

**Verbal Submission
by
PathFinders Limited
to
The Committee on Migrant Workers (“CMW”)**

at its 27th Session (4-13 September 2017)

Country: Indonesia

Presented on 4 September 2017 in Geneva

PATHFINDERS AND BACKGROUND

Good morning, Committee Members.

My name is Caroline West and I represent PathFinders, a Hong Kong charity in Special Consultative Status with the Economic and Social Council since 2017.

Hong Kong has over 370,000 foreign domestic workers (“**FDWs**”) of whom currently over 153,000 are Indonesian nationals. In a typical year, 70-80% of the women PathFinders helps are Indonesian nationals and the majority are either current or former FDWs.

PathFinders ensures that the most vulnerable children in Hong Kong, and their migrant mothers, are respected and protected. PathFinders provides humanitarian and legal services, education and assists with home country reintegration. PathFinders has helped over 4,700 babies and women to date.

All pregnant employees in Hong Kong, including FDWs, enjoy employment maternity rights and are legally protected against sex- and pregnancy-related discrimination.

Despite this, pregnant FDWs are too often unlawfully dismissed. Within 2 weeks of dismissal, they and their unborn or newborn child become ineligible for the social welfare and health care protections that employed FDWs and all pregnant local women and new mothers enjoy.

Subject to a live-in rule during employment, these FDWs suddenly find themselves homeless and without medical and financial support either from Hong Kong or from their home country, in this context, Indonesia.

The children born to these women are typically undocumented and unsupported by the state. Pathfinders recently visited Indonesia and was both startled and heartbroken to see the number of children of FDWs left in orphanages and institutional care there.

PathFinders’ full written submission is available online.

RECOMMENDATIONS

Today, we respectfully ask this Committee and the Indonesian government to intensify their compliance focus on the Convention generally and specifically in relation to the four topics of:

1. the regulation of agencies;
2. the certification of children born to migrant workers overseas;

3. migrant worker education; and
4. home country integration.

Recommendation Topic 1: Regulation of Employment Agencies

Indonesian FDWs are exploited even before they leave home because Employment Agencies (“**Agencies**”) provide misleading information about expected salary, illegally overcharge Agency fees, and force workers to state that they are being paid in full even though they are underpaid or unpaid. Some Agencies even subject FDWs to compulsory pregnancy testing, prevent FDWs from meeting their husbands before leaving their country of origin and force them to take contraceptives against their will.

PathFinders recommends that the Indonesian government:

1. In collaboration with the Hong Kong government, further increases the regulation and oversight of private employment agencies by improving the transparency of their operations, by publicising inspection results and by enforcing breaches;
2. Ratifies International Labour Organisation Convention 181, Private Employment Agencies Convention, and applies the “zero placement fees” approach for migrant workers; and
3. Investigates and, where appropriate, prevents and prosecutes the Agency practices of requiring some migrant worker women to undergo body checks, forced contraceptive procedures and forced separation from their husbands.

Recommendation Topic 2: Registration and Documentation of Children born to FDWs Overseas

Under Article 21 of the Relevant Issues from “The List of Issues Prior to Submission of The Initial Report of Indonesia” (“**The List of Issues**”) the Indonesian government is required to ensure that migrant workers’ children are registered at birth and have their nationality of origin recognised by law and in practice.

The reality PathFinders sees, however, is that Indonesian FDW mothers experience great difficulty and inconsistent and/or unfair treatment when seeking to register and/or obtain passports for their Hong Kong-born children - both in Hong Kong and Indonesia. The impact of having no identity is well-established and this Committee will be aware of the devastating and lifelong consequences on an undocumented child’s education, welfare and life outcomes, including happiness.

PathFinders recommends that:

1. In line with practices of other consular missions, the Indonesian government should make Indonesian birth certificates and first-time passport issuances available and free/affordable. Fees for the passports of overseas-born children of FDWs should be waived;
2. Birth registration in Indonesia should allow for the accurate capture of place of birth, whether onshore or overseas; and
3. The family card registration system should allow children born out of wedlock to be registered on their mother’s family card.

Recommendation Topic 3: Education of Departing and Newly Arrived FDWs

Under Article 24 of The List of Issues, the Convention requires that pre-departure information sessions and campaigns be provided to inform the departing migrant worker population about their rights and obligations while overseas.

While PathFinders welcomes the Indonesian government's educational Welcoming Programmes in Hong Kong, in PathFinders' experience, a startling number of clients have received no women's health education. A continuing Yale-NUS study of FDWs found that only 33% of them understood their maternity rights, and one third thought they had "no pregnancy protections whatsoever." Many think becoming pregnant is illegal in Hong Kong.

PathFinders recommends that:

1. Educating migrant workers before going abroad should be mandatory, comprehensive, country-specific and include women's reproductive health education and maternity rights and obligations;
2. Women's reproductive education and maternity rights should also be made mandatory in the welcoming programmes and communities in all receiving countries;
3. Those providing the education sessions in Indonesia and abroad must be properly accredited.

Recommendation Topic 4: Integration into Country of Origin

Return to country of origin is complicated for FDWs returning with their Hong Kong-born children – especially if the child is of mixed-race and/or was born out of wedlock.

Under Article 12 of The List of Issues, the Convention seeks to prevent such discrimination, ill-treatment and other inhumane treatment, and to ensure access to justice for victims.

PathFinders recommends that:

1. Reintegration programmes are developed specifically for FDWs and their children. These should include vocational training to enable FDWs to pursue alternative careers and will need to consider child care options;
2. Development of these programmes should aim to fill the gaps in the Indonesian Business Empowerment for Former Indonesian Labour Migrants Programme (under Article 31 of The List of Issues), such as lack of awareness and poor resource allocation – especially outside Jakarta; and
3. The Indonesian government should provide job search resources and support to returning FDWs.

PathFinders thanks this Committee for considering these recommendations.

PathFinders Limited
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