

Submission to the **Committee on Economic, Social and Cultural Rights** of the PEDULI Indonesian Migrant Workers Concern Group on the implementation of the **ICESCR in Macao, China** and on the Reply to List of Issues by the government of Macao, China **at the 52nd Session** between 28 April and 23 May 2014

PEDULI Indonesian Migrant Workers Concern Group (Macao)

Address: Beco dos Colonos 14 Edif. Lai Seng 4 andar E., Macau, China

- Email: peduli@macau.ctm.net
- Tel.: +853-63988911

Main contributors

- **Cecilia Wing-Yin HO**, Advisor, PEDULI Indonesian Migrant Workers Concern Group
 - Email: ceciliaho@ipm.edu.mo
 - Tel.: +853-63988911
- **Mira Samirah**, Chairperson, PEDULI Indonesian Migrant Workers Concern Group
 - Email: peduli@macau.ctm.net
 - Tel.: +853-63689764

PEDULI Indonesian Migrant Workers Concern Group hereby makes the following submission to the Committee on Economic, Social and Cultural Rights with regard to the ratification of the International Covenant on Economic, Social and Cultural Rights by the Government of the Macao Special Administrative Region of the People's Republic of China (hereinafter "the Government") and on the Government's Reply to the List of Issues (E/C.12/CHN/Q/2/Add.3) (hereinafter "the Reply").

Article 7 of the Covenant

1. Regarding the Reply on Article 7 – The right to just and favourable conditions of work, please note that:
 - a. Migrant workers especially foreign domestic workers (FDWs) are not employed under formal and standard contracts. The contracts are only written in Chinese and English and usually are not translated to the mother-tongue of migrants.
 - b. Unregulated pay: The minimum wage is not regulated and some foreign domestic workers are paid very poorly, only reached the approved minimum wage for hiring a foreign domestic workers - MOP\$2,500 (US\$313) per month (for live-in and addition MOP\$500 (US\$62.6) for accommodation subsidy for those live-out) which has not been under reviewed for more than a decade. The minimum subsistence level in Macau is MOP\$3,670 (US\$460) per person (effective as at 1, Jan. 2014).
 - c. The FDWs do not enjoy equal remuneration among different nationalities. The MSAR government is going to recruit 300 mainland domestic workers from Guangdong province and they are entitled to get around MOP\$5000-\$6000 (US\$626-751) i.e. more than a double pay that the current foreign domestic workers can get. It is definitely a racial discriminatory practice in domestic work sector. PEDULI which are having over 380 Indonesian worker members at the moment, have earlier done an internal survey on 90% of the domestic worker members (288 members) about their work conditions. The survey finds that only 55% of these Indonesian domestic workers—whose average monthly salary is MOP\$2750 (US\$344).
 - d. No weekly day-off: Although the non-resident workers law states official labour holidays, not every employer practices it accordingly, so many workers don't have regular days off to rest, to interact with other workers and to join associations (Trade Union) activities.
 - e. Lack of efficient in handling complaints: The lack of regulation via contract makes it difficult to challenge employers via legal channels. The Labour Affairs Bureau take times to process and most of the times, domestic workers could not get evidence to prove their employers' illegal acts or mistreatment as they were the only employee at home. The abused workers definitely face great difficulty to pursue action against their employers or agencies.
 - f. Excessive recruitment agency fee: Most of the Indonesians domestic workers in Macao are overcharged for more than 7 months' salary. The MSAR government did not actively take measures to ensure the law that the employment agencies are prohibited from collecting any charges or fee from migrant workers according to the law Article 16(a) of Licensing System for Employment Agencies.
 - g. We recommend the Committee to urge the Macao government to review the minimum approved wage for ALL non-resident domestic workers irrespective of their nationalities and the Human Resources Office should not allow employers to pay

lower rates for those non-Chinese domestic workers (20,494 mainly from Vietnam, Indonesia, Philippines, Thailand and Myanmar etc till Feb., 2014) and the equal remuneration should be entitled among different nationalities working in the same sector.

- h. “Six-months cooling off period” (alternatively named as 6-months employment ban) violates freedom of work as basic human rights: Under current legislations, migrant workers, if having left their post and not giving any reason within the span of contract, are not allowed to work for another unit for six months.
- i. According to the International labour organization’s Convention Concerning Decent Work for domestic Workers was signed in June, 2011, the policy of 6-months ban imposing on foreign domestic workers in Macau is not in conformity with the obligations laid down in the convention. It further puts all foreign domestic workers in a very disadvantaged position when we have been maltreated by our employers. PEDULI handed in a collection of 900 signatures from Indonesian, Philippines and Vietnamese domestic workers’ requesting the opposition of the “Six-months employment ban” on the 27th Nov, 2011 to the Director of Labour Affairs Bureau to express our concern already.
- j. All migrant workers are stipulated to leave the territory within 10-days (acts like 2-weeks rule in Hong Kong): This condition is what the locals termed as “cooling off” or “6-months ban. Such legislation at the end only strengthens the power of recruitment agency and at the same time, if the government did not have any rules to monitor and regulate the malpractice of the agency, then the workers would become the marginalized group for being exploited easily by agencies and employers.
- k. All migrant workers have only 10 days to get another new employment, the overstay fine per day is MOP\$200. It means that most of them have to leave Macau then return once an employment visa has been processed. It finally will render migrant workers undocumented leading to the increased discrimination and exploitation.
- l. We recommend the Committee to urge the Macao government to cancel “6-months employment ban” and allow them to opt for other employers in different sectors without being barred from getting a new employment contract for 6 months. This can effectively avoid putting FDWs undocumented and facing further exploitation when faced maltreatment esp. in domestic work setting.

Article 9 of the Covenant

2. Regarding to the Reply on Article 9 – The right to social security

- a. The Labour law stipulates that FDWs' employers must purchase work-related accidents insurance which doesn't include health and other accidents insurance. As a result, quite a number of FDWs need to leave the territory to receive treatment when they have reproductive-related health problems, especially when they are pregnant; they are always dismissed by their employers before their delivery.
- b. Although all migrant workers are entitled to have accommodation allowance MOP500 (US\$62.6) per month (for live-out option FDWs), as the rent is extraordinary high and they can only share a flat with more than 10 persons for only 2 bedrooms small old flat with rent of HK\$5,000 (US\$626) at least. The living condition is very crowded and poor.
- c. We recommend the Committee to urge the Macao government that the accommodation allowance should be readjusted to the reasonable level in order to let non-resident workers have a decent living condition in Macao and also to mandate all employers to purchase health insurance for each migrant worker to cover the medical fee.
- d. There is only ONE government subvented social service unit - Macau Caritas Overseas Project (three full time staffs mainly serves the non-residents workers from Philippines) actually provide services to foreign workers; however they particularly provide entertainment, language training etc for migrants whereas legal advice and advocacy work for migrants of handling labours' issues and disputes are limited and put in a low priority.
- e. We recommend the Committee to urge the Macao government to expand their sponsorship to all local migrant workers' associations and allow them to recruit native workers to have better understanding their languages, cultures and needs in Macao. In addition, the translations support and services are urgently needed for every government departments related to handling non-resident workers' issues in order to facilitate the efficiency and effective communication between government officials and migrant workers.

About PEDULI Indonesian Migrant Workers Concern Group

PEDULI Indonesian Migrant Workers Concern Group is a self-help association comprises Indonesian migrant workers working in different sectors in Macao working on advocacy for equal labour rights and human rights of all migrant workers, providing language, computer training courses, entertainment activities, and emergency assistance for migrants in need.