

ACKNOWLEDGEMENTS

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ABOUT JUSTICE CENTRE HONG KONG

Justice Centre Hong Kong Ltd. is a non-profit human rights organisation working fearlessly to protect the rights of Hong Kong's most vulnerable people: refugees, other people seeking protection, survivors of torture, human trafficking and forced labour.

Launched in 2014, Justice Centre was formerly Hong Kong Refugee Advice Centre (HKRAC), which over seven years helped more than 2,000 refugee men, women and children on the road to a new life.

At our centre, people seeking protection in Hong Kong receive free and independent legal information, and specialised legal and psychosocial assistance.

Justice Centre advocates with and for forced migrants, bringing their voices into the public debate. We campaign for legislative and policy change, conduct research and work with the media and civil society to fight root causes and change systems and minds.

Justice Centre Hong Kong Ltd is a registered charity [IR91/9790]

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CASE STUDY: WHAT DOES FORCED LABOUR LOOK LIKE IN HONG KONG?

INDAH, 29, from Indonesia

Indah is a 29-year-old Indonesian woman who has finished high school and is married with children. She has worked in Hong Kong for seven years with three different employers. She sends approximately 50% of her monthly salary home in remittances. She secured her current job through a Hong Kong employment agency and paid HK\$7,500. This covered placement fees to secure her job, as well as paying for food and lodging in Hong Kong while waiting for her new job and for a visa run to and from Macau. Because of the debt she has incurred to pay for the costs associated with recruitment, she feels she has no choice but to keep working.

While she is paid the minimum allowable wage (HK\$4,110 at the time of the survey), Indah only receives HK\$100 per month as a food allowance (HK\$964 at the time of the survey). She works on average 20 hours a day and her employer regularly wakes her during the night to work. On her legally-entitled rest day per week, she has to work before and after she leaves the house. Her employer takes away her rest time if she does something wrong. Her employer keeps her passport and Indah is unable to access it. Her employer also forces her to work for other people and she is not allowed to practise her religion. She does not feel as if she can quit her job because she believes all work is like this in Hong Kong.



Photo Credit: Robert Godden

How is Indah in forced labour?

Although she has her own room, Indah is forced to live with her employers (*indicator 2.1 strong involuntariness*).

She works 20 hours a day and is woken from her sleep at night regularly to work (*indicator 2.2 strong involuntariness and indicator 2.3 strong involuntariness*).

She also works before and after she leaves the house on her rest day so does not get the full 24 hours' rest that she is legally entitled to (*indicator 2.2 strong involuntariness*).

She is paid substantially less than the current minimum allowable food allowance (*indicator 2.19 medium involuntariness*).

Her passport has been confiscated by her employer (*indicator 2.6 strong menace of penalty*).

Her employer punishes her by taking away her day off, her one time to rest (*indicator 2.11 strong menace of penalty*).

Her employer forces her to work for other people, a breach of her employment contract and therefore a breach of her immigration status in Hong Kong (*indicator 2.20 medium involuntariness*).

Indah is experiencing both strong involuntariness and menace of penalty in her work and life in Hong Kong. She is therefore positive for the dimension work and life under duress. She is therefore in forced labour.

Note: Names have been changed to protect identities. The subject of the photo is not the subject of the case study. The table of indicators in the study, can be found on p. 38 in the main report

WHAT SHOULD THE HONG KONG GOVERNMENT DO?

The government's response to human trafficking, forced labour and exploitation must not focus only on immigration or criminal law; it should be **firmly grounded in human rights**. Based on the findings from this research, Justice Centre Hong Kong makes a series of recommendations to the Hong Kong Government:

Acknowledge the existence of forced labour and human trafficking for the purpose of forced labour in Hong Kong and conduct a **formal review** of existing efforts, policies and legislation and root causes of the problem.

Recognition of the problem is the first step towards solving it, and then amending policies and laws to more comprehensively address human trafficking and forced labour from the prevention, prosecution and protection perspectives.

Better monitor and sanction MDW employment agencies by introducing binding regulations and putting stronger penalties on violating agencies. This should go hand-in-hand with strengthening the mandate and enforcement capacity of the Employment Agencies Administration (EAA) under the Labour Department.

MDWs in Hong Kong often fall prey to unscrupulous employment agencies that may overcharge them for various "costs" associated with recruitment. These costs often exceed legal limits in source countries and Hong Kong.

Abolish the "two-week rule" and allow MDWs to look for another contract without needing to return to their home country first.

This rule requires MDWs to leave Hong Kong within two weeks of their contract ending. This often discourages them from reporting abuse for fear of losing their job and this impacting their immigration status. It also forces MDWs to pay more fees (and incur more debt) for each subsequent contract they secure.

Abolish the "live-in" requirement that makes it mandatory for MDWs to reside in the household of their employers. Allow living out to be a choice for employees and employers.

This requirement increases the likelihood of conditions that are disadvantageous and potentially exploitative to the MDW, such as long working hours, being on call, curtailing of privacy and the development of multiple forms of dependency on the employer.

Improve the living and working conditions for MDWs by creating clear guidelines and enforcement mechanisms on working hours, appropriate accommodation, reasonable privacy and sufficient daily food requirements in the Standard Employment Contract (SEC). Ensure that, like other workers, MDWs can enjoy decent work.

The SEC, submitted and reviewed only at the time of hiring without follow-up, does not give precise guidelines on working and living conditions. There are no laws on maximum working hours in Hong Kong, and MDWs have inadequate protection against poor working conditions and abusive situations.

For a full list of Justice Centre's 20 recommendations please see p. 70 of the full report at: www.justicecentre.org.hk/comingclean

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PROTECTING FORCED MIGRANTS' RIGHTS



COMING CLEAN AN OVERVIEW

The prevalence of forced labour and human trafficking for the purpose of forced labour amongst migrant domestic workers in Hong Kong

March 2016

Photo Credit: Xyza Cruz Bacani

WHAT IS THIS STUDY ABOUT?

This overview presents the key findings from a report based on a year-long primary research project to estimate the prevalence of forced labour and human trafficking for the purpose of forced labour amongst migrant domestic workers (MDWs) in Hong Kong.

This study is the first of its kind to provide statistically significant quantitative evidence of the scale of labour exploitation amongst MDWs in Hong Kong.

The research consisted of a closed-ended 114-question survey followed by qualitative focus groups with MDWs to validate the findings and explore key issues in more detail.

For the survey, Justice Centre commissioned ORC International, a leading market research and insights company, (insert comma) to conduct a 114 closed-ended questionnaire with over 1,000 MDWs from eight countries of origin across the HKSAR territory. All of the MDW respondents were working as domestic workers at the time of the survey.

Globally, according to the International Labor Organization, there are 21 million people in “modern slavery” around the world; 14.2 million are victims of forced labour exploitation in economic activities, including domestic work.

The survey examined MDWs’ experiences in both their home country and Hong Kong in relation to: recruitment practices, recruitment debt, salaries, working hours, food, working and living conditions, treatment by their employer and other issues.

These responses were then analysed against the International Labor Organization’s (ILO) forced labour indicators, adapted by Justice Centre

Countries of origin of the MDW respondents:



researchers to the Hong Kong context and based on operational guidelines contained in the 2012 ILO publication *Hard to See, Harder to Count*.

Key results from the survey were then discussed and validated with MDWs through a series of five qualitative focus groups with 46 participants from five countries of origin organised in collaboration with NGOs, trade unions and migrant rights groups.

For the purpose of this study a MDW is considered in forced labour if he or she:

1. Has not been recruited into a job freely
2. Is not doing the job freely and/or
3. Cannot walk away from the job freely

This corresponds with the three stages of employment: recruitment, working life and the ability to leave a job.

WHY HAVE WE DONE THIS RESEARCH?

336K	THERE ARE 336,000 REGISTERED MDWS IN HONG KONG (MOSTLY FROM INDONESIA AND THE PHILIPPINES)
	1 IN 3 HOUSEHOLDS WITH CHILDREN IN HONG KONG EMPLOYS A MDW
	MDWS COMPRISE 4.4% OF THE TOTAL POPULATION AND 10% OF THE WORKING POPULATION IN HONG KONG
	98.5% OF MDWS IN HONG KONG ARE WOMEN

Hong Kong has one of the highest densities of migrant domestic workers in the world, and MDWs play a crucial role in contributing to Hong Kong’s economy and society.

In recent years, a number of high-profile incidents have come to light in Hong Kong involving the serious abuse of some MDWs. The Hong Kong Government often treats these as rare occurrences, but many groups argue that these are be symptomatic of labour exploitation and abuse of MDWs that may be more widespread.

Are recent high-profile cases of abuse and labour exploitation of MDWs examples of “bad apple” employers and recruitment agencies or are they the “tip of the iceberg” of a larger problem?

For years, the Hong Kong Government has often denied that the HKSAR territory is a source, destination or transit area for human trafficking or forced labour - despite several concerns raised by international human rights bodies.

As a result, **there are inadequate laws and policies** in Hong Kong to combat human trafficking in all its forms, including for the purpose of forced labour. There is not even legislation to prohibit forced labour as a standalone offence.

For Justice Centre, the objective of this research is clear; without robust evidence about the scale of forced labour in Hong Kong, it is difficult to garner the political will required for concerted action.

Migrant domestic workers are uniquely vulnerable to forced labour because the nature of their occupation can blur work-life boundaries and isolate them behind closed doors. They are often overworked and undervalued.

HKSAR policies specific to migrant domestic workers like the “two-week rule” (which requires a MDW to leave Hong Kong within two weeks of a contract ending) or the “live-in” requirement (which require MDWs to live in the households of their employer) are part of the problem.

It is Justice Centre’s hope that the findings from this research will drive the conversation forward on these important challenges and build the case for much-needed policy and legislative reforms.

The Hong Kong Government must ensure that MDWs enjoy conditions of decent work in their employment and do not fall prey to forced labour and human trafficking for the purpose of forced labour.

Hong Kong must come clean; the government can no longer afford to simply sweep these problems under the carpet.

WHAT DID THIS STUDY FIND?

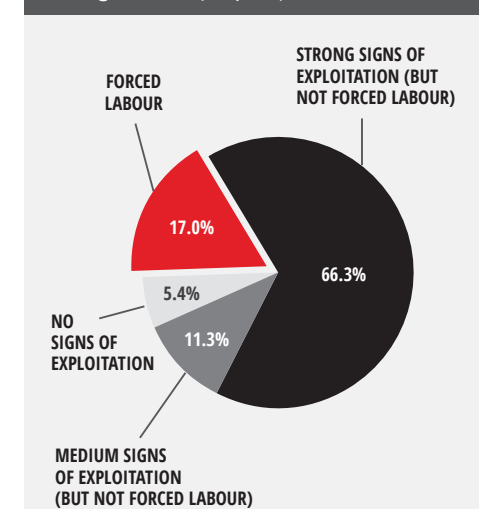
What is forced labour?

Forced labour is an extreme form of labour exploitation. It is defined as “work for which a person has not offered him or herself voluntarily and which is performed under the menace of any penalty.” A person can be working **involuntarily** and under the **menace of penalty** in one or more of the three dimensions of forced labour: **unfree recruitment, work and life under duress** and **impossibility of leaving**.

For this study, someone is **trafficked into forced labour** if they show signs of forced labour in **at least two dimensions** of forced labour, and one of these must be **unfree recruitment**. The respondents counted as trafficked for the purpose of forced labour are therefore a subset of those in forced labour.

Note: To learn more about the methodology of the study, see p.31 of the main report

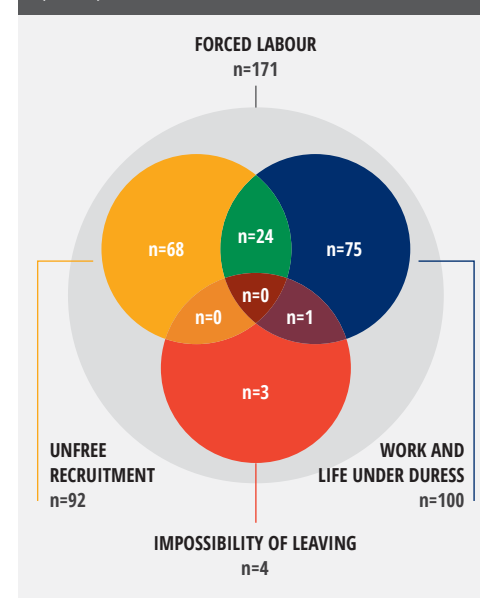
Prevalence of forced labour and exploitation amongst MDWs (n=1,003)



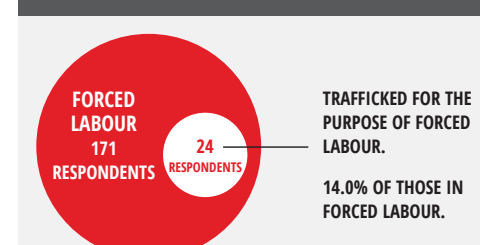
1 in 6 MDWs surveyed display all the indicators required to be counted in forced labour. 171 respondents, or 17.0% of the sample, were counted in forced labour. Extrapolated to the entire population of MDWs (336,600) in Hong Kong, that is potentially over 50,000 MDWs in forced labour in Hong Kong.

1 in 7 MDWs in forced labour in Hong Kong have been trafficked into it. 24 respondents were counted as trafficked for the purpose of forced labour. This represents 14.0% of those in forced labour and 2.4% of the total sample size.

Prevalence of forced labour (by dimension) (n=171)



Prevalence of trafficking for the purpose of forced labour as a subset of forced labour (n=171)



WHAT MAKES SOMEONE VULNERABLE?

MDWS WITH **EXCESSIVE** DEBT ARE **6 TIMES MORE** LIKELY THAN THOSE WITH LOWER DEBT LEVELS TO BE IN FORCED LABOUR

THOSE IN FORCED LABOUR HAD A MEAN MONTHLY REPAYMENT DEBT OF HK\$1,278

THOSE NOT IN FORCED LABOUR HAVE A MEAN MONTHLY REPAYMENT OF DEBT OF HK\$322

MDWS FROM INDONESIA ARE 70.5% MORE LIKELY THAN NON-INDONESIANS TO BE IN A SITUATION OF FORCED LABOUR

MDWS ON THEIR FIRST CONTRACT ARE 2.7 TIMES MORE LIKELY THAN THOSE WITH PREVIOUS WORKING EXPERIENCE IN HONG KONG

MDWS YOUNGER THAN 30 ARE 52.8% MORE LIKELY THAN THOSE OLDER THAN 30

MDWS YOUNGER THAN 24 ARE 15 TIMES MORE LIKELY THAN THOSE OLDER THAN 24

OF THOSE IN FORCED LABOUR 96% HAD ATTAINED A SECONDARY SCHOOL EDUCATION OR HIGHER 28% HAD ATTENDED COLLEGE OR UNIVERSITY AND 4% HAD ATTENDED ONLY ELEMENTARY SCHOOL

MDWS WHO SECURED THEIR CONTRACT OUTSIDE OF HONG KONG ARE 15.4% MORE LIKELY THAN THOSE WHO SECURED THEIR CONTRACT IN HONG KONG

62% HAD SECURED THEIR CONTRACT IN THEIR HOME COUNTRY 44.4% WERE ON THEIR FIRST CONTRACT IN HONG KONG 37.4% HAD WORKED AS A MDW IN OTHER COUNTRIES

Decent work?

The *average* working hours among all the respondents was more than **70 hours a week**

35.1% of respondents had excessive debt burden, that is, debt-to-income ratios equal to or in excess of 30% of their reported annual income

Over one-third of respondents were not given a full 24-hour rest period as per the requirements under Hong Kong law

39.3% of respondents reported that their sleeping arrangements did not give them **any personal space**

57.7% reported **receiving less than the set Minimum Allowable Food Allowance** at the time of the survey

Only **6.1% of employers** were reported to be paying **above the set Minimum Allowable Wage** for MDWs at the time of the survey

31.9% of respondents indicated that they did not **feel free to quit their jobs**

Contrary to what many people think, forced labour and human trafficking don’t always take place in shackles and in the shadows, and don’t always involve physical violence. Despite having a highly regulated migration scheme where MDWs are working legally, the study’s findings show that varying degrees of exploitation – from minor labour offences to forced labour – exist even in a place Hong Kong.

Note: To read the key findings in more detail, find the full report at: www.justicecentre.org.hk/comingclean