a child's life and destiny are determined even before they are born.

Our current laws, contracts and policies regarding maternity protections for Foreign Domestic Workers ("FDW") fail adequately to provide clear guidance as to what should happen when a domestic worker is pregnant in order also to protect the best interests of that unborn child.

It is on behalf of these babies that I speak today.

Quite correctly, and as for all other employed females in Hong Kong, pregnant FDWs are protected by law from employment termination and discrimination on the grounds of pregnancy.

The singular absence of policy or guidelines confirming how a happy, healthy pregnancy is to be successfully and lawfully managed by the employee, the employer and agents has a devastating human impact.

To put that into perspective, PathFinders had helped manage and ensure the safe arrival of over 1,400 babies into this policy, healthcare and social welfare void. This is unacceptable.

It is a globally accepted and enshrined in our own laws that all children deserve a fair start in life.

We make 5 recommendations today:

1. Specifically in the context of statutory maternity leave, review the legality and humanity of the so-called live-in rule and its impact on babies born to FDWs;
2. Create policy stating clearly how a safe, healthy and successful pregnancy of a FDW should be managed so all parties know their rights and obligations and the unborn child is protected;

3. Review the feasibility and practicalities enabling FDWs to elect to give birth in their home country;
4. As a matter of humanity as well as public healthcare policy, ensure that every baby born in Hong Kong, regardless of their mother's immigration status, has access to World Health Organisation-mandated early childhood immunizations; and
5. Waive the cost of obtaining copies of a birth certificate for all children born to low income families or require public hospitals to provide birth return of all newborn babies as proof of their existence.

Every child should be born equal and free. They have a right to live in dignity.

Thank you.

我叫張天詠。我係PathFinders嘅法律個案經理。PathFinders係一間香港註冊的慈善機構，我們致力確保在港出生的弱勢兒童及其外傭母親得到應有的尊重和保障。由機構嘅2007年成立直至目前為止，我們已協助超過四千二百名的兒童及其外傭母親。大部分嘅媽咪係現職外傭或曾經係外傭。我們嘅2016年幫助嘅BB當中有8成6佢地親生爸爸係香港居住，所以呢個係一個本土的社會問題。

呢班小孩子嘅外傭母親對香港的家庭作出莫大嘅貢獻，無佢地，好多優質既人材就唔能夠投入社會，好多家庭就會少左一份收入。當她們照顧我地既小朋友時，佢地既小朋友就因為外傭政策無明確指引，而被徹底忽視了，而佢地嘅將來被在未出世前注定咗。

所以我今日希望幫呢班仲喺媽媽肚裡面嘅小孩子發聲。

同其他在職女性一樣，懷孕嘅外傭受法例保護。法例禁止僱主因為佢哋懷孕而解僱或歧視佢哋。但係政府現時針對外傭嘅法例同政策根本未有就外傭懷孕作出明確嘅指導，亦未有為佢地嘅小孩嘅最佳權益著想。針對僱員要住喺僱主屋企嘅住宿限制，政府並未有幫助外傭、僱主及中介公司製定一套可行嘅指引及支援服務讓BB媽咪能享受健康快樂嘅懷孕期。

呢個政策失誤嚴重影響外傭肚裡面個BB，佢地嘅未出世前已成為被社會遺忘嘅一群，成為所謂嘅幽靈兒童。佢地冇任何醫療及社會福利援助。PathFinders至今協助咗超過 1,400 個BB,可見問題並非單一事件，政府應盡快正視及處理。我們相信每位兒童都有權擁有一個公平的開始。

我們今日提出5項建議：

- 一. 針對法定產假檢討現行對外傭住宿的限制以及它對外傭BB的影響;
- 二. 制定政策，清楚說明如何讓懷孕外傭有安全、健康和成功的懷孕期及產後保障，讓外傭、僱主及中介公司各方知道各自的權利和義務，及讓未出生兒童得到適當嘅保護;
- 三. 檢討外傭媽媽在祖國分娩的可行性和實際性;
- 四. 確保每一個在港出生的嬰兒，不論其母親的移民身分，都可以接受世界衛生組織規定的早期兒童免疫接種;和

五. 豁免低收入家庭子女出生證明書影印本的費用, 或要求公立醫院為所有新生嬰兒提供出生證明。

每個孩子生來都應該係平等和自由嘅。他們有權有尊嚴地生活。

多謝。