



The New Conditions of Stay or “Two-Week Rule”

The New Condition of Stay (NCS) or the Two-week Rule was a policy imposed by the HKSAR Government in April 1987. Since the implementation of the Rule, local groups have been active building coalitions; trying to establish dialogue with the HKSAR officials; writing press releases, creating signature campaigns and organizing protests; documenting cases of abuse; and raising the issue with members of UN Committees, in order to call for the abolishment of the Rule. Despite the large number of MDWs who face abuse and exploitation as a result of this policy, the HKSAR Government insists that it is necessary, flexible and fair. The only change that has been made to the Two Week-Rule in the last decade is to extend the harsh conditions of the Rule to all migrant workers who are not considered to be “professionals” by the HKSAR Government.

The following information provides an overview of activities undertaken by local migrant groups in Hong Kong since the imposition of the Rule to address their concerns about the discriminatory effect of the rule and the need to protect their rights as humans and workers in Hong Kong.



From then.....

16 April 1987

The New Conditions of Stay were announced by the Secretary of Security outlining the policy to be implemented by the Immigration Department. The NCS included a provision requiring MDW to leave HKSAR in two weeks after termination or at the end of their visa, whichever is earlier (commonly referred to as the “Two-week Rule”).

- *The announcement was made on the day before Good Friday (a public Holiday in HK) and the Rule came into effect on Tuesday of the following week – a day after Easter Monday (also a public holiday in HK). During the time between the announcement of the NCS and its implementation, there was no consultation with MDWs in order for them to comment on the new conditions or raise objections.*

17 April 1987

The United Filipinos in Hong Kong (UNIFIL), a non-government organisation for migrant workers in Hong Kong, submitted a letter to the Secretary of Security, Mr. D.G. Jeaffreson noting the following:

- *That the allegations of “job-hopping”, “moonlighting”, and the aims of the policy to “protect the local labour force” were unjustified;*
- *That under the rule, MDWs would not be able to terminate their contracts for fear of being forced to leave without being able to change employment even in cases of abuse;*
- *That Employment agency would greatly benefit from the high turnover in workers under the Rule.*

21 April 1987

UNIFIL and MFMW, with the support of legal counsel Melville Boase and Co. submitted a letter to the Attorney General of HKSAR, requesting a printed authoritative version of the new rule. They questioned whether the rule was constitutional as it had never been debated in the Legislative Council. They also raised concern about the legality of the policy, given the fact that the power to vary and determine limits of stay is vested only in the Governor under the Immigration Ordinance Cap 115 – s.11(6) and this power was being transferred to employers through the Rule.

The Government of HK SAR failed to respond to the challenge by the migrant workers organisation.

27 April 1987

MFMW, Boase & Co, Dean of St. John's Cathedral and migrant advocates attended a meeting with the Secretary of Security to highlight their concerns about the NCS. MFMW with Bahay Natin Crisis Intervention Centre made a written submission to the Secretary for Security challenging the justifications for the implementation of the rule. AFDE, UNIFIL-HK, JOU-HK and FOWG provided cases of employment abuse to show the already disadvantaged position of MDWs and counter the Government's insistence about the necessity of the Rule.

11 May 1987

A written complaint was submitted by Melville Boase & Co. on behalf of the MFMW and UNIFIL-HK to the Attorney General concerning the lack of response from the Government. It pointed out that the only party benefiting from the new rule were employment agencies who work with HK employers who had in fact lobbied for the imposition of the rule.

18 May 1987

The first written response was received from the HKSAR Government addressing the issues raised by groups and individuals condemning the rule. It outlined the Government's stance and its general opinion that the policy was non-discriminatory because it permitted the Director of Immigration to exercise the power to allow visa extensions beyond two weeks if there are valid grounds

The government of HK SAR failed to respond to the submission made by the group.

The HKSAR Secretary of Security iterated that "a law is a law and once it is in place it cannot be changed." He informed the group that the cases would be received as input but that "they would not change anything."

Aug 1995

UNIFIL-HK made a submission to the UN Committee on CEDAW at Hong Kong University. The CEDAW Committee noted in their report, that despite the fact that the work relationship between MDWs and their employers is governed by a standard employment contract, including a provision for minimum wage, MDW are still exposed to abuse and recurring violence in the workplace.

19 July 1987

UNFAIR with other migrant workers and human rights groups sent documents and case summaries to the Secretary of Labour and to the Philippine Consulate, continuing to highlight the negative impacts of the Rule. The Legal Aid Department also accepted to take on cases of Filipino domestic workers who had been abused. From 1987 to 1993, there was an increase of violations of MDW's rights.

July 1993

A coalition of organisations, namely the UNIFIL-HK, ADWU, APMMF, AMC, HKCTU and HKTUEC made a written submission to the Legislative Council and met with Hon. Lau Chin-Sek to reiterate their call to the Governor to demand for the improvement of working conditions of FDH.

Nov 1994

UNIFIL-HK made a submission to the Committee for CERD at a roundtable meeting at the Hong Kong University highlighting how the rule was racially discriminatory and disproportionately affected certain nationalities who tended to receive unfavourable treatment from immigration and other government officials. In their report on their visit, the Committee referred to CERD A.9, and recommended that the 2 Week Rule be modified to allow foreign workers to seek new employment in HK when their contracts are terminated. To date the HKSAR Government has yet to recognise this recommendation or take appropriate actions towards amending the Rule.

After all these times, the Government's response was consistent with its earlier comments about the rule and no significant changes took place.

1996 to present

The migrant groups in HK came together in supporting and continuing the effort to call for the abolishment of the rule. MDWs from different countries of origin gathered in solidarity in the formation of a central coordinating body of migrants – Asia Migrant Coordinating Body (AMCB).

Sept 1999

UNIFIL-HK made a submission to the Home Affairs Bureau discussing the discriminatory laws in place and the Two-week Rule as an example. It reported the comments made by the CERD Committee regarding the need for amendment of the rule.

Jan-Feb 2001

Bethune House and other migrant organizations made a submission to the Legislative Council in response to a request for submissions on laws that discriminate against migrants. AMCB met with representatives of the Immigration Department to raise the persistent problems migrant workers face under the Two-week rule. UNIFIL-HK sent additional letters to the Government concerning the effects of the Rule.

April 2002

The Hong Kong based NGO's working with and for MDWs called on APWLD, an NGO with UN ECOSOC status, to support their campaign against the unfair and unjust rule by raising the issue at the 59th Session of the UN Commission on Human Rights. The objective of the campaign is to create awareness of the decade long struggle by MDWs in Hong Kong against the Rule and call for an end to this discrimination.

until now...

Acronyms used:

ADWU	Asian domestic Workers Union
AFDE	Association of Filipino Domestic Employees
AMC	Asia Migrant Centre
AMCB	Asia Migrants Co-ordinating Body
APMMF	Asia Pacific Mission for Migrant Filipinos
CEDAW	Committee on the Elimination of all Forms of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CMR	Coalition on Migrants Rights
MDWs	Migrant Domestic Workers
FOWG	Filipinos Overseas Workers Groups
HK	Hong Kong
HKSAR	Hong Kong – Special Administrative Region
HKTUEC	Hong Kong Trade Union Education Centre

HKCTU	Hong Kong Confederation of Trade Unions
JOU-HK	Joint Organisations of Unions – Hong Kong
MFMW	Mission for Filipino Migrant Workers
NCS	New Condition of Stay
UNFAIR	United Filipinos Against Injustice and Racism
UNIFIL-HK	United Filipinos – Hong Kong

Campaign supported by the; Asia Pacific Forum on Women, Law and Development, Asia Pacific Mission for Migrants – Hong Kong, Asosiasi Tenaga Kerja Indonesia di Hong Kong, Associations of Sri Lankans, Far East Overseas Nepalese Association, Friends of Thai, Mission for Filipino Migrant Workers – Hong Kong, Thai Regional Association, United Filipinos – Hong Kong