

STATE OF HEALTH OF MIGRANTS 2007



MANDATORY TESTING (HONG KONG REPORT)

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St. John's Cathedral HIV Education Centre

Partner organizer:



CARAM Asia

FOREWORD

In 2006, the United Nations Office of the High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS (UNAIDS) jointly developed and consolidated guidelines on HIV/AIDS and human rights. These guidelines call upon governments to fulfil their obligations under various human rights treaties with regard to, but not limited to, non-discrimination, health and employment. The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a particularly important treaty in this respect. The focus on non-discrimination, health and employment is necessary to reduce vulnerability to HIV infection and to ensure humane care, treatment and support to all.

"Each state has the obligation to ensure that 'laws regulations and collective agreements should be enacted or reached so as to guarantee the following workplace rights': freedom from HIV screening for employment and training confidentiality regarding all medical information including one's HIV status and 'employment security for workers living with HIV until they are no longer able to work" (International Guidelines on HIV/AIDS and Human Rights 2006 Consolidated Version. Geneva. UNAIDS and OHCHR.)

Although countries may have this obligation, there is an inherent contradiction among these guidelines, HIV policies in many countries in Asia, and the current practices of many sending and receiving countries in regard to mandatory or compulsory HIV screening for employment. In response to the AIDS crisis, for instance, approximately 60 governments around the world have established health screening procedures. Migrant workers are being screened for up to 22 diseases and conditions, including TB, HIV and pregnancy. In many cases, migrants who are found with a positive result on any of these tests are deported or refused

entrance or a work permit.

In view of the above situation, in November 2006, CARAM Asia (Coordination of Action Research on AIDS and Mobility Asia) and its 16 country partner organizations initiated a regional action research on "State of Health of Migrants 2007 – Mandatory Testing". The research aims to consider the law and policy environment pertaining to migrant workers and their rights regarding mandatory health testing for employment purposes. The research looks at seven destination countries: Bahrain, Dubai, the Hong Kong Special Administrative Region (China), Japan, the Republic of Korea, Malaysia and Thailand, and eight origin countries: Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, Philippines and Sri Lanka. In particular, it assesses and compares the origin and destination countries with regard to (mandatory) health and HIV testing in their labour migration and health policies and how these policies are implemented drawing on reflections by stakeholders and, more extensively, the experiences of migrant workers themselves. The findings of the report were launched at The 8th International Congress on AIDS in Asia and the Pacific, Colombo, 19-23, August 2007.

It is our hope that the publication of the Hong Kong's part of the "State of Health of Migrants 2007 – Mandatory Testing" and its recommendations will improve testing practices at national and regional levels for migrant workers.

For those who are interested in the full report, they can get access to the information at the website of CARAM Asia, www.caramasia.org.

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HONG KONG SPECIAL ADMINISTRATION REGION OF THE PEOPLE'S REPUBLIC OF CHINA

Hong Kong SAR is an attractive destination country for migrant workers from across Asia. According to government statistics, at the end of 2004, there were 19,155 foreign professionals, 218,430 foreign domestic workers and 11,037 other foreign workers in possession of valid work permits in Hong Kong. Of the foreign domestic workers employed in Hong Kong in 2004, 54.8 per cent were from the Philippines and 41.2 per cent from Indonesia. There are also an indeterminate number of migrants working in Hong Kong without valid work permits.

This research is focused on the 'health testing' experiences (i.e. screening tests for apparent healthy persons) of documented foreign domestic workers from the Philippines and Indonesia, with some additional information provided from other stakeholders on the issue. Data were collected through two sources: Hong Kong SAR government publications and fieldwork.

Fieldwork consisted of

- (i) questionnaire surveys with 108 Filipinos and 97 Indonesians on the streets where the foreign domestic workers gathered for their day-off;

- (ii) eight focus group discussions with 34 foreign domestic workers (22 Indonesians and 12 Filipinos) either on the streets or in the offices of non-government organizations (NGOs) that serve the foreign domestic workers;
- (iii) in-depth interviews with six NGO workers who serve the foreign domestic workers and being themselves of the same ethnicity as the foreign domestic workers;
- (iv) 15 telephone interviews with employers of foreign domestic workers (ten employing Filipinos and five employing Indonesians);
- (v) visits of two employment agencies as potential employers, and
- (vi) two visits of health testing clinics.

It is declared that the principal investigators are ethnic Chinese who have permanent residence in Hong Kong. All questionnaire surveys and interviews with foreign domestic workers were conducted with the company of voluntary workers who are of the same ethnicity as the foreign domestic workers.

TABLE 1 ACTIVITIES OF FIELD WORK

NATURE OF ACTIVITIES	NUMBER
Questionnaire surveys of foreign domestic workers	Answered by 108 Filipinos and 97 Indonesians
Focused group discussions with foreign domestic workers	8 focused group discussions with 34 migrant domestic helpers (22 Indonesians; 12 Filipinos)
In-depth interview with the NGO workers	6 NGO workers who serve the foreign domestic workers and being themselves the same ethnicity as the foreign domestic workers
Telephone interviews with employers of migrant domestic workers	15 employers (10 employing Filipinos and 5 employing Indonesians)
Visit of employment agencies as potential employers	2 employment agencies
Visit of health testing clinics	2 clinics. For one clinic, the investigator was the accompanying person with a real employer and a real foreign domestic workers, For another clinic, the investigator acted as an employer and a volunteer who is a foreign domestic worker act as the one who needed to be tested .

RESULTS

Laws and Policies

In Hong Kong, the government does not require anyone to provide a medical certificate or report for entry visa purpose, i.e. no mandatory health testing is needed for migrant workers before coming to Hong Kong, nor during the period of staying in Hong Kong¹ nor when applying for the renewal of employment contracts. In Hong Kong, entry visa for migrant workers will be granted only after an employment contract is signed by both parties and approved by the Immigration Department, and entry visa will be expired 14 days after the employment is terminated. Since only employment contracts of foreign domestic workers with a period not longer than 24 months will be approved, foreign domestic workers have to have their employment contracts re-signed at least every 24 months.

Yet, the Standard Employment Contract for a Domestic Helper recruited from abroad states that “The Parties hereby declare that the Helper has been medically examined as to his/her fitness for employment as a domestic helper and his/her medical certificate has been produced for inspection by the Employer.” (Ref: <http://www.labour.gov.hk/eng/public/wcp/FDHguide.pdf>). According to this statement, the foreign domestic helpers need to be medically examined before signing the contract, i.e. mandatory medical testing before coming to Hong Kong is required. (Yet, according to the system of Hong Kong, the employers do not need to prove to the Immigration Department that s/he has inspected the medical certificate, but once the employers signed the contract, s/he is considered to have the medical certificate inspected, regardless of whether s/he has actually done so). The statement does not define the time and place where the medical examination needs to take place. As a result, no mandatory health testing conducted in Hong Kong is required for foreign domestic workers. In addition, the employers do not need to require the foreign domestic worker whom they have employed to be medically examined again when subsequent new employment contracts are signed.

While the foreign domestic workers do not need to be medically examined in Hong Kong, government laws and policies do not forbid employers or employment agents from requiring the migrant workers to have health testing in Hong Kong. However, Government guideline does require the fees to be paid by the employers rather than the foreign domestic worker, should it be requested by either party.

Hong Kong SAR government does not have any restriction, quota or preference on the nationality of the foreign migrant workers employed in Hong Kong. The fact that most foreign domestic workers come from the Philippines and Indonesia is largely the result of the promotion of employment agencies and the preference of the employers. In this way, a migrant worker may be requested to have a

health testing in Hong Kong with the fee paid to the doctor by the employment agency should the employment agency has included a health testing in their service package to the employer. If the health testing is not included in the employment agency’s service package, or the foreign domestic worker is not recruited through employment agency, the employer may still request the foreign domestic worker to have a health testing in Hong Kong with the fee paid by the employers. In addition, when foreign domestic workers under a contract in Hong Kong want to seek new employers through the employment agencies in Hong Kong, the agencies may require the workers to pay for health testing fees. The workers may claim the fees back from the new employers when they get the new contracts.

In Hong Kong, public health care facilities do not conduct laboratory tests for persons without signs and symptoms of sickness. As a result, all health testing has to be conducted either in clinics or in laboratories. As far as we know, no clinic is dedicated to non-local residents only (i.e. both local residents and foreign domestic workers use the same services).

Results of fieldwork

Even though no mandatory health testing is required in Hong Kong, in our surveys, it is found that 97% and 67% of foreign domestic workers came from Indonesia and the Philippine respectively had gone through health testing in Hong Kong. About 87% of the employers reported that their foreign domestic workers were retested upon their arrival in Hong Kong. On the other hand, although health testing before arrival is required, 1% and 4% of foreign domestic workers who came from Indonesia and Philippine respectively had not been tested in their home country before coming to Hong Kong. The items reported to be included in the testing are listed in Table 2A.

It is found that most foreign domestic workers reported that the same items tested in the home countries were repeated in Hong Kong. Except chest X-ray, the percentage of items tested on Indonesian and Filipino workers are different. However, our data gathered from testing clinics, employment agencies and employers showed no difference in testing items offered to workers of different nationality. Therefore, the investigators consider that some workers might not realize or notice what tests were done. In addition, the items that were reported to be tested in Hong Kong from the workers and from the employers also had considerable difference, showing that the employers might also not realize or notice what tests were done for their employees. (Table 2A & 2B)

TABLE 2A PERCENTAGE OF SPECIFIED ITEMS BEING TESTED ON FOREIGN DOMESTIC WORKERS

Nationality of the workers	Place of testing	No. of workers	HIV Antibody Test	Pregnancy Test	Sexually Transmitted Infections	Chest X-ray	Others (e.g. urine and feces test, eye test, dental test and psychological test)
Indonesians	In home country	97	17%	94%	20%	87%	21%
	In Hong Kong	95	18%	94%	21%	87%	23%
Filipinos	In home country	104	49%	79%	38%	88%	10%
	In Hong Kong	72	40%	67%	29%	86%	19%

TABLE 2B PERCENTAGE OF SPECIFIED ITEMS BEING TESTED ON FOREIGN DOMESTIC WORKERS AS REPORTED BY THEIR EMPLOYERS

HIV Antibody Test	Pregnancy Test	Sexually Transmitted Infections	X-ray, lung	Others
62%	62%	46%	54%	0%

Table 3 lists the source of requirement for retesting in Hong Kong. It is found that among the foreign domestic workers retested in Hong Kong, the requirement for retesting Filipinos mainly came from their employers (75%) while the requirement for Indonesians came mainly from recruitment agencies (78%), which might reflect that some employment agencies in Hong Kong do not trust the testing results done in Indonesia². About 77% of the employers reported that the retests of the workers came from employers themselves, while 23% reported that the requirement came from the employment agents. The fact that health testing is included in some of the employment agencies' service package may reflect, or may have contributed to, the mistrust of employers and/or employment agencies. On the other hand, 1% of workers stated that the source of requirement came from the Hong Kong government, which cannot be true for screening tests for apparent healthy persons.

From the survey and focus group discussions, the investigators observed that some foreign domestic workers

could not differentiate between the health screening tests for apparently healthy persons and the diagnostic tests for persons with signs and symptoms of sickness. For example, in answers to one of the questions, "Where was the health check up taken place?" - 10% of the workers reported that the tests were conducted in a hospital. As a matter of fact, public hospitals in Hong Kong do not conduct health screening test for foreign domestic helpers. The cost of conducting the test in private hospitals will be much higher than in private clinics or laboratories. As a result, very few employers may choose to conduct such tests for their foreign domestic workers.

Furthermore, none of the employers and employment agencies interviewed reported that the health tests were conducted in hospitals. The foreign domestic workers' perspective of no differentiation between health screening tests and the diagnostic tests needs to be taken into consideration during the interoperation of results and making of recommendations.

TABLE 3 SOURCE OF REQUIREMENT OF TESTING AS REPORTED BY FOREIGN DOMESTIC WORKERS WHO WERE TESTED AGAIN IN HONG KONG (can choose more than one source)

Nationality of the workers	No. of workers	Employer	Recruitment Agency	Hong Kong government	Self
Indonesians	95	25%	78%	1%	
Filipinos	72	75%	27%	1%	1%

While government policies state that all medical costs, including the cost of screening tests of the foreign domestic workers should be paid by the employers, about 17% of the workers reported that the cost of the tests were paid by themselves. However, as mentioned above, some workers might not be able to differentiate the health screening tests with the diagnostic test, so the situation might be over-reported. The results of focus group discussions with foreign domestic workers and interviews with NGO workers further showed that most of the time, workers paid for the medical cost by themselves. It was because they did not want their current employers to know that they had got medical consultations as it might be seen that they were not fit for the job. Besides, some workers also paid for a health test when they began to look for another employer upon their contracts being expired. Therefore, they might not claim the cost back when they got the new employments.

Only 52% and 22% of Indonesian workers and Filipino workers respectively reported that pre-testing counseling was given. More than 80% of the pre-testing counseling was given by the doctors, and the remaining was given by the nurses. About 27% of the Indonesian workers and 62% of the Filipino workers reported that the procedure of the testing was explained to them during the test. On the other

hand, post-testing counseling was given to 52% and 16% of Indonesian workers and Filipino workers respectively by the doctors.

About 95% of the testing was conducted in an individual basis with less than 5% in groups. Only 36% of the Indonesian workers and 53% of the Filipino workers received a copy of the testing results. Most workers participated in the focus group discussions mentioned that they were verbally informed that the results were 'OK'. From the interviews with the employers, 75% of them stated that the testing results were sent directly to them from the concerned clinics/laboratories, and 25% reported that the results were sent to the employment agencies first and then passed on to employers later.

As for the consequence of failing the test, while only about 33% of workers believed that they would be dismissed and sent back to the country of origin, most employers (61%) thought so. Some workers (45% of Indonesians and 33% of Filipinos) believed that they could get retested. The investigators did not ask who should pay for the cost of retesting. However, we would consider the majority of the employers may not want to pay for the retest unless they really want to keep the domestic worker (see Table 4A & 4B).

TABLE 4A (ANSWERED BY THE WORKERS) IN CASE IF YOU FAIL THE TESTING, WHAT WILL HAPPEN TO YOU?

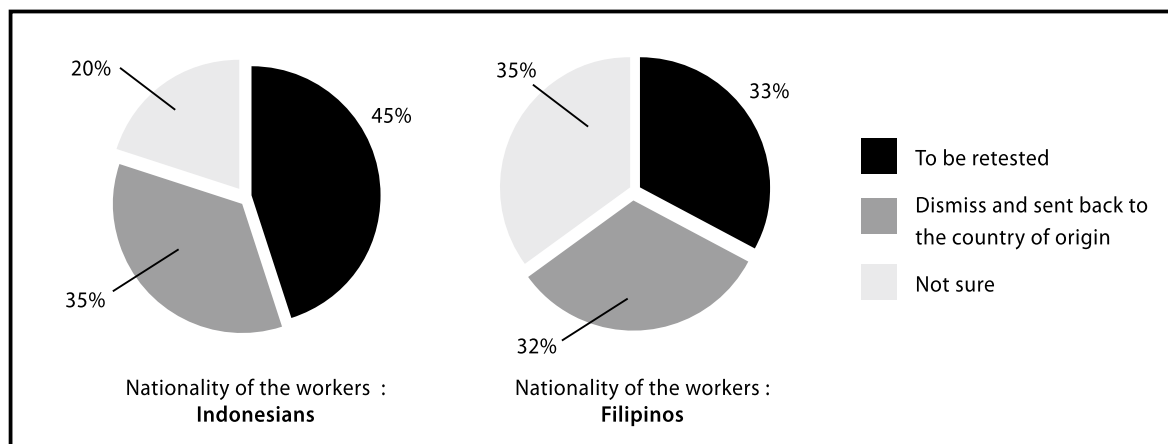
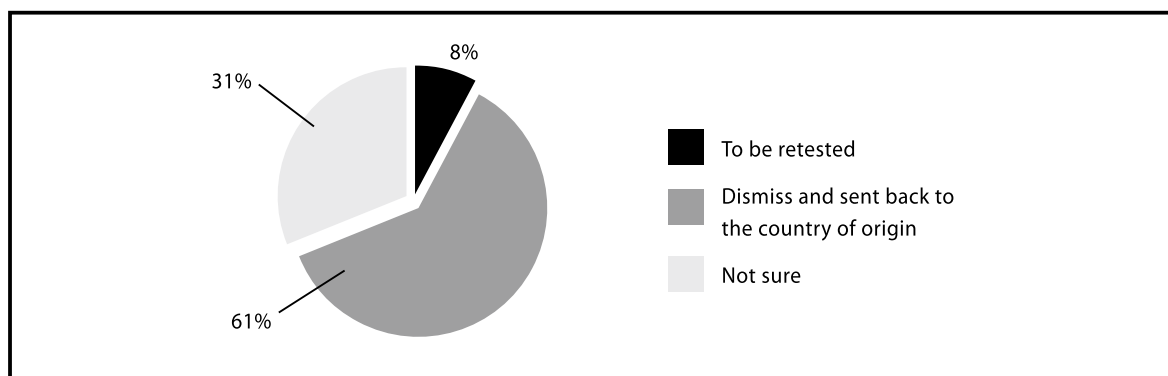
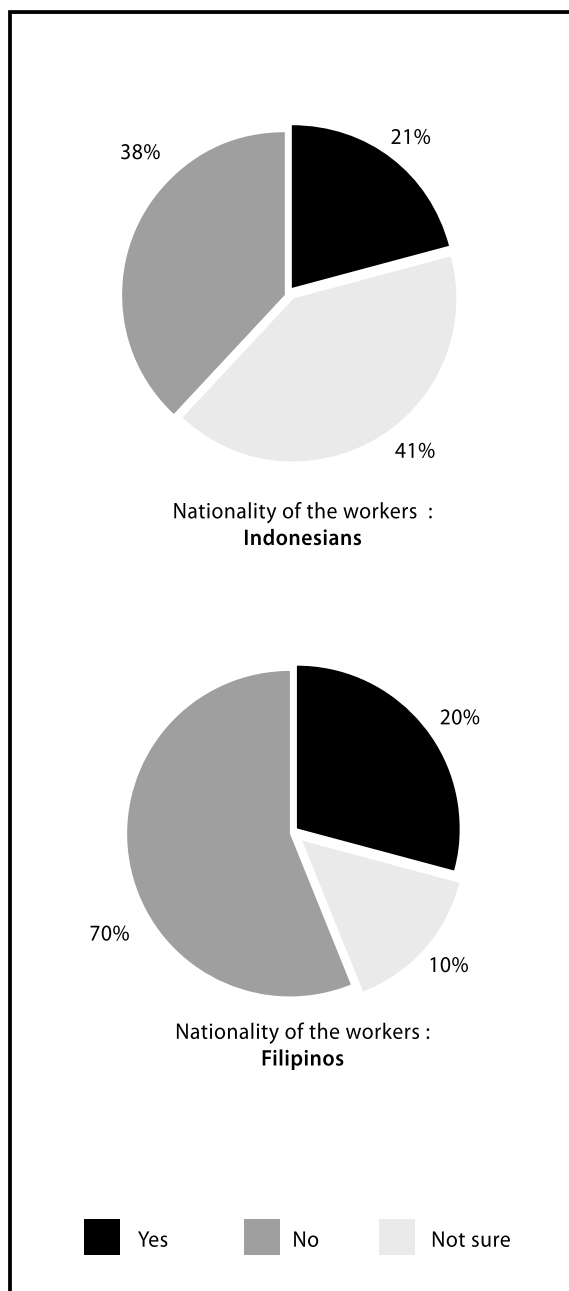


TABLE 4B (ANSWERED BY THE EMPLOYERS) In case the helper fails the testing, what will happen to her?



In Hong Kong, there are a number of non-government organizations (NGOs) helping those workers who failed the test. The help includes asking the foreign domestic workers to be retested and if the test result comes up differently, helping the worker to seek compensation from the employer, and giving references about where to go for treatment for those workers who have been confirmed as having health problems. Other types of services and assistance include paralegal help, counseling, support groups and follow-ups. On the other hand, surprisingly, only about 20% of the migrant domestic helpers knew about the existence of these services (see Table 5).

TABLE 5 (ANSWERED BY THE WORKERS) ARE THERE ANY NGOS HELPING THOSE WORKER WHO FAIL THE TEST?



During the interview with the NGO workers, they mentioned that the employers have the right to send those unfit workers back to their home countries immediately without any compensation³. Those who were sent back experience various sorts of unpleasant economic, emotional, psychological and social consequences.

The NGO workers recommended that the migrant workers should have the rights to see the test results and seek a second opinion. Some also suggested that 'a formal counseling from consultant should give to them before and after tested', 'they should have rights to ask for same nationality consultants', 'as different nationalities of migrant workers, it is very difficult to understand the results by using Chinese or English. The migrant workers should have rights to listen or read by their own languages', 'The Hong Kong government does not require the helper to undergo HIV test or pregnancy test. The helper should refuse if they are required to undergo tests which are not related to their ability to perform their work'.

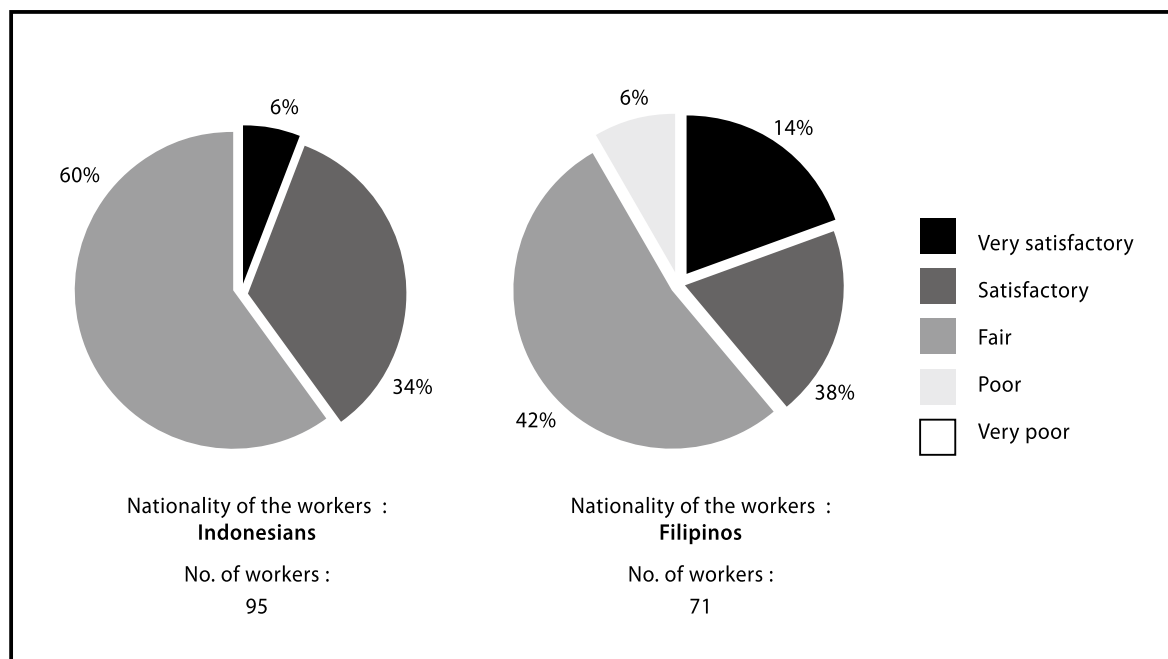
The integrated results from the additional explanations given by the workers in the survey, the focus group discussions with the workers and interview of NGO workers and employers showed that most of the employers did not require the workers they were employing to undergo another health screening test for renewal of contract while about half of the workers who had been working in Hong Kong were required to be retested for getting a contract from another employer.

During the visit to the employment agencies, one agency informed us that the standard package for employing a new migrant worker includes a health testing, regardless of whether they had been working in Hong Kong or not. The other agency informed us that health testing is not a mandatory item for hiring a domestic helper. It is really up to the employer whether he/she wants the helper to be tested.

In another aspect, during our visit to the health testing clinics, we found that most of the clients of the clinics were local people. The staff of the clinics handled both local people and foreign domestic workers in similar ways. 'Several people were inside the room, including 3 medical staff and several local Chinese patients. They speak Cantonese. When it's my turn, the doctor asked me simple question, took my blood. There was no explanation', said one of the migrant domestic helper who volunteered to take a health check up at one of the clinics. No obvious discrimination was observed, yet, very few considerations to the special/cultural needs of the foreign domestic workers were in place. For example, only one of the staff in one clinic was able to speak some simple Indonesian.

When comparing the health testing service in Hong Kong with that in the workers' own countries, most of the workers considered it fair to satisfactory, with very few of them considered the service in Hong Kong poor (Table 6).

TABLE 6 HOW DID YOU FIND THE HEALTH TESTING SERVICE IN HONG KONG COMPARED WITH THE ONE CONDUCTED IN YOUR OWN COUNTRY?



Only a few of them had made special comments and recommendations. Some of the comments were:

“The check up service was poor in Hong Kong. No result given to me. I have the right to know the result of my testing.” (a Filipino domestic worker interviewed in the street during the survey).

“They didn’t address me by name properly when it was my turn. I don’t like it. They should address me Miss Ami... Medical staff should be more friendly to us” (Ami, a 27 years old Indonesian domestic worker who participated in the FGI in an NGO office).

“The medical staff should call my name” (a 40 years old Indonesian domestic worker who participated in the FGI in Victoria Park).

“The medical terms cannot be easily understood. I want to see the report of my health check up” (Amel, a 40 years old Indonesian domestic worker who participated in the FGI in an NGO office).

“Some of them were nice, friendly but the doctor was rude. The doctor doesn’t like me because I am a domestic helper, have dark skin” (a 30 years old Indonesian domestic worker who participated in the FGI in Victoria Park).

“Some employers are bad. Send back to the Philippines, very stupid. Don’t consider the employees. Employers should be considerate...Simple diseases, they must be considerate. Don’t send back to the Philippines; help her to cure or see the doctor (she sounded very angry).” (a Filipino

domestic worker who participated in the FGI on a Sunday on the ground floor of Hong Kong Bank in Central District, a place open to the public and where a lot of Filipinos gather on Sundays).

“It will be helpful if some leaflets are in Indonesian language” (a 30 years old Indonesian domestic worker who participated in the FGI in Victoria Park).

“The procedure was very simple. There was no explanation. I would appreciate if more information about the medical test and the items involved are given.”

(Nur, a 27 years old Indonesian volunteer whom we brought to a testing clinic for a test)

“The service is poor in Hong Kong. I was discriminated as a Filipino domestic helper. I was treated differently from the local by the medical staff. I was treated like a servant. The nurse was no good and her attitude was bad. The nurse was yelling at me.”

(a 40 year old Filipino participant at Hong Kong Bank)

“There’s no fair treatment to overseas workers as we are treated like maids. There is racial discrimination.”

(a Filipino interviewed at Hong Kong Bank)

“The medical service is certainly poor in Hong Kong. Once, I had pain in my breasts. The doctors couldn’t discover anything. When I returned to the Philippines, I got an operation to get the lump removed.”

(a young Filipino interviewed at Hong Kong Bank)

SUGGESTIONS AND RECOMMENDATIONS

1. Ratify the United Nations Convention on Migrants Rights
2. Specifically address the health rights of migrant workers through bilateral agreements and MoUs negotiated between origin and destination countries, to include migrant workers' rights with regards to health testing, access to treatment and inclusion under insurance policies.
3. Proper counselling that considers gender and cultural differences should be given to migrant workers who are tested. Counselling should be preferably provided by a person of the same ethnicity of the migrant worker, as some migrant workers may not understand the Chinese or English, and thus will not understand what is being tested, or what the results of the test are.
4. Informed consent should be obtained from the migrant workers. Migrant workers are entitled to know the content and items of the health test beforehand, and can refuse testing items unrelated to their work (e.g. HIV or pregnancy test).
5. Migrant workers should be allowed to read or receive a copy of the health test report. Those who have failed the test should be allowed to be retested, or seek other medical opinion and have access to appropriate health services and referrals.
6. Eliminate the discriminatory practice of employers who use HIV status as an exclusionary condition for employment of specific groups or types of work, namely for foreign domestic workers, by monitoring private employment agencies and health clinics and ensuring that they do not conduct mandatory HIV testing on migrant workers
7. Migrants who are HIV-positive are as productive as other workers for many years before they become ill with AIDS-related symptoms. They should be given the opportunities to continue working, and should not be stigmatized and marginalized because of their HIV status.
8. The authorities should publish and distribute general information on health and hygiene, and contact information of NGOs, to the migrant workers in the language they can understand.

CASES OF MIGRANT WORKERS FACING DISCRIMINATION

1. A Filipino domestic helper was unable to get her own medical report on her HIV status after being dismissed by her employer. She was sacked a month after arriving late in 2006. Even though she had been certified medically fit by authorities in Manila, the employment agency in Hong Kong required her to have a check-up. She was told she had failed the health check up but was not told why. She had another check-up, which she also failed. Only when she was sacked was she told the truth-she had tested positive for HIV. She told the staff of the St. John's Cathedral HIV Education Centre that she could not understand how she could have been infected. The Centre tried to help her get the medical report, but the clinic said she was not entitled to a copy.
2. Marie Fe was diagnosed with Tuberculosis after working for five years with her employer. As soon as her employers learned about the result of her medical examination, they did not allow her to go back to their flat anymore. Marie Fe stayed in our shelter for about 2 weeks while taking outpatient medication at the Wanchai health centre. It was a good thing her employers gave her severance pay. Before she went home she got a referral from the Hong Kong health department to continue her medication in a lung hospital in the Philippines.
3. We had a case of one Filipina whose contract was also terminated by her employer after getting the results of her medical examination just after she arrived in HK. It appeared that she was Hepatitis B positive despite her fit to work medical certificate from the Philippines.
4. Ella was operated on her rectum. Because of this her employers terminated the contract although they gave one month to rest with pay. Finally, Ella decided to go home so she can recuperate properly in the Philippines.

Sources of information: Abra Tinguian Ilocano Society and St. John's Cathedral HIV Education Centre

APPENDIX



The St. John's Cathedral HIV Education Centre is a member organization of CARAM Asia (Coordination of Action Research on AIDS and Mobility Asia).

The HIV Education Centre of St. John's Cathedral (Anglican Church) was the first faith-based institution to undertake the AIDS ministry in Hong Kong. The Centre was established in 1995, with the goals of raising AIDS awareness amongst the general public, and of helping create an AIDS free society for our generation. Our services are offered free of charge and are available to anyone regardless of religion, sexual orientation or nationality.

The Centre's main thrust in recent years has been towards helping prevent HIV/AIDS at the grassroots level and to educate local women, new arrivals from Mainland China, school youth, Asian migrant workers and the church community about their reproductive rights. Through these projects, a number of programmes have been developed amongst a section of the population whose needs have hitherto been unmet by activities of other governmental and non-governmental organizations.

At the international level, the Centre combines the energies and resources with many international women's groups, faith-based organizations and UN agencies to aggressively fight the AIDS pandemic.

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CARAM Asia (Coordination of Action Research on AIDS and Mobility Asia)

an open and dynamic regional network was set up in 1997 to address special interventions for mobile populations at all stages of migration to reduce their vulnerabilities to HIV and improve health outcomes. Its overall objective is to empower migrants, their families and communities throughout the migration process and build capacities of CBOs/NGOs through utilizing Participatory Action Research to ensure inclusion of migrant voices and perspectives on HIV vulnerabilities, migrant health status and recommend potential policy prescriptions for effective national and regional advocacy.

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REFERENCES

1. Since the outbreak of SARS in 2003, everyone who comes into Hong Kong has to have their body temperature measured at the check points on the borders upon arrival, regardless of whether they are Hong Kong residents, visitors or migrant workers. Those who are detected to have fever are requested to have further health check/observations by government health personnel. In 2003 and 2004, everyone who came into Hong Kong also needed to present a filled health questionnaire to the health personnel on the borders and those who are suspected as carriers of infective respiratory diseases are requested to have further health check/observations by government health personnel. Once passed these tests on the borders, no one is requested to provide further health/medical documents to Hong Kong SAR government during their period of stay in Hong Kong.
2. In Hong Kong, some packages offered by the employment agencies allow the employer change for a new foreign domestic worker within certain a period of time without additional service charges if the employer can prove the worker's performance is unsatisfactory.
3. According to the law of Hong Kong, only a medical practitioner can declare a person as permanently unfit to work and the requirement of such as a declaration is that the person's working ability is permanently impaired. If a medical practitioner considers a person as temporary unfit to work, s/he can only grant the person with sick leave, and the employer cannot terminate an employee's employment when s/he is on sick leave. Employers also cannot terminate a pregnant employee who are entitled to maternity protection. Yet the law of Hong Kong allows the employer to terminate an employee's employment immediately with a compensation of one month salary (and air-ticket fare for a foreign domestic worker) if the worker is not on sick leave or under other employment protection conditions.

