The Price of Justice

Migrant domestic workers’ experience of trying to resolve disputes in Hong Kong
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Migrant domestic workers’ experience of trying to resolve labour disputes in Hong Kong
Foreword

This research project was initiated and designed by the Executive Committee of the Federation of Asian Domestic Workers Unions (FADWU). The research was conducted between February and July 2019 by members of the Progress Labor Union of Domestic Worker (PLU), an affiliate of FADWU, and a small team of Indonesian migrant domestic worker volunteers.

Technical and logistical support were provided by the Hong Kong Confederation of Trade Unions (HKCTU)\(^1\), the International Labour Organization (ILO)\(^2\) through the International Programme on Fair Recruitment, and Rights Exposure\(^3\). The Law Faculty at the University of Hong Kong collaborated with FADWU in providing data from their observation project on the Labour Tribunal. Additional support was provided by Oxfam Hong Kong.

The use of participatory methodology in this project recognises the agency of migrant domestic workers to identify and prioritise the human and labour rights abuses they face, and to find solutions to them. It also aims to strengthen the ability of migrant workers and their organisations to represent the needs of their community through first-hand information, knowledge and experience.

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1. The Hong Kong Confederation of Trade Unions was founded in July 1990. It consists of more than 90 affiliates and represents more than 170,000 members. HKCTU is independent from any regime, political party or consortium (http://www.hcktunet.org.hk/cms/index.jsp).

2. The International Labour Organization is a tripartite UN agency bringing together governments, employers and workers of 187 member States, to set labour standards, develop policies and devise programmes promoting decent work for all women and men (http://www.ilo.org).

3. Rights Exposure is an award-winning international human rights consultancy providing solutions for positive social change. Founded in 2014 by a team of human rights and communication professionals, it offers a range of consultancy services to NGOs, GOs, governments, trade unions, communities and social enterprises (https://www.rightsexposure.org).

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About the Organisations

Hong Kong Federation of Asian Domestic Workers Unions (FADWU)

FADWU is the only registered trade union federation of domestic workers in Hong Kong organising local and migrant domestic workers. It is an affiliate of the Hong Kong Confederation of Trade Unions (HKCTU) and International Domestic Workers Federation (IDWF). Its current affiliates include the Hong Kong Domestic Workers General Union (HKDWGU), Thai Migrant Workers Union in Hong Kong (TMWU), Union of Nepalese Domestic Workers in Hong Kong (UNDW), Overseas Domestic Workers Union (ODWU) and Progressive Labor Union of Domestic Workers in Hong Kong (PLU). It currently has 853 paying members via its affiliates.

Address: 19/F, Wing Wong Comm. Bldg., 557-559 Nathan Road, Kowloon, Hong Kong

Tel: +852 2770 8668

Fax: +852 2770 7388

Email: fadwu.hk@gmail.com
Executive Summary

At the end of 2018, there were a total of 386,075 migrant domestic workers employed in Hong Kong.\(^4\) Locally referred to as “foreign domestic helpers” (FDHs), they provide essential household services, contributing US$12.6 billion to Hong Kong’s economy in 2018 or 3.6% of its GDP.\(^5\) The vast majority are Filipinos and Indonesians who total 210,897 and 165,907 respectively.\(^6\)

Over the last six years, FADWU and several other organisations have documented evidence of the widespread exploitation of migrant domestic workers in Hong Kong.\(^7\) The current research aims to better understand why so few migrant domestic workers utilise the existing legal remedies available in Hong Kong to enforce their statutory and contractual rights.

As part of this research, FADWU carried out qualitative, semi-structured interviews with 33 migrant domestic workers (27 from the Philippines and six from Indonesia) who accessed a Labour Department redress mechanism in 2018 or 2019 to try and resolve work-related problems.

Acknowledgements

FADWU would like to thank the following people and organisations for their support in producing this report:

- Faculty of Law, University of Hong Kong
- ILO International Programme on Fair Recruitment (FAIR)
- Oxfam Hong Kong
- Rights Exposure

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\(^7\) See for example: FADWU, Agents of Change? Assessing Hong Kong employment agencies’ compliance with the Code of Practice, 2018; FADWU, Between a Rock and a Hard Place: The charging of illegal agency fees to Filipino domestic workers in the Philippines and Hong Kong, October 2016; Justice Centre, Coming Clean: The prevalence of forced labour and human trafficking for the purpose of forced labour amongst migrant domestic workers in Hong Kong, March 2016; Amnesty International, Exploited for Profit, Failed by Governments: Indonesian migrant domestic workers trafficked to Hong Kong, November 2013; Alliance of Progressive Labor in the Philippines (APL), Alliance of Progressive Labor – Hong Kong (APL-HK) and Progressive Labor Union of Domestic Workers in Hong Kong (PLU), License to Exploit: A Report on Recruitment Practices and Problems Experienced by Filipino Migrant Domestic Workers in Hong Kong, 2013;
Key Information
Relating to the Claims

All 33 migrant domestic workers interviewed for this research filed a claim at the Labour Department and subsequently attended a conciliation meeting to try and reach a settlement with their employer.

The most common claims which interviewees made related to: wages (30), food and travelling allowance (26), return flight ticket (26), denial of sick leave, maternity leave or medical care (8), and statutory weekly rest days and holidays (8).

The monetary claims submitted by the interviewees averaged HK$27,391 (US$3,498). In the 25 cases where the employers attended the conciliation meeting, the average amount they offered was HK$12,459 (US$1,591). On average, employers only offered 51% of the amount claimed by the migrant domestic workers.

Of the 14 interviewees who accepted their employer’s offer at conciliation, seven settled for less than the full amount that they claimed. The most common reasons for accepting were that they urgently needed the money; they could not afford to stay longer in Hong Kong without any guarantee that they would recoup the money; and they needed to work again so that they could provide for their family.

Only one interviewee took their claim on to the Minor Employment Claims Adjudication Board (MECAB), which deals with claims of up to HK$8,000 (US$1,022). This is because the financial costs of staying in Hong Kong to pursue smaller claims will often be greater than the amount ultimately received. This leads many to accept an offer below their claim at conciliation rather than take their case to the MECAB.

Seventeen interviewees took their cases on to the Labour Tribunal, which considers claims above HK$8,000 (US$1,022). The claims submitted averaged HK$34,300 (US$4,380), but the average amount awarded was HK$13,822 (US$1,765). This represents just 40% of what was claimed.

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8 The currency conversion throughout the report is HK$1 = US$0.1277 with rounded figures.

Financial pressure on migrant domestic workers to settle

Using the redress mechanisms in Hong Kong is an expensive and time-consuming process for most migrant domestic workers. Official data shows that in 2018, it took an average of 50 days from the first appointment at the Labour Department until a case reached first hearing in the Labour Tribunal. If a migrant domestic worker wishes to pursue a claim beyond first hearing at the Tribunal and take it to trial, it is likely to take at least twice as long. The average time interviewees in the current research had to wait between filing their case and having it settled at the MECAB/Labour Tribunal was 58 days (12 interviewees).

Migrant domestic workers who take a complaint to the Labour Department are almost certain to lose their jobs and their entitlement to work in Hong Kong. This is because the Two-Week Rule stipulates that a migrant domestic worker must find new employment and process their visa within two weeks of having their contract terminated or otherwise leave Hong Kong. This can rarely be done, as it takes the HKSAR Immigration Department 4-6 weeks to process an application for new employment.

Visas are granted to migrant domestic workers who are using the redress procedures to try and resolve labour disputes, but each visa costs HK$230 (US$29.30) and, crucially, they do not allow the recipient to work. Twenty-three interviewees paid an average HK$400 (US$51) for visas to pursue their claim, averaging around two visa extensions per person.

To take a case to the Labour Tribunal, a claimant must pay a filing fee of HK$20-50 (US$2.56-6.40), depending on the size of the claim, and HK$10 (US$1.30) for serving the defendant with the necessary documents. Other possible expenditure on the case could include: copying and posting costs for documents; costs of translations/certification of translations; obtaining copies of Tribunal documents; or issuing and serving subpoenas.

However, the biggest expenditure for most migrant domestic workers will be the cost of their living expenses (accommodation, food, transport, etc.) during the weeks or months it may take to resolve their case. It is this cost, along with not being able to work, which makes the redress process prohibitively expensive for the majority of migrant domestic workers.

At least 14 interviewees who took part in this research were only able to take their cases because they stayed at shelters/individual’s house where food and accommodation were provided for free or largely subsidised. This allowed them to pursue their claims at minimal expense, particularly if they concluded them at conciliation. This is why the 14 migrant domestic workers who settled at conciliation spent on average just HK$1,139 (US$145) resolving their claim. Those interviewees

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11 Information provided by the HKSAR Immigration Department on 28 May 2018.


13 The approximate costs of these types of items are: certification of translations costs: HK$15 a page, obtaining copies of Tribunal documents: HK$3 a page, issuing and serving a subpoena: HK$25 for each witness. Cited in Justice Without Borders, A Practitioner’s Manual for Migrant Workers: Pursuing Civil Claims in Hong Kong and from Abroad, December 2015, p223.
Concerns around fairness and equality of arms in the procedures

who took their claims to the Labour Tribunal/MECAB spent an average of HK$3,239 (US$414), which is almost three times as much – even though some of these migrant domestic workers were also supported at shelters.

These time and cost pressures explain why many interviewees settled their cases, even though they were dissatisfied with the amount they were offered. Similarly, the Labour Department recorded in 2018 that it handled 1,062 employment claims involving migrant domestic workers. Of these claims, about 764 or 72% were settled through the conciliation service.14

When interviewees were asked what the biggest obstacle was they faced in trying to resolve problems at work and access redress mechanisms, the single most important issue identified was the risk of losing their employment (17 interviewees). The second biggest challenge identified was financial problems/the costs of filing a claim (14 interviewees).

The research confirmed that migrant domestic workers struggle to access and navigate the redress mechanisms by themselves. This is for a variety of reasons, including their unfamiliarity with Hong Kong laws and regulations, a lack of information about the procedures and support to enable them to use them; and an inability to speak Cantonese or English fluently. Although free interpretation can be provided, some interviewees experienced problems accessing interpretation and/or with the quality of the service they received.

In addition, many interviewees were intimidated by their employers and found it hard to challenge them at the conciliation meeting or in court. Rita explained how difficult it was to deal with her employer at the conciliation meeting and how this led her to drop her claim of HK$4,000 (US$511) for unpaid annual leave:

“She was very angry with me. I was shocked at her behaviour because she disagreed and challenged everything I said and refused to give me any more money. She threatened me, saying that she would submit a counterclaim against me because according to her, she had already given me more money than I was entitled to. I was scared and traumatised so I decided to not pursue my claim.”15

15. FADWU interview with Hazel on 5 February 2019.
All 18 of the interviewees who took their claim to the MECAB or Labour Tribunal told FADWU that an organisation (e.g. civil society organisations, trade unions, religious organisations, etc.) or an individual had supported them with their claim and that they could not have taken their case without their help. Hazel, a 40-year-old Filipino interviewee, explained the importance of this assistance:

“For sure no, I would not have been able to take my case to the Labour Tribunal by myself because I don’t exactly know the procedure to file a case and being alone, it is not that easy to fight with your employer. The leader of my church and my agent, who had helped me, also gave me confidence to pursue my case.”

Even when migrant domestic workers were supported in using the complaints procedures, they still faced significant challenges in getting redress. One widespread issue was providing sufficient evidence to prove their case. For example, it is extremely difficult for a migrant domestic worker to provide evidence that they were forced to work on statutory holidays/days off when there is no physical proof and any witnesses to the fact will probably be from the employer’s family and therefore very likely to corroborate the employer’s version of events.

Another issue was the perceived bias of the system towards employers. While officials are supposed to be neutral arbitrators of the dispute, several interviewees did not consider officials at the conciliation meeting or in the Labour Tribunal to be impartial and 27 interviewees believed the conciliation process and other redress mechanisms favoured the employer.

Many of the concerns outlined above are reflected in the case of Baby Jane Allas. She had her contract terminated in January 2019 shortly after being diagnosed with stage three cervical cancer. Her termination letter specifically stated “diagnosed with cervical cancer” as the reason for ending her employment. Once her contract was terminated, Allas lost her access to free healthcare in Hong Kong.17

With the help of her sister and her sister’s employer, Allas filed a claim of HK$84,061 (US$10,735) with the Labour Department for unpaid wages and her other statutory entitlements, including sick leave. Allas described what happened at the conciliation meeting:

“My employer did not show up because she was ill and instead sent two lawyers to represent her. It was so unfair that the Labour Department allowed my employer to send representatives while they told me that I had to come in person. I sacrificed my health to come even though I was scheduled for chemotherapy that day.”

Despite not speaking English well, the Labour Department did not provide Allas with a Tagalog interpreter. The employer’s lawyers made an offer of HK$10,492 (US$1,340), which Allas refused and so the case went to the Labour Tribunal where it was heard in April.

16 FADWU interview with Hazel on 5 February 2019.

At the Tribunal, Alias’s employer increased the offer to HK$30,000 (US$3,831). This was less than 40% of her claim, but the employer’s lawyer and the Tribunal Officer both told her that she “needed to accept” her employer’s offer.18 Although Alias felt that the Tribunal had “failed to award me what my employer owed me”, she found it very difficult and tiring to pursue her case because she was so ill and so she reluctantly accepted the offer. Consequently, Alias received less than half of what she was entitled to under Hong Kong law, despite having written evidence that she was fired because she had cancer.19

The issues raised in this case exemplify many of the problems interviewees identified with the redress system, including: a reliance on others to use the procedures; unequal treatment of the employer and the domestic worker by officials; multiple pressures to settle the claim; and a failure of the system to protect statutory rights.

The Labour Tribunal is described as offering “a quick, informal and inexpensive way of settling monetary disputes between employees and employers” in which parties “are always encouraged to explore settlement as a means of resolving their dispute”.20 However, in practice, migrant domestic workers are frequently coerced into settling for less than they are entitled to by a system, which makes it financially onerous, if not entirely cost ineffective, for them to pursue their claims beyond the conciliation meeting.

The Two-Week Rule and the general prohibition on working while pursuing a claim put migrant domestic workers at an immediate and serious disadvantage. The longer the case continues, the more money they spend on living expenses and lose in terms of forfeited earnings, making it increasingly likely that they will not recoup their losses by pursuing their case. This fact was pointed out to several interviewees by officials at conciliation meetings and the Labour Tribunal.

There are numerous other factors that put migrant domestic workers at a disadvantage vis-a-vis their employer, including: the imbalance of power between the two parties in the negotiating process; migrant domestic workers’ unfamiliarity with procedures and/or court languages; the lack of support they receive in pursuing their

16 FADWU interview with Baby Jane Alias on 3 March 2019.
19 FADWU interview with Baby Jane Alias on 3 March 2019.
claims; and their difficulty in providing sufficient evidence to prove their case.

These multiple challenges were summarised by Lilbeth, a 52-year-old Filipino woman who had her contract terminated after working for the same employer for 14 years:

“I lacked the information needed to file a claim properly. I also didn’t have any support from the Labour Department or Tribunal—they favoured the employer. What’s worse, I could not work while my case was ongoing. This put a lot of pressure on me to give up and settle because I didn’t have money.”\(^{21}\)

This is not to say that the system does not work for any migrant domestic workers. Twelve interviewees were satisfied with the process and outcome of the conciliation service (9) or the MECAB/Labour Tribunal (3). This is primarily because they received the full amount they claimed (9) or close to it (on average 83% of their claim).

The conciliation service worked well for seven interviewees because their employers were generally willing to pay them what they were owed. They consequently only spent an average of just HK$300 (US$38) on resolving their claims and only one of them needed to get a visa extension. However, it should be noted that several of these interviewees were still dependant on others for accommodation, food and help in accessing the redress mechanism.

It should also be stressed that all 33 interviewees, including those who were satisfied with the process and outcome, recognised that it was difficult to make a complaint without losing your right to work in Hong Kong. All but one of the interviewees also believed that it was very difficult to support yourself while pursuing a claim; domestic workers did not know how to properly use the redress procedures; and it is hard to provide the required evidence to prove your case.

While some migrant domestic workers do get what they are entitled to through the existing redress procedures, they are the exception rather than the rule. The great majority of migrant domestic workers whose statutory or contractual rights are violated by their employers do not access the redress mechanisms at all, for fear of losing their job, their accommodation (Hong Kong’s mandatory live-in requirement forces migrant domestic workers to live in their employer’s home) and their right to stay in Hong Kong.

Of those interviewed for this research who used the redress mechanism to try and protect their rights, more than two-thirds were dissatisfied with the process and outcome of both the conciliation service (22/31) and MECAB/Labour Tribunal (8/11). They generally believed that the system was not fair and that the money they were offered/received was not what they were owed and entitled to. Angela spoke for many interviewees when she said that she thought that the Hong Kong government needed to do more to:

“...help us when we don’t get the money and benefits, which are written in our employment contract or part of Hong Kong labour laws but our employers don’t abide by this.”\(^{22}\)

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21 FADWU interview with Lilbeth on 10 March 2019.

22 FADWU interview with Angela on 9 May 2019.
On the basis of the research findings, FADWU makes the following recommendations to the Government of Hong Kong SAR:

- Repeal the Two-Week Rule and ensure that migrant domestic workers have sufficient time to secure a new job after a contract has been terminated and thereby are better able to pursue redress mechanisms.
- Repeal the live-in requirement and allow migrant domestic workers to reach agreement with their employer or potential employer on whether to reside in the employing household. Ensure that those living outside receive an appropriate housing allowance.
- Grant all migrant domestic workers with a pending case in the conciliation service, MECAB, Labour Tribunal or criminal court visa extensions, which allow them to work while their case is being pursued, and waive their visa fees.
- Ensure that migrant domestic workers seeking compensation for human or labour rights abuses have effective access to support measures, including adequate information on redress mechanisms and how to use them; free professional interpretation; and access to shelters for those with no other means of supporting themselves while pursuing their claim.
- Allow all migrant domestic workers with a pending case in the conciliation service, MECAB, Labour Tribunal or criminal court to have access to public health care services at eligible persons’ rates of charges.
- Allow in all instances third parties, including trade unions, NGOs or individuals, to pursue a claim at the conciliation service, MECAB or Labour Tribunal on behalf of a migrant domestic worker.

- Reduce the evidential burden of proof on migrant domestic workers and require employers to demonstrate that they have complied with their statutory requirements.
- Strengthen the capacity of the MECAB and Labour Tribunal so that the amount of time it takes to conclude claims is reduced.
- Facilitate migrant domestic workers to pursue a claim at the conciliation service, MECAB or Labour Tribunal via video link if they return to their country of origin prior to the resolution of their case.
At the end of 2018, there were a total of 386,075 migrant domestic workers employed in Hong Kong.\textsuperscript{23} Locally referred to as “foreign domestic helpers” (FDHs), they provide essential household services, contributing US$12.6 billion to Hong Kong’s economy in 2018 or 3.6% of its GDP.\textsuperscript{24} The vast majority are Filipinos and Indonesians who total 210,897 and 165,907 respectively.\textsuperscript{25}

Over the past four years, the Hong Kong Federation of Asian Domestic Workers Unions (FADWU) has carried out in-depth research documenting a range of problems migrant domestic workers face in the recruitment process and in the workplace.

FADWU’s 2016 report, Between a Rock and a Hard Place: The charging of illegal agency fees to Filipino domestic workers in the Philippines and Hong Kong, found that in the great majority of cases the fees charged to Filipino migrant domestic workers by employment agencies in the Philippines and Hong Kong were far in excess of the legally permitted maximum in the respective territories.

The report also documented exploitative terms and conditions of work with the majority of interviewees stating that; they did not receive a full day’s rest each week (60 out of 65 interviewees); they were not free to leave their employer’s home during their time off (35 out of 66); their working conditions were either bad or extremely bad (38 out of 67); and that they had been threatened or punished by a member of the employer’s household (37 out of 67). In a significant number of cases, the Hong Kong employment agencies were either directly or indirectly complicit in their exploitation. Despite the range of work-related problems, only two interviewees complained to the Hong Kong authorities.\textsuperscript{26}

FADWU’s most recent research report, Agents of Change? (2018), found that 96% (434 out of 452) of interviewees’ employment agencies were not complying with key aspects of the Code of Practice for Employment Agencies and that the majority of interviewees (56% or 253 out of 450) were still paying illegal agency fees. The research confirmed that these were not the activities of a few rogue agencies, as 148 registered Hong Kong employment agencies were identified as not being fully compliant with the Code. Similarly, only 44 out of 347 interviewees (13%) complained to their employment agency regarding any work-related problems, of which a mere 14 (32%) stated that their agency tried to help resolve the problem.\textsuperscript{27}


FADWU, and other organisations that have undertaken substantive research on this issue, have drawn attention to the fact that, despite documented evidence of widespread exploitation of migrant domestic workers, very few attempt to seek justice in Hong Kong. For example, in 2018 less than 0.3% of the total migrant domestic worker population filed an employment claim at the Labour Department.

Therefore, FADWU has undertaken the current research to better understand the reasons why migrant domestic workers are generally not utilising the legal remedies available when they encounter work-related problems in Hong Kong. The research specifically examines the conciliation service, Minor Employment Claims Adjudication Board and Labour Tribunal, how accessible these redress mechanisms are to migrant domestic workers, and how effective they are in resolving disputes and enforcing migrant domestic workers’ statutory and contractual rights.

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29 Information provided by the HKSAR Labour Department on 25 September 2019.
In previous FADWU research reports, interviews were conducted with migrant domestic workers who had work-related problems, irrespective of whether they had accessed redress mechanisms. In the current research, FADWU has carried out qualitative, semi-structured interviews with migrant domestic workers who accessed a Labour Department redress mechanism in 2018 or 2019 to try and resolve a work-related problem so that it could identify whether they are encountering problems in using the mechanisms. A total of 33 interviews were conducted with migrant domestic workers – of whom 27 were from the Philippines and six from Indonesia. These two nationalities were selected because they represent an overwhelming 98% of the migrant domestic worker population in Hong Kong. All but one of the interviewees were women and they were aged between 22 and 56 years.

The qualitative interviews were conducted between February and July 2019, and took place in Hong Kong Island, Kowloon Peninsula, the New Territories, as well as remotely via messaging, especially in cases where the interviewees had returned to their home country. Interviews were facilitated by civil society and religious organisations, the Philippine Consulate and the University of Hong Kong, as well as through social media, personal contacts and referrals.

Interview questions focused on migrant domestic workers’ experience of pursuing a claim through Hong Kong’s labour redress mechanisms, including: the work-related problems they experienced; how they sought to resolve these problems; the difficulties they encountered; and how they assessed the procedures they used (see Appendix I for the full list of interview questions). To protect the identities of the migrant domestic workers who were interviewed, their names have been changed and they are only identified by their age, nationality and gender with the exception of those whose name and case are already in the public domain.

Throughout the report, different numbers of interviewees are given as responding to particular questions. This is due to the fact that not all interviewees were able to answer all the questions, primarily because they could not remember or because the questions were not relevant to their situation.
Interviewees’ experience of using Hong Kong’s redress mechanisms for labour-related issues
Background information on how the redress mechanisms work

The Labour Department is the main governmental body responsible for labour administration in Hong Kong. Its responsibilities include ensuring workers’ health and safety, safeguarding their rights and benefits, and resolving labour disputes with their employer. The Labour Relations Division in the Labour Department is a key point of contact for migrant domestic workers with work-related disputes and claims, as it provides a free conciliation service for employees and employers.

At the conciliation service, a Labour Department conciliation officer acts as a “neutral intermediary” to assist both parties to understand the issues in dispute, the relevant legal requirements and facilitate a mutually acceptable settlement. The conciliation officer cannot compel either party to attend and cannot adjudicate claims. However, if either party fails to attend a meeting or no settlement is reached, the officer can, at the request of the party in attendance, submit a claim to the Minor Employment Claims Adjudication Board (MECAB) or the Labour Tribunal where the dispute can be adjudicated.

There are no restrictions on having legal representation in the conciliation meetings provided that both parties agree to the arrangement.

The MECAB and the Labour Tribunal are both mandated to hear claims arising from disputes on statutory or contractual employment rights, but only if the claimant has already gone to the conciliation service and a settlement has not been reached. Legal representation is not permitted at either the MECAB or the Labour Tribunal, although a party can be represented by a registered trade union or an authorised employers’ association if they have been granted permission by the Board/Tribunal in advance of any hearing.

The Labour Relations Division, MECAB and Labour Tribunal do not handle disputes between migrant domestic workers and their employment agencies. The Employment Agencies Administration (EAA) of the Labour Department is responsible for this, including enforcing Part XII on Employment Agencies of the Employment Ordinance (Cap. 57) and the Employment Agency Regulations (Cap. 57A).

The MECAB and Labour Tribunal provide similar services with the only major difference being that claims in the MECAB cannot exceed HK$8,000 (US$1,022) per claimant or involve more than 10 claimants in each case, while claims in the Labour Tribunal must be for more than HK$8,000 (US$1,022) or have more than 10 claimants.

The most common claims lodged in the Labour Tribunal by employees, including migrant domestic workers, include: unpaid wages; one month’s wages in lieu of notice of termination of an employment contract; pay for statutory holidays, annual leave or rest days; and long service payment.

To file a claim in the Labour Tribunal, an appointment must be made with a Tribunal officer either by phone or online. At the appointment, the Tribunal officer will interview the claimant to obtain a statement, supporting documents and any other relevant information.

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32 Information provided by the HKSAR Labour Department on 29 September 2019.
information, and will then assist the claimant to fill out the required forms (this must be done in either English or Chinese). Filing a claim costs between HK$20-50 (US$2.56-6.40) depending on the amount they claimed for.

The Tribunal officer will then investigate the claim, including by interviewing the defendant to obtain a statement and any supporting evidence. Once this is done, a summary of the relevant allegations from both the claimant and the defendant is submitted directly to the presiding officer in advance of the first hearing.38

Both parties must attend the first hearing (also called the “call-over hearing”) and any subsequent hearings in person. At the first hearing, the presiding officer will check that both parties have filed sufficient documentary evidence to support their case, explain the issues and the relevant laws and explore the possibility of settlement. The presiding officer may adjourn the case to another date for mention (a short hearing to assess whether the parties are ready for trial and/or give directions for the furtherance of the case) or trial.39

During the trial, the presiding officer will generally:

“explain the procedures to be adopted during trial, [...] hear each party’s case; allow the claimant and the defendant to question each other and their witnesses; order the parties to provide further evidence or to call further witnesses and adjourn the hearing to a later date if necessary; deliver his judgment at the end of the hearing or fix a date to deliver his judgment.”40

The conciliation service
In 2018, the Labour Relations Division of the Labour Department handled a total of 13,691 claims, of which 1,062 involved migrant domestic workers.41 Of these claims, 764 were settled through the conciliation service. Similarly, as of the end of August 2019, there were 9,183 claims, of which 719 involved migrant domestic workers and 542 of these claims were settled at conciliation.42

All 33 migrant domestic workers interviewed for this research filed a claim at the Labour Department and attended the conciliation meeting. In eight cases, the employer did not attend.

The three most common claims made by migrant domestic workers were in relation to wages (30 out of 33 interviewees), food and travelling allowance (26 out of 33), and flight ticket (26 out of 33). Other common claims included: denial of sickness allowance, maternity leave or medical treatment (8 out of 33) and statutory weekly rest day and holidays – not given and/or not paid for (8 out of 33).

Migrant domestic workers’ entitlements in respect to these issues are set out in Hong Kong legislation and in the Standard Employment Contract for migrant domestic workers (see Appendix 2). For example, the Standard Employment Contract, which is the legally required contract for all migrant domestic workers in Hong Kong, states that if employers terminate the contract without one month’s notice, they must pay the worker one month’s wages in lieu of notice (paragraph 10). In addition, upon

41 Claims filed by migrant domestic workers against their employers and those filed by employers against their migrant domestic workers.
42 Information provided by the HKSAR Labour Department on 25 September 2019.
<table>
<thead>
<tr>
<th>Claim item</th>
<th>Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly wages</td>
<td>HK$4,520</td>
</tr>
<tr>
<td>One month’s wages in lieu of notice</td>
<td>HK$4,520</td>
</tr>
<tr>
<td>Food allowance in lieu of the provision of meals</td>
<td>HK$1,075 per month</td>
</tr>
<tr>
<td>Sickness allowance</td>
<td>Average daily wage x 4/5</td>
</tr>
<tr>
<td>Weekly rest day (continuous period of not less than 24 hours)</td>
<td>1 day for every period of seven days</td>
</tr>
<tr>
<td>Holiday</td>
<td>12 statutory holidays with pay</td>
</tr>
<tr>
<td>Annual leave</td>
<td>7 days with pay</td>
</tr>
<tr>
<td>Maternity leave</td>
<td>10 weeks with pay</td>
</tr>
<tr>
<td>Medical treatment</td>
<td>Cost depending on the treatment</td>
</tr>
<tr>
<td>Long service</td>
<td>(Last month wages x 2/3) x reckonable years of service</td>
</tr>
<tr>
<td>Return flight ticket</td>
<td>HK$1,500-3,000</td>
</tr>
<tr>
<td>Food and travelling allowance for travel back home</td>
<td>HK$100 per day</td>
</tr>
</tbody>
</table>

Figure 1: Interviewees’ range of items of payment in a claim
termination or completion of a contract, employers are legally obliged to provide “free return passage to his/her place of origin” and “a daily food and travelling allowance of HK$100 [US$13] per day” (paragraph 7).55

Consequently, if migrant domestic workers are aware of their full statutory rights and/or can access assistance from trade unions, civil society organisations or their consulate, they should then be able to prepare an itemised list of the outstanding wages and other entitlements owed to them by their employer. Figure 1 lists the principal types of claim made by the migrant domestic workers who were interviewed in this research and the corresponding financial entitlement under Hong Kong law.

The monetary claims submitted by the interviewees ranged from HK$4,000 to HK$122,520 (US$11 to US$15,646) and averaged HK$27,391 [US$3,498].56 In the 26 cases where the employers attended the conciliation meeting, the average amount they offered was HK$12,459 (US$1,591), including four employers who did not offer any money. On average, employers only offered 51% of the amount claimed by the migrant domestic workers.

Of the 14 interviewees who accepted their employer’s offer at conciliation, seven settled for less than the full amount they claimed. The most common reasons for accepting were that: they urgently needed the money; they could not afford to stay longer in Hong Kong without any guarantee that they would recoup the money; and they needed to work again so that they could provide for their family. Hong Kong regulations, such as the Two-Week Rule, also impacts on the urgency of migrant domestic workers to settle their claim as soon as possible (see section 4).

A case in point is Flora, a 46-year-old Filipino woman, who had a claim of HK$25,483 (US$3,254) against her employer. She claimed for unpaid wages, one month’s wages in lieu of notice, food allowance, flight ticket, and food and travelling allowance.57 At the conciliation meeting, her employer offered her just HK$3,000 (US$383), 12% of her claim. Although Flora was dissatisfied with the process and outcome, she nonetheless accepted the offer:

“If I refuse the offer, then I would have to remain in Hong Kong. It would be a long process and I don’t think I would get the money from my employer. I didn’t want to stay any longer also because I have to work for my family especially for my children’s education.”

Dewi, a 40-year-old woman from Indonesia, had a similar experience. Her employer terminated her contract in April 2019 and left her out in the streets without any money. A friend took her to a religious organisation, which helped her itemise what was owed to her, file a case at the Labour Department and accompanied her to the conciliation meeting in May. Her claim included compensation for unpaid wages, one month’s wages in lieu of notice, annual leave, flight ticket, and food and travelling allowance. Dewi explained her predicament:

“My claim was for HK$11,185 [US$1,428]. At first my employer accused me of lying and refused to pay. But after further negotiations, she agreed to give me HK$5,700 [US$728]. I accepted because if I didn’t, I would have to waste more time in Hong Kong, which means no income to support my family.”58

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55 For migrant domestic workers’ other legal entitlements (e.g. payment in lieu of any untaken annual or maternity leave, weekly rest days or holidays, long service payments, etc.), see: HKSAR Labour Department, Practical Guide for Employment of Foreign Domestic Helpers, January 2019, p26, available at: https://www.fdl.labour.gov.hk/res/pdf/ForeignDomesticEnglish.pdf, accessed 26 June 2019.

56 The currency conversion throughout the report is HK$1 = US$0.1277 with rounded figures.

57 Wages HK$8,996; one month’s wages in lieu of notice HK$4,410; food allowance (9 months) HK$8,477; flight ticket HK$2,500; and food and travelling allowance HK$1,100.

58 FADWU interview with Flora on 28 April 2019.

59 Wages HK$4,140; one month’s wages in lieu of notice HK$4,620; annual leave HK$150; flight ticket HK$2,175; and food and travelling allowance HK$200.

60 FADWU interview with Dewi on 10 May 2019.
Another interviewee, Ratna, a 22-year-old Indonesian woman, was underpaid for five out of the six months she worked for her employer and was made to do intensive daily gardening work, which was not part of her contract. She was only given half a day off per week and if it rained, her employer told her not to work but deducted this from her salary. Ratna sought help at a civil society organisation in May 2019 and they assisted her to report her employer to the Labour Department for contractual discrepancy and underpayment:

“My claim of HK$87,045 [US$11,116] was for unpaid wages, rest days, one month’s wages in lieu of notice, annual leave, flight ticket, and food and travelling allowance. At the conciliation meeting, my employer only offered me HK$55,000 [US$7,024]. I was not happy with this amount because it was not what I was owed. But I had to accept it because I wanted to solve this problem as soon as possible so that I could start working again.”

Angela, a 43-year-old Filipino woman, told her employer in February 2018 that she was pregnant. It is illegal to dismiss workers, including migrant domestic workers, simply because they are pregnant, but Angela’s employer forced her to write and sign a resignation letter. Angela later found a civil society organisation to help her file a claim of HK$16,000 (US$2,043) for unpaid wages, one month’s wages in lieu of notice and pregnancy discrimination. Her employer did not show up at the conciliation meeting and at the time of writing, her case was still pending at the Labour Tribunal.

PathFinders is a civil society organisation that provides welfare services and health care to children and their mothers in Hong Kong, and helps them access justice. It notes that firing or pressuring pregnant migrant domestic workers to resign is a significant problem with serious consequences:

“Once a pregnant women’s contract has been terminated, she faces unfathomable obstacles and hardships including becoming homeless. Within two weeks she loses access to all public welfare support and healthcare for vital prenatal screening. For those unable to return home, their children are typically undocumented, stateless and lack access to critical and essential services including medical care and immunisations, helter and education.”

The Minor Employment Claims Adjudication Board (MECAB)

In 2018, there were a total of 607 claimants at the MECAB, of which 53 were migrant domestic workers. As of the end of August 2019, 33 out of 380 claimants were migrant domestic workers.

Only one out of the 18 interviewees who took their claim beyond the conciliation process used the MECAB. This is unsurprising given that the maximum claim that can be made at the MECAB is HK$8,000 (US$1,022) and the financial costs of staying in Hong Kong to pursue such a claim will often be greater than the amount ultimately received. For many migrant domestic workers pursuing smaller claims, it will make more sense to accept an offer below their claim at conciliation rather than take their case to the MECAB.

61 Wages and rest days HK$79,029; one month’s wages in lieu of notice HK$4,410; annual leave HK$506; flight ticket HK$3,000; and food and travelling allowance HK$100.
62 FADWU interview with Ratna on 7 June 2019.
64 FADWU interview with Angela on 9 May 2019.
65 FADWU interview with Catherine Guint (CEO of PathFinders) on 24 July 2019.
66 Information provided by the HKSAR Labour Department on 26 September 2019.
The only interviewee to use the MECAB was Dolores, a 33-year-old Filipino woman, who had her contract terminated by her employer in April 2019. She filed a claim for HK$7,308 (US$933) for unpaid wages, one month’s wages in lieu of notice, flight ticket, food and travelling allowance, and compensation for working on five rest days.\(^67\) Dolores stated that on her rest days she had to “wake up at 6:30am to prepare breakfast for the whole family. I then had to come back by 8:30pm and then do more work – clean the kitchen, mop the floor, replace the water dispenser, wash the children’s clothes, etc.”\(^68\)

During the conciliation meeting, the employer did not offer any money, so Dolores decided to take her case to the MECAB:

“My case was heard in May 2019. The adjudication officer did not award me the full amount – only HK$5,200 (US$664). This was because my employer counterclaimed that I was not working all of the days which I had claimed and also, the adjudication officer said there was a lack of evidence that I had actually worked during my five days off.”

The Labour Tribunal

Seventeen interviewees took their case to the Labour Tribunal and their claims ranged from HK$8,500 to HK$122,520 (US$1,085 to US$15,646) and averaged HK$34,300 (US$4,380). The average amount awarded to the 11 claimants whose case had been concluded was HK$13,822 (US$1,765).\(^69\) On average, the amount awarded was just 40% of what was claimed.

Lilibeth, a 52-year-old Filipino woman, had her contract terminated just before going on her annual leave in November 2018. She had worked for the same employer for 14 years. Her employer paid her HK$10,000 (US$1,277) and refused during the conciliation meeting to give her any more money. In December, Lilibeth took her case to the Labour Tribunal with a claim of HK$51,068 (US$6,625) for long service, rest days, holidays, annual leave, flight ticket, and food and travelling allowance.\(^70\) She expressed frustration at the outcome of the trial:

“I really wanted to get my long service and all those rest days and holidays I didn’t go out but worked instead. But for all that, the Labour Tribunal only awarded me HK$20,000 (US$2,554). It’s not even half of my claim – not even close to compensating for the amount of sacrifice that I had made for 14 years!”

Despite her disappointment, Lilibeth accepted the amount because she had urgent family matters in the Philippines to attend to.\(^71\)

Similarly, Nur, a 45-year-old woman from Indonesia, worked for the same employer for more than five years. In February 2018, she requested annual leave so that she could attend her daughter’s university graduation in August. It was initially granted but rescinded later in May. Instead, her employer asked Nur to write a resignation letter, which she refused. Her employer became angry and told her to pack her things and leave the house without giving her any compensation. After calling a friend, Nur got advice to get help from a nearby shelter.

Nur’s claim of HK$26,583 (US$3,396) consisted of unpaid wages, one month’s wages in lieu of notice, long service, flight ticket, and food and travelling allowance.\(^72\)

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67 Wages (3 days) HK$445; one month’s wages in lieu of notice HK$4,520; flight ticket HK$1,500; food and travelling allowance HK$100; and statutory weekly rest days (5) HK$743.
68 FADWU interview with Dolores on 1 and 26 May 2019.
69 The claims of the remaining six interviewees were ongoing at the time of interview.
70 Long service HK$40,247; rest days (8 days) HK$5,459; holidays (17 days) HK$2,442; annual leave (27 days) HK$2,730; flight ticket HK$120 (balance); and food and travelling allowance HK$100.
71 FADWU interview with Lilibeth on 10 March 2019.
72 Wages (one month) HK$4,310; one month’s wages in lieu of notice HK$4,310; long service HK$15,563; flight ticket HK$2,300; and food and travelling allowance HK$100.
At the conciliation meeting two weeks later, she rejected her employer’s offer of HK$10,000 (US$1,277) and filed a case at the Labour Tribunal:

“Before our first hearing in July, my employer contacted the Tribunal and offered to pay me HK$15,000 [US$1,916], which I refused. But I started to get worried because the legal process was taking too long and I didn’t want to waste more time and money. Also, it was getting close to my daughter’s graduation. So, I reduced my claim to HK$17,500 [US$2,235], which my employer agreed. I then returned home to Indonesia.”

In another case, Hazel, a 40-year-old Filipino woman, went on maternity leave in June 2018, but when she returned to work in August, her employer illegally terminated her contract. Hazel filed a claim of HK$33,180 (US$4,237) against her employer for unpaid wages, one month’s wages in lieu of notice, long service, annual leave, maternity leave, flight ticket, and food and travelling allowance. Hazel explained what happened at the conciliation meeting:

“My employer offered me HK$7,600 (US$970) but I refused to accept it because that was not the amount I was owed. I felt at that time – win or lose – at least I will continue to fight for my rights. But at the Labour Tribunal in November 2018, my employer offered HK$25,000 [US$3,193]. I had to accept it because my application for a new job couldn’t be processed until this trial was over. I was not happy with the result – I lost 25% of my claim, which is a lot because for us domestic workers, we work hard for every cent. But at least I got more than my employer had first offered during the conciliation meeting.”

73 FADWU interview with Nur on 9 January 2019.
74 The Sex Discrimination Ordinance (Cap. 480) prohibits employers from discriminating against a worker who is pregnant, including by terminating their contract, forcing them to leave or firing them on their return from maternity leave. See: https://www.elegislation.gov.hk/hkcap480/en@2016-05-27T00:00:00+0700/pid-ID_1438403244392_003, accessed 9 July 2019.
75 Wages (25 days) HK$3,475; one month’s wages in lieu of notice HK$4,310; long service (5+ years) HK$14,375; annual leave (12 days) HK$1,868; maternity leave (65 days) HK$7,492; flight ticket HK$1,800; and food and travelling allowance HK$100.
76 FADWU interview with Hazel on 5 February 2019.
Access to justice issues arising from the research
Problems relating to cost and time

When interviewees were asked what the biggest obstacle they faced was in trying to resolve problems at work and access redress mechanisms, the single most important issue identified was the risk of losing their employment (17 interviewees). In addition, all 33 interviewees agreed with the statement that it was very difficult to make a complaint without losing their job and their right to work in Hong Kong.

Migrant domestic workers who make a complaint against their employer and lose their job will generally be left with nowhere to live, as Hong Kong’s mandatory live-in requirement compels all migrant domestic workers to reside in the employer’s residence. Furthermore, under the Two-Week Rule (New Condition of Stay, 1987), once their contract is terminated they must find new employment and process their visa within two weeks or leave Hong Kong. This is extremely difficult to do, as it normally takes the HKSAR Immigration Department 4-6 weeks to process an application for new employment.

Consequently, most migrant domestic workers who experience problems with their terms and conditions of work will not raise this with their employer, let alone make a formal complaint at the Labour Department, for fear of losing their job, their accommodation and their right to stay in Hong Kong, which in turn may leave them unable to support their families. Indeed, many of the case studies cited in this research illustrate how migrant domestic workers only consider using the Labour Department’s redress mechanisms after they have already had their contract terminated.

The negative role that the Two-Week Rule and the live-in requirement have played in terms of increasing migrant domestic workers’ vulnerability to exploitation and making it more difficult for them to access justice has been raised repeatedly by different inter-governmental bodies over the last five years. Most recently in September 2018, the UN Committee on the Elimination of Racial Discrimination expressed its concern that: “...the live-in requirement renders workers vulnerable to abuse, and that the rule requiring workers to leave the territory within two weeks of termination of contract hinders their ability to obtain redress for labour violations.”

The Committee recommended that “effective measures be taken to ensure non-discrimination” against migrant domestic workers and called for the “repeal of the ‘two weeks rule’ and the live-in requirement.”

Even when migrants are willing to file a complaint, they face considerable practical challenges, many of which relate to the cost of pursuing their claim. The second biggest obstacle identified by interviewees in resolving their problems and accessing redress mechanisms was financial problems/the costs of filing a claim (14 interviewees). All but one interviewee also agreed with the statement that it was very difficult to support yourself while pursuing a claim.

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77 Interviewees were asked an open question regarding what they perceived to be the biggest barrier to resolving their work-related problems and accessing redress mechanisms. See question 6 in Appendix 1 for details.

78 Interviewees were also asked to respond to a series of nine statements based on their personal experience of trying to resolve work-related problems by stating whether they agree or disagree with the statement, or do not know. See question 6 in Appendix 1 for details.


80 Information provided by the HKSAR Immigration Department on 26 May 2018.

81 See for example: the ILO Committee of Experts on the Application of Conventions and Standards, Observation (CEACR) - adopted 2014, published 104th ILO session (2015); Migration for Employment Convention (Revised), 1949 (No. 97) - China - Hong Kong Special Administrative Region Ratification: 1997, 2015; the Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of China (Hong Kong), UN Doc. CEDAW/C/HK/N/CO/7-8, 14 November 2014, paras 64-65; and the Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China, UN Doc. E/C.12/HK/CO/2, 13 June 2014, para 49.

82 Committee on the Elimination of Racial Discrimination, Concluding observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China), UN Doc. CERD/C/CHN/CO/14-17, 19 September 2018, paras 30-31.
Most migrant domestic workers who wish to pursue a claim against their employer will need to pay for a visa extension. This visa does not allow them to work and currently costs HK$230 (US$29.40).\textsuperscript{83} Twenty-four interviewees thought the cost of the visa extensions was too expensive.

The 23 interviewees who got visa extensions paid an average of HK$400 (US$51) for them, indicating that migrant domestic workers will, on average, need to pay for two visa extensions. The other interviewees who did not get a visa extension were able to pursue their claim within the time remaining on their work visa, had only just started their claim at the time of the interview and may subsequently have applied for an extension, or had returned to their home country.

No interviewee applied for an exemption work visa. These visas are normally only granted by the Immigration Department when a case has been accepted for prosecution. Twenty-four interviewees believed that the Immigration Department would not grant an exemption work visa to migrants to allow them to work while pursuing their case and this, along with a lack of awareness that this option existed, would explain why no applications were made. Consequently, the only two interviewees who worked while pursuing their claims did so illegally.

To take a case to the Labour Tribunal, a claimant must pay a filing fee of HK$20-50 (US$2.56-6.40), depending on the size of the claim. A further HK$10 (US$1.30) per address fee is charged for serving the defendant with the necessary documents.\textsuperscript{84} Additional expenditure, which may be required to take forward a case could include: mailing fees (copying and posting costs for documents); costs of translation; certification of translations; obtaining copies of Labour Tribunal documents; or issuing and serving subpoenas.\textsuperscript{85}

However, by far the biggest expenditure for most migrant domestic workers making a claim will be their living expenses, particularly their food and accommodation costs, until their case is concluded. For many migrant domestic workers, the prospect of paying these costs for weeks or months while not being able to work will make the process prohibitively expensive.

Exactly how long a claim will take to resolve depends on various factors (e.g. whether employers are willing to settle at conciliation, how many claims are already pending in the Labour Tribunal, the time it takes for parties to produce the required documents, whether there are requests for rescheduling, etc.). The average time interviewees in the current research had to wait between filing their case and having it settled in the MECAB/Labour Tribunal was 58 days (12 interviewees).\textsuperscript{86} The official data compiled by the HKSAR Judiciary shows that in 2018, it took an average of 25 days from the first appointment until the case was filed and a further 25 days from the filing of the case to the first hearing in the Labour Tribunal.\textsuperscript{87}

If a migrant domestic worker wishes to pursue a claim beyond first hearing (i.e. to mention or trial), it is likely to take at least twice as long because of the pressures of scheduling time at the Labour Tribunal. Research undertaken by the University of Hong Kong, in which students observed proceedings at the Labour Tribunal involving migrant domestic workers, found that where a case was not settled, the next hearing


\textsuperscript{84} HKSAR Immigration Department, “Fees Table”, available at: https://www.immd.gov.hk/en/services/fee-tables/, accessed 5 July 2019.

\textsuperscript{85} The approximate costs of these types of items are: certification of translations costs HK$15 a page; obtaining copies of Labour Tribunal documents HK$5 a page; issuing and serving a subpoena HK$55 for each witness. Cited in Justice Without Borders, A Practitioner’s Manual for Migrant Workers: Pursuing Civil Claims in Hong Kong and from Abroad, December 2015, p.223.

\textsuperscript{86} The average time for the remaining six interviewees with a case at the Labour Tribunal could not be calculated because at the time of writing, their case was ongoing or they could not be reached.

would not take place for another two months on average.⁸⁸

In this context, it is unsurprising that 28 interviewees agreed that the legal process was too slow and too expensive. At least 14 interviewees who took part in the research stayed at shelters/individual’s house where food and accommodation were provided for free or largely subsidised. This allowed them to pursue their claims at minimal expense, particularly if they concluded them at conciliation. This is why the 14 migrant domestic workers who settled at conciliation spent on average just HK$1,139 (US$145) resolving their claim. Ten interviewees, whose claim at the MECAB and Labour Tribunal had been concluded, spent an average of HK$3,239 (US$414),⁹⁹ which is almost three times as much – even though some of these migrant domestic workers were also supported at shelters.

These time and cost pressures explain why many migrant domestic workers settle their cases at conciliation or first hearing. In 2018, 72% of the claims involving migrant domestic workers were settled at the conciliation stage. Similarly, as of the end of August 2019, 74% of the claims involving migrant domestic workers were settled at conciliation.⁹⁰

Setting a case means that the claimant will not be able to claim back reasonable expenses they have incurred in taking the case (e.g. visa extension fees, travel and food costs to attend hearings, mailing fees, etc.) as this can only be done by the winning party at trial. However, settling a case does ensure that the migrant domestic worker will receive the agreed amount, whereas if they refuse the settlement and go to trial, they will have to spend more money and may still lose the case, thus, leaving them without any compensation and liable for the defendant’s costs.

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**Video Link Testimony**

In a landmark case on 16 September 2018, Hong Kong’s Labour Tribunal allowed for the first time video testimony from outside Hong Kong. Mallorca Domingo, a Filipino domestic worker formerly employed in Hong Kong, gave evidence via live television link from the Philippines.⁹¹ Using video link testimony at the Labour Tribunal could be a positive step forward in providing migrant domestic workers better access to the Labour Tribunal, but there are issues with the process, which currently make it difficult for many claimants to use this mechanism.

First, the migrant domestic worker needs to request the use of video conferencing facilities in the High Court and availability of these facilities is limited. Moreover, the claimant needs to testify with an independent observer in a place with a high-quality internet connection and provide a significant amount of documentation (e.g. the claimant’s statement, a letter to the Labour Tribunal, an authorisation form, photos, further evidence, etc.). This usually requires the claimant to travel to a law firm in a city, which can be very time consuming and expensive.

If video link testimony is to be a viable option for migrants, more needs to be done to ensure that the process is accessible and effective.

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⁸⁸ Unpublished research by the University of Hong Kong on the HK SAR Labour Tribunal, undertaken in September-November 2017 and February-April 2019. The research involved students observing hearings at the Labour Tribunal involving migrant domestic workers (23 cases in 2017 and 33 cases in 2019). Information pertaining to each case was limited to what students could directly document from what they heard and saw at the Tribunal.

⁹⁰ The remaining two interviewees had their expenses paid for by third parties.

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<th>Amount received (HK$)</th>
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</tbody>
</table>

Footnote: Out of the 19 interviewees who did not settle at the conciliation stage, one withdrew his claim. Also, six cases at the Labour Tribunal were ongoing at the time of the interview.
Insufficient awareness of redress mechanisms and support in using them

Eight interviewees identified a lack of information and support as the biggest obstacle they faced in trying to resolve their problems at work and access redress mechanisms. All but one agreed with the statement that migrant domestic workers do not know how to properly use the procedures to seek justice in Hong Kong.

FADWU’s previous research has consistently shown that many migrant domestic workers are not aware of their rights in Hong Kong and that they are frequently not provided with the relevant information. For example, research conducted by FADWU in 2018 found that employment agencies were not complying with their obligations in the Code of Practice for Employment Agencies, as 54% of interviewees (241 out of 450) stated that their agency did not explain their rights under Hong Kong law; where they could seek assistance in case of disputes/complaints; or provide them with information pamphlets from the Labour Department on their rights.

The current research confirms that migrant domestic workers struggle to navigate the redress mechanisms by themselves. All 18 of the interviewees who took their claim to the MECAB or the Labour Tribunal told FADWU that an organisation or individual had supported them with their claim and that they could not have taken their case without their help. The assistance and support they received came from civil society organisations, trade unions, shelters, religious organisations and individuals.

As Hazel explained:

“For sure no, I would not have been able to take my case to the Labour Tribunal by myself because I don’t exactly know the procedure to file a case and being alone, it is not that easy to fight with your employer. The leader of my church and my agent, who had helped me, also gave me confidence to pursue my case.”

Reyna, a 39-year-old Filipino woman, further commented that:

“I wouldn’t know how to file the claim or what to do without assistance from the organisation. My agency was not helpful. When I complained to them, they didn’t do anything. They just told me that it’s ok since my employer was good.”

The research undertaken by the University of Hong Kong in 2017 and 2019 also indicates that migrant domestic workers often rely on support from external organisations or individuals to take cases to the Labour Tribunal. In nearly 50% of the cases observed in 2017 and 2019, students documented that assistance was provided to migrant domestic workers, most commonly from civil society organisations.

Twenty-nine interviewees agreed that there was not enough support for migrant domestic workers to take cases to the Labour Tribunal and these interviewees specifically identified language barriers and difficulty in communicating as the biggest
obstacle they faced in trying to resolve their work-related problems and access redress mechanisms.

Conciliation meetings, as well as the MECAB and Labour Tribunal hearings/trials, are conducted in the official court languages of Cantonese and/or English. If migrant domestic workers cannot communicate well enough in either of these languages, then free translation and interpretation services can be provided. According to the Labour Department:

“Where necessary, interpretation service would be arranged to ensure that the ethnic minorities’ access to conciliation service is not hampered owing to language barriers. Such interpretation service includes arranging for telephone or on-site interpretation by the Centre for Harmony and Enhancement of Ethnic Minority Residents (CHEER).”  

The Labour Department further stated that migrant domestic workers, at the time of filing their case at MECAB, “would be asked whether they need interpretation service at hearings. If yes, interpreters for the relevant languages would be made available for the purpose.”

However, in practice, this does not always happen. For example, Baby Jane Alias, a 38-year-old Filipino woman, could not communicate fluently in either English or Cantonese and had requested for a Tagalog interpreter, but stated that the Labour Department failed to provide one for her at the conciliation meeting with her employer. According to the Labour Department, it had arranged for phone interpretation, but felt this was not needed as a Philippine Consulate staff was present.

Another interviewee, Dewi, does not speak Cantonese or English and, like Alias, was not provided with interpretation services at her conciliation meeting:

“The language barrier at the conciliation meeting was for me the biggest obstacle when trying to get my rights. I am new to Hong Kong and I do not understand Cantonese. Even though there were those [civil society staff] who accompanied me to the meeting with the employer, I still did not understand.”

In cases where interpretation was provided, some interviewees experienced problems. A case in point is Dolores:

“When I attended the MECAB hearing, I had a Tagalog interpreter. She interpreted clearly and I understood what was going on. But previously at the conciliation meeting, I only had access to interpretation through a telephone service. It didn’t work properly and I couldn’t understand what was said in the meeting.”

Ka Mei Lau, Organizing Secretary at the Hong Kong Confederation of Trade Unions (HKCTU), who has accompanied migrant domestic workers on multiple occasions to their conciliation meetings, explained that:

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99 Information provided by the HKSAR Labour Department on 25 September 2019.
100 Information provided by the HKSAR Labour Department on 26 September 2019.
101 FADWU interview with Baby Jane Alias on 3 March 2019.
103 FADWU interview with Dewi on 10 May 2019.
104 FADWU interview with Dolores on 26 May 2019.
“Interpretation service is not guaranteed. Migrant domestic workers need to request this service when they register their case at the Labour Department. But even when they do, it is sometimes not provided due to unavailability of an interpreter. Another problem is that the conciliation officers often speak Cantonese to the employer, which most migrant domestic workers cannot understand. In one case, the Tagalog interpreter was not able to interpret for the Filipino worker because the interpreter did not understand Cantonese. This meant that the worker did not understand most of the discussions during the one-hour meeting and certainly was not able to engage in the dialogue.” 106

**Concerns around fairness and equality of arms in the procedures**

Three interviewees specifically identified intimidation by their employer as the biggest obstacle they faced in trying to resolve their problems at work and access redress mechanisms.

Several interviewees stated they were afraid or intimidated by their employer and described how difficult it was to face them in a conciliation meeting or court. Dewi noted how avoiding further meetings with her employer was a factor in her accepting the offer made at conciliation:

“Dealing with my employer at the conciliation meeting was so traumatising. Face to face with her, she reversed facts and told lies about me. She behaved in such an inhuman way.” 106

Nur also explained the emotional difficulty of going through the redress process:

“I had to overcome my fear of my employer in order to face up to her. She intimidated me. But even though I only retrieved two-thirds of my claim at the Labour Tribunal, at least I was able to stand up for myself when my employer said lies about what happened in the household. I overcame my fear to face her in court.” 107

Rita, a 45-year-old Filipino woman, decided not to renew her contract in March 2019 after working for the same employer for 14 years. Her employer responded by telling her to leave that night and giving her HK$6,410 (US$814) for one month’s wages in lieu of notice, flight ticket and food and travelling allowance. 108 With the help of a civil society organisation, Rita filed a claim of HK$4,000 (US$511) for unpaid annual leave at the Labour Department. She explained what happened when she met her employer at the conciliation meeting:

“My employer came with her daughter-in-law and I brought a friend for support. She was very angry with me. I was shocked at her behaviour because she disagreed and challenged everything I said and refused to give me any more money. She threatened me, saying that she would submit a counterclaim against me because according to her, she had already given me more money than I was entitled to. I was scared and traumatised so I decided not to pursue my claim. It wasn’t worth the money because to continue with the case, I would have to argue with my employer at every meeting, which would just hurt my feelings more and increase my trauma.” 109

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105 FADWU interview with Ka Mei Lau on 26 August 2019.
106 FADWU interview with Dewi on 10 May 2019.
107 FADWU interview with Nur on 9 January 2019.
108 One month’s wages in lieu of notice HK$4,310; flight ticket HK$2,000; and food and travelling allowance HK$100.
109 FADWU interview with Rita on 28 April 2019.
Other interviewees also believed that their employer made/threatened to make a counterclaim against them as a means of delaying the process and pressuring them into accepting a low offer. The research undertaken by the University of Hong Kong documented that out of the 35 cases they observed in 2019, 14 (40%) involved a counterclaim from the employer.110

Anisa, a 40-year-old Indonesian woman, who suffers from high blood pressure, was refused medical care and had her contract terminated by her employer when she found out about her condition. With the help of a civil society organisation, Anisa filed a claim at the Labour Tribunal for HK$60,000 (US$7,662) for denial of sick leave and medical care:

“My employer made an offer of HK$27,000 [US$3,448]. I settled for this amount because of my high blood pressure. I just wanted to go back to Indonesia as soon as possible so that my family could take care of me. Also, I was afraid that my employer would counterclaim for a part-time job I did for her outside the household, which I got paid HK$600 [US$77] for three days work.”111

Another Indonesian woman, 33-year-old Sinta, had a claim of HK$10,591 (US$1,352) against her employer for unpaid wages, one month’s wages in lieu of notice, annual leave, flight ticket, statutory holidays, and food and travelling allowance.112 The employer did not attend the conciliation meeting scheduled in June 2019. Instead, she filed a claim at the MECAB for HK$7,851 (US$1,003) against Sinta:

“My employer claimed that I had broken or damaged items in her house, including clothes hangers but I didn’t. They were already old, rusty and damaged when I started to work for her. In fact during the ten months of my employment, she deducted my salary each month and forced me to buy items such as shower hose, brooms, spoons and gloves claiming that I had damaged them. She also made me buy bleach with my own money to clean the stairs outside her house because according to her, my cleaning wasn’t good enough.”

Sinta’s employer withdrew her claim in July and at the Labour Tribunal, Sinta was awarded HK$4,700 (US$600) or 44% of her claim because she could not disprove her employer’s claim that she had left her employer without notice.113

The difficulty migrant domestic workers have in negotiating face-to-face with their employer is exacerbated by the fact that most migrants do not speak Cantonese and are unfamiliar with local laws and procedures. In addition, migrant domestic workers must provide sufficient evidence to prove their case on the balance of probabilities (i.e. what they claim is more likely than not to be the case), which is often difficult to do.

For example, it is extremely hard for a migrant domestic worker to provide evidence that they were forced to work on statutory holidays/days off when there is no physical proof and any witnesses to the fact will most probably be the employer’s family members who are unlikely to corroborate the migrant domestic worker’s version of events. It is for this reason that all but one of the interviewees agreed that it was hard to provide the required evidence to prove their case.

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110 Unpublished research by the University of Hong Kong on the HKSPAR Labour Tribunal, undertaken in September-November 2017 and February-April 2018. The research involved observers observing hearings at the Labour Tribunal involving migrant domestic workers (25 cases in 2017 and 35 cases in 2019). Information pertaining to each case was limited to what students could directly document from what they heard and saw at the Tribunal.

111 FADWU interview with Anisa on 5 May 2019.

112 Unpaid wages HK$1,764; one month’s wages in lieu of notice HK$4,410; annual leave HK$439; flight ticket HK$3,000; statutory holidays HK$882; and food and travelling allowance HK$100.

113 FADWU interview with Sinta on 31 July 2019.
The relevant officials at the Labour Department are supposed to act as neutral arbitrators and support migrant domestic workers to access and navigate their way through the relevant procedures. The Labour Department describes the role of the conciliation officer as:

“a neutral intermediary who assists both parties to understand the problem and to have a frank dialogue so as to remove each other’s differences and prevent the issue from deteriorating. He also endeavours to seek a settlement which is acceptable to both parties.”\(^{114}\)

Despite this, several interviewees did not consider officials at the conciliation meeting or in the Labour Tribunal to be impartial. Twenty-seven interviewees thought the conciliation process and other redress mechanisms favour the employer and two interviewees specifically identified biased Labour Department/Tribunal officers as the biggest obstacle they faced in trying to resolve their problems at work.

Rosamie, a 30-year-old Filipino woman, submitted a claim for HK$12,671 (US$1,618) at the Labour Department in June 2019. It was for unpaid wages, one month’s wages in lieu of notice, annual leave, flight ticket, food and travelling allowance, and compensation for working on rest days and holidays.\(^{115}\) She relayed her dissatisfaction with the officer at the conciliation meeting:

“The conciliation officer just wanted me to accept the offer of HK$4,000[US$511] made by my employer. He didn’t bother to look at my situation and the facts. When I complained, he didn’t do anything. At the end, I told him that I would not accept the offer and would pursue my claim at the Labour Tribunal. He then said ‘Then go on, if that’s what you want!’”

At the Labour Tribunal, Rosamie settled for HK$6,281 (US$798) – about half of what she was owed – because she “just wanted to be finished with this case so that I can work again”. She was also influenced by the presiding officer who told her that trying to get the full claim would be “a waste of time”.\(^{116}\)

In Rita’s case, she felt the conciliation officer intervened inappropriately:

“During the meeting, the conciliation officer told me that I must consider the amount of money that my employer had already given me. In the end, I was not able to get my rights because the officer was biased and took the employer’s side. Conciliation officers should not make us domestic workers who try to claim our rights feel scared and guilty about doing this.”\(^{117}\)

Hazel described how the conciliation officer tried to influence her decision:

“The officer discouraged me from rejecting my employer’s offer [HK$7,600 or US$970, less than a quarter of her claim] saying that if I pursued my complaint, it would take a long time and I would have to wait with no guarantee that I would win my case and get 100% of my claim.”\(^{118}\)

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115 Wages (HK$3,067); one month’s wages in lieu of notice (HK$4,652); annual leave (HK$1,702); flight ticket (HK$1,150); food and travelling allowance (HK$100); and compensation for working on rest days (HK$1,188) and holidays (HK$1,614).
116 FADWU interview with Rosamie on 24 July 2019.
117 FADWU interview with Rita on 28 April 2019.
118 FADWU interview with Hazel on 5 February 2019. It should be noted that the conciliation officer was not necessarily acting inappropriately in this case and could simply have been trying to outline the risks to the migrant domestic worker of pursuing her claim under the current redress system in Hong
Marisol, a 45-year-old Filipino woman filed a claim of HK$10,456 (US$1,335) at the Labour Tribunal in March 2019. The claim was for unpaid wages, rest days, holidays, flight ticket, and food and travelling allowance. She recounted:

“At our first hearing, my employer offered me HK$5,000 [US$639]. I was undecided but the Tribunal officer encouraged me to accept it claiming that if I continued to pursue the case, the next available hearing date wouldn’t be until November. As I couldn’t afford to stay for that long, I decided to accept the offer.”

Lilibeth had a similar experience at the Labour Tribunal:

“The Tribunal and presiding officers told me that if I did not accept the amount of HK$20,000 [US$2,554], then I would have to wait three to six months to resolve the problem. They told me that it would be too long for me, especially since I could not work during this time.”

If either party is unhappy with the presiding officer’s determination, they can ask for the judgment to be reviewed or appeal the decision. However, a review will still be heard by the same presiding officer and is therefore unlikely to change the initial outcome, while an appeal can only generally be brought if the presiding officer has erred in law and will not be an option for most migrant domestic workers, as it prolongs the process and increases their costs and liabilities with no guarantee of success.

Many of the concerns expressed above by interviewees regarding the fairness of the redress mechanism are reflected in the case of Baby Jane Alias who had her contract terminated in January 2019 shortly after being diagnosed with stage three cervical cancer. In the termination letter, it specifically stated “diagnosed with cervical cancer” as the reason for ending her employment. As her employment contract had been terminated, Alias no longer had access to free healthcare in Hong Kong.

With the help of her sister and her sister’s employer, Alias filed a claim of HK$84,061 (US$10,735) with the Labour Department for unpaid wages, one month’s wages in lieu of notice, statutory holidays, rest days, annual leave, sick leave, flight ticket, food and travelling allowance, medical expenses, and damages for loss of earning. Alias described what happened at the conciliation meeting:

“My employer did not show up because she was ill and instead sent two lawyers to represent her. It was so unfair that the Labour Department allowed my employer to send representatives while they told me that I had to come in person. I sacrificed my health to come even though I was scheduled for chemotherapy that day.”

Despite her request for a Tagalog interpreter, the Labour Department did not provide Alias with one. The employer’s lawyers made an offer of HK$10,492 (US$1,340), which Alias refused because she felt that her employer should pay her the full amount so the case went to the Labour Tribunal.

119 Wages HK$6,828; rest days HK$1,617; holidays HK$291; flight ticket HK$1,620; and food and travelling allowance HK$100.
120 FADWU interview with Marisol on 24 March 2019.
121 FADWU interview with Lilibeth on 10 March 2019.
122 Clause 8(a) of the Standard Employment Contract states that if migrant domestic workers are ill during the period of employment, “the Employer shall provide free medical treatment”, and that the workers are entitled to sickness allowance if they have accumulated sufficient number of paid sickness days; the sick leave taken is at least four consecutive days; and leave is supported by a medical certificate. The days are accumulated at the rate of two paid sickness days for each completed month of employment during the first 12 months, and four paid sickness days for each completed month of employment thereafter, not exceeding 120 days at any one time. See: https://www.labour.gov.hk/english/cap57_g_whole.htm, accessed 6 July 2019.
124 Unpaid wages HK$2,994; one month’s wages in lieu of notice HK$4,310; statutory holidays HK$847; rest days HK$3,764; annual leave HK$1,263; sick leave HK$1,700; flight ticket HK$2,405; food and travelling allowance HK$100; medical expenses HK$1,500; and damages for loss of earning HK$60,178.
At the Labour Tribunal in April, Alias’s employer increased the offer to HK$30,000 (US$3,831). This was less than 40% of her claim, but the employer’s lawyer and Tribunal officer both told her “that I needed to accept my employer’s offer”. Although Alias felt that the Tribunal had “failed to award me what my employer owed me”, she found it very difficult and tiring to pursue her case because she was so ill and so reluctantly accepted the offer:

“I’m not happy with the result of my case because the amount was far lower than what I was claiming, but I decided to accept the offer because I didn’t want to return to the Labour Tribunal. I will wait instead for a better result from my claim at the EOC [Equal Opportunities Commission].”

On 19 February 2019, Alias filed a claim for HK$90,178 (US$7,685) at the EOC for unlawful dismissal of employee/illegal termination and disability discrimination. She explained her motivation:

“It’s not a matter of how much I will be able to get. What I want is for my employer to pay all my losses from the day I was terminated until the end of my contract. She should be punished so that other employers will not do the same and learn to respect the rights of their domestic workers.”

At the time of writing, Alias’s case at the EOC was still pending.

Issues raised in this case mirror those identified by other interviewees as being obstacles to solving their problems and accessing the redress system, including:

Figure 3: Issues identified by interviewees as being the biggest obstacles they faced in trying to resolve their problems at work and access redress mechanisms

<table>
<thead>
<tr>
<th>Obstacles</th>
<th>No. of interviewees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss of employment</td>
<td>17</td>
</tr>
<tr>
<td>Financial problems</td>
<td>12</td>
</tr>
<tr>
<td>Lack of information</td>
<td>8</td>
</tr>
<tr>
<td>Language barriers</td>
<td>3</td>
</tr>
<tr>
<td>Employer intimidation</td>
<td>3</td>
</tr>
<tr>
<td>Costs of filing claim</td>
<td>2</td>
</tr>
<tr>
<td>Biased officials</td>
<td>2</td>
</tr>
</tbody>
</table>

- and a failure of the system to protect statutory rights (in Alias’s case, she had written evidence that she was fired because she had cancer, but she did not get even half of what she was entitled to under Hong Kong law).

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125 FAWDU interview with Baby Jane Alias on 3 March 2019.
127 FAWDU interview with Baby Jane Alias on 3 March 2019.
Conclusion and recommendations
The conciliation service is designed to operate as an “informal, time saving and relatively simple procedure” to help resolve labour disputes and facilitate the parties to “reach a mutually acceptable settlement”.\textsuperscript{129} Similarly, the Labour Tribunal is described as offering “a quick, informal and inexpensive way of settling monetary disputes between employees and employers” \textsuperscript{130} and notes that “Parties may settle their case at any stage of the proceedings and are always encouraged to explore settlement as a means of resolving their dispute”.\textsuperscript{131}

These redress mechanisms do regularly secure a relatively quick resolution to labour disputes, but this often does not equate with a just or fair settlement. In practice, migrant domestic workers are frequently coerced into settling by a system, which makes it financially onerous, if not entirely cost-ineffective, to pursue their claims beyond the conciliation service.

The Two-Week Rule and the general prohibition on working while pursuing a claim put migrant domestic workers at an immediate and serious disadvantage. Every day the case remains unresolved, they have to pay for their living expenses and cannot earn any money. There may also be additional expenditure on visa extensions or issues related to the claim.

Consequently, the longer the case continues the greater the likelihood that the migrant domestic workers will spend more on pursuing the challenge than they will receive through their claim – a fact that was pointed out to more than one interviewee by officials at the conciliation service and the Labour Tribunal.

There are numerous other factors that put migrant domestic workers at a disadvantage vis-à-vis their employer, including: the imbalance of power between the two parties in the negotiating process (as migrants are often intimidated by their employer); migrant domestic workers’ unfamiliarity with procedures and/or court languages; the lack of support they receive in pursuing their claims; and their difficulty in providing sufficient evidence to prove their case because of the nature of domestic work.

These multiple challenges were summarised by Lilibeth:

“I lacked the information needed to file a claim properly. I also didn’t have any support from the Labour Department or Tribunal – they favoured the employer. What’s worse, I could not work while my case was ongoing. This put a lot of pressure on me to give up and settle because I didn’t have money.”\textsuperscript{132}

And Rosamie:

“At the beginning I didn’t know how to file a claim and needed help from others. While my case is going on, I have no money to provide for the needs of my family. Even if I find a new employer, I still can’t process it while my case is ongoing.”\textsuperscript{133}

This is not to say that the system does not work for any migrant domestic workers. A total of 12 interviewees were satisfied with the process and outcome of the conciliation service (9) and the MECAR/Labour Tribunal (3). This is primarily because they received the full amount they claimed (6) or close to it (on average 83% of their claim).


\textsuperscript{132} FADWU interview with Lilibeth on 10 March 2019.

\textsuperscript{133} FADWU interview with Rosamie on 24 July 2019.
The conciliation service worked well for seven interviewees because their employers were generally willing to pay them what they were owed; they were supported by civil society organisation; they spent an average of just HK$300 (US$38) on resolving their claims; and only one of them needed to get a visa extension. However, it should be noted that several of these interviewees were still dependent on others for accommodation, food and help in accessing the redress mechanism.

It should also be stressed that all the interviewees who were satisfied with the process and outcome also recognised that: it was difficult to make a complaint without losing their right to work in Hong Kong and that it was very difficult to support themselves while pursuing a claim. All interviewees of this group also believed that domestic workers did not know how to properly use the redress procedures and that it was hard to provide the required evidence to prove their case.

While some migrant domestic workers do get what they are entitled to through the existing redress procedures, they are the exception rather than the rule. The great majority of migrant domestic workers whose statutory or contractual rights are violated by their employers do not access the redress mechanisms at all.\(^{134}\)

This research specifically examined the experience of those migrant domestic workers who did use the official complaint mechanisms and found that more than two-thirds of interviewees were dissatisfied with the process and outcome of both the conciliation service (22/31) and MECAB/Labour Tribunal (8/11).

Interviewees generally believed that the system was not fair and that the money they were offered/received was not what they were owed and entitled to. All the interviewees who took cases to the MECAB/Labour Tribunal did so with help from organisations or individuals and stated that they would not have been able to do so without their assistance.

Interviewees repeatedly talked about using the redress mechanism to protect their rights as set out in Hong Kong law: “to get what was rightfully mine”; “I want to fight for my rights and fight for what I deserve to receive”; “I want to get all my rights”; and “I want to claim my rights”.\(^{135}\)

Moreover, Angela felt that:

“The Hong Kong government needs to pay more attention to us and provide us with better support, especially when we have work problems. For example, they need to help us when we don’t get the money and benefits, which are written in our employment contract or part of Hong Kong labour laws but our employers don’t abide by this.”\(^{136}\)

When Interviewees were asked what they thought the HKSAR government should do to make it easier for migrant domestic workers to resolve disputes, the most prevalent answer was that the redress mechanisms should be fairer and treat migrant

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135 FADWU interviews with Reyna on 5 May 2019, Hazel on 5 February 2019, Darna on 24 February 2019; and Nur on 9 January 2019.

136 FADWU interview with Angela on 9 May 2019.
domestic workers and employers equally (11). The other most common responses were that there should be better access to information (6); the redress process should be simplified (5); and employers should be vetted before they are allowed to hire migrant domestic workers (4). At least two interviewees also thought that more needed to be done to enforce Hong Kong labour laws; the redress process should be faster; and that migrant domestic workers should be allowed to work while their cases are ongoing.

Many of the proposals put forward by interviewees were summarised by Hazel:

“The Hong Kong government must make pursuing a claim easier for us. They have the laws but many are not properly implemented. If an employer does not pay our wages and other benefits, then they should be blacklisted. While we are pursuing our claim, we should be allowed to work. The Government must also not be one-sided but instead look at the details of the cases thoroughly. They must be fair and not biased against us because we are not Chinese. They should not always side with the employers.”

137 FADWU interview with Hazel on 5 February 2019.
On the basis of the research findings, FADWU makes the following recommendations.

**To the Government of Hong Kong SAR:**

- Repeal the Two-Week Rule and ensure that migrant domestic workers have sufficient time to secure a new job after a contract has been terminated and thereby are better able to pursue redress mechanisms.
- Repeal the live-in requirement and allow migrant domestic workers to reach agreement with their employer or potential employer on whether to reside in the employing household. Ensure that those living outside receive an appropriate housing allowance.
- Grant all migrant domestic workers with a pending case in the conciliation service, MECAB, Labour Tribunal or criminal court visa extensions, which allow them to work while their case is being pursued, and waive their visa fees.
- Ensure that migrant domestic workers seeking compensation for human or labour rights abuses have effective access to support measures, including adequate information on redress mechanisms and how to use them; free professional interpretation; and access to shelters for those with no other means of supporting themselves while pursuing their claim.
- Allow all migrant domestic workers with a pending case in the conciliation service, MECAB, Labour Tribunal or criminal court to have access to public health care services at eligible persons’ rates of charges.
- Allow in all instances third parties, including trade unions, NGOs or individuals, to pursue a claim at the conciliation service, MECAB or Labour Tribunal on behalf of a migrant domestic worker.

- Reduce the evidential burden of proof on migrant domestic workers and require employers to demonstrate that they have complied with their statutory requirements.
- Strengthen the capacity of the MECAB and Labour Tribunal so that the amount of time it takes to conclude claims is reduced.
- Facilitate migrant domestic workers to pursue a claim at the conciliation service, MECAB or Labour Tribunal via video link if they return to their country of origin prior to the resolution of their case.
Appendix 1: Sample Research Questionnaire on Access to Justice

Name: __________________________ Year of birth: __________________________
Nationality: __________________________ Start/End dates of problem job: _______
Mobile: __________________________ Email: __________________________
Date of interview: __________ Place of interview: ________________________

1. What type of problem(s) did you experience (circle all that applies)?

a. Wages (including underpayment, late payment and wages in lieu of notice)
b. Agency fees (from HK EAs, including excessive fees and illegal deductions)
c. Rest day and holidays (not given and/or not paid for)
d. Food and travel allowance
e. Air ticket
f. Other contractual discrepancy
g. Document confiscation
h. Physical/sexual violence, abuse or threats
i. Denial of sick leave, maternity leave or medical care
j. Injury or disease while working
k. Other (state what the problem was): __________________________

2. Please provide full details of the problem(s) you faced (including the dates it started and ended).

3. Did you complain to the Labour Department? Yes / No
   If “No”, why not (circle as many reasons as provided by the interviewee)?

   a. Didn’t believe they would help to solve the problem
   b. Didn’t know they could help
   c. Didn’t know how to access the remedy
   d. Couldn’t afford to pursue the claim
   e. Other (state what the reason was): __________________________

   If “Yes”:
   • Did you attend a conciliation meeting with the employer? Yes / No
   If “No”, why did you choose not to?

   If “Yes”:
   • What was the amount you asked for (please provide a breakdown of what the money was for)?
   • What was the amount that the employer offered?
   • Did you accept it? Yes / No
   • Why or why not?
   • Were you satisfied with the process and outcome? Yes / No
   • Why or why not?

• Did you take your case to the Labour Tribunal (LT)/the Minor Employment Claims Adjudication Board (MECAB)? Yes / No / N/A

If “No”, why not?
If “Yes”, specify which one: ☐LT ☐MECAB
• What was your reason for doing so?
• What was the amount that you asked for (if different from above please provide a breakdown)?
4. Did you consider trying to resolve your employment problem(s) through any other means? Yes / No

If “Yes”, how (e.g. by going to the employment agency, consulate, police, employer)?
Did you make a complaint? Yes / No

If “No”, why not (circle all that apply)?
   a. I didn’t believe they would help to solve the problem.
   b. I didn’t know they could help.
   c. I didn’t know how to access the remedy.
   d. Other (state the reason was): __________________________

If “Yes”, list all the institutions you complained to and answer the following questions for each one:
   • Did they try to help you resolve the problem(s)? Yes / No
     If “No”, provide details.
   • Were they successful in resolving the problem(s)? Yes / No
     If “No”, provide details.

5. Approximately how much did you spend trying to resolve your employment issue (e.g. living costs in Hong Kong, filing the case, copy costs, attending court, visa renewal, transportation, etc.)?

   • Were you able to claim back any of these costs? Yes / No / N/A
     If “Yes”, what for and how much?

   • Did you get a visa extension or an exemption work visa to pursue your claim?
     Yes / No / N/A
     If “No”, did you ask for one? Yes / No
       • If “Yes”, which visa did you ask for and why was it refused?
       If “Yes”, which visa did you have and how much did it cost?

   • Were you working for any of the time while you tried to resolve your employment problems? Yes / No / N/A
     If “Yes”, please provide details.

6. What do you think was the biggest obstacle/s you faced when trying to resolve your problems at work and access redress mechanisms?

7. What do you think the Hong Kong government should do to make it easier for migrant domestic workers to resolve disputes with their employer or employment agency?
8. Below are nine statements. Based on your personal experience of trying to resolve work-related problems, please state whether you (1) agree or (2) disagree with the following statements about problems migrant domestic workers have accessing justice in Hong Kong. If you are not sure, then state (3) I don’t know.

- Migrant domestic workers do not know how to properly use the procedures to resolve problems at work or seek justice in Hong Kong.
- There is not enough support for migrant domestic workers to take cases to the Labour Tribunal (e.g. legal advice, translation services, etc.).
- The legal process is too slow and too expensive.
- It is hard to provide the required evidence to prove your case (e.g. proving that you were forced to work excessive hours or that you were not given statutory holidays, etc.).
- The conciliation process and other redress mechanisms favour the employer.
- It is very difficult to make a complaint without losing your job and your right to work in Hong Kong.
- It is very difficult to support yourself while pursuing a claim.
- The cost of visa extensions allowing migrant domestic workers to stay in Hong Kong to pursue their claims is too expensive.
- The Immigration Department will not grant an exemption work visa to allow migrants to work while pursuing their cases.
EMPLOYMENT CONTRACT
(For A Domestic Helper recruited from abroad)

This contract is made between _________________________________ (the Employer) and _________________________________ (the Helper) and has the following terms:

1. The Helper's place of origin for the purpose of this contract is _________________________________.

2. (A) The Helper shall be employed by the Employer as a domestic helper for a period of two years commencing on _________________________________, which is the date following the expiry of D.H. Contract No. _________________________________ for employment with the same employer.

(B) The Helper shall be employed by the Employer as a domestic helper for a period of two years commencing on _________________________________, which is the date following the expiry of D.H. Contract No. _________________________________ for employment with the same employer.

3. The Helper shall work and reside in the Employer's residence at _________________________________.

4. (a) The Helper shall perform the duties attached Schedule of Accommodation and Domestic Duties for the Employer.

(b) The Helper shall not take up, and shall not be required by the Employer to take up, any other employment with any other person.

(c) The Employer and the Helper hereby acknowledge that Clause 4(a) and (b) will form part of the conditions of stay to be imposed on the Helper by the Immigration Department, upon the Helper’s admission to work in Hong Kong under this contract. A breach of any one or both of the said conditions of stay will render the Helper liable to deportation or criminal prosecution.

5. (a) The Employer shall pay the Helper a gross sum of HK$ _________________________________ per month. The amount of wages shall not be less than the minimum allowable wage announced by the Government of the Hong Kong Special Administrative Region and prevailing at the date of this contract. An employer who fails to pay the wages due under this employment contract shall be liable to criminal prosecution.

(b) The Employer shall provide the Helper with suitable and furnished accommodation as per the attached Schedule of Accommodation and Domestic Duties and food free of charge. If no food is provided, a food allowance of HK$ _________________________________ a month shall be paid to the Helper.

(c) The Employer shall provide a receipt for payment of wages and food allowance and the Helper shall acknowledge receipt of the amount under Helper’s signature.

6. The Helper shall be entitled to all rest days, statutory holidays, and paid annual leave as specified in the Employment Ordinance, Chapter 57.

7. (a) The Employer shall provide the Helper with free passage from his/her place of origin to Hong Kong on termination or expiry of this contract. Free return passage to his/her place of origin.

(b) A daily and travelling allowance of HK$100 per day shall be paid to the Helper from the date of his/her departure from his/her place of origin until the date of his/her arrival at Hong Kong if the travelling is by the most direct route. The same payment shall be made when the Helper returns to his/her place of origin upon expiry or termination of this contract.

8. The Employer shall be responsible for the following fees and expenses (if any) for the departure of the Helper from his/her place of origin and return to Hong Kong:

- medical examination fees;
- vaccination fees by the relevant Consulate;
- visa fees;
- insurance fees;
- administration fee or fees as the Philippines Overseas Employment Administration fee, or other fees of similar nature imposed by the relevant government authorities; and
- others:

In the event that the Helper has paid the above costs or fees, the Employer shall fully reimburse the Helper forthwith the amount so paid by the Helper upon demand and production of the corresponding receipts or documentary evidence of payment.

* Delete where inappropriate.
† Use either Clause 2A, 2B or 2C whichever is appropriate.

Signed by the Employer
(Signature of Employer)

In the presence of
(Name of Witness)
(Signature of Witness)

Signed by the Helper
(Signature of Helper)

In the presence of
(Name of Witness)
(Signature of Witness)
**SCHEDULE OF ACCOMMODATION AND DOMESTIC DUTIES**

1. Both the Employer and the Helper should sign to acknowledge that they have read and agreed to the contents of this Schedule, and to confirm their consent for the Immigration Department and other relevant government authorities to collect and use the information contained in this Schedule in accordance with the provisions of the Personal Data (Privacy) Ordinance.

2. **Employer's residence and number of persons to be served**
   - A. Approximate size of flat/house: ______ square feet/square metres*
   - B. State below the number of persons in the household to be served on a regular basis:
     - ______ adult
     - ______ minors (aged between 5 to 18)
     - ______ minors (aged below 5)
     - ______ expecting babies.
     - ______ persons in the household requiring constant care or attention (excluding infants).
   (Note: Number of Helpers currently employed by the Employer to serve the household ________)

3. **Accommodation and facilities to be provided to the Helper**
   - A. Accommodation to the Helper
     - While the average flat size in Hong Kong is relatively small and the availability of separate servant room is not common, the Employer should provide the Helper suitable accommodation and with reasonable privacy. Examples of unsuitable accommodation are: The Helper having to sleep on made-do beds in the corridor with little privacy and sharing a room with an adult/teenager of the opposite sex.
     - Yes. Estimated size of the servant room: ______ square feet/square metres*
     - No. Sleeping arrangement for the Helper:
       - Share a room with ______ children/teenagers
       - Separate partitioned area: ______ square feet/square metres*
   (Note: Application for entry visa will normally not be approved if the essential facilities from item (a) to (f) are not provided free.)

4. **Domestic duties**
   - The Helper should only perform domestic duties at the Employer's residence. Domestic duties to be performed by the Helper under this contract exclude driving of a motor vehicle or any description for whatever purposes, whether or not the vehicle belongs to the Employer.
   - Domestic duties include the duties listed below:
     - Major portion of domestic duties—
       1. Household chores
       2. Cooking
       3. Looking after aged persons in the household (constant care or attention is required)
       4. Babysitting
       5. Child-minding
       6. Others (please specify)

5. **Facilities to be provided to the Helper**
   - (Note: Application for entry visa will normally not be approved if the essential facilities from item (a) to (f) are not provided free.)
   - (a) Light and water supply
     - Yes
     - No
   - (b) Toilet and bathing facilities
     - Yes
     - No
   - (c) Bed
     - Yes
     - No
   - (d) Blankets or quilt
     - Yes
     - No
   - (e) Pillows
     - Yes
     - No
   - (f) Wardrobe
     - Yes
     - No
   - (g) Refrigerator
     - Yes
     - No
   - (h) Desk
     - Yes
     - No
   - (i) Other facilities (Please specify)

---

<table>
<thead>
<tr>
<th>Employer's name and signature</th>
<th>Date</th>
<th>Helper's name and signature</th>
<th>Date</th>
</tr>
</thead>
</table>

* delete where inappropriate

---

* Risk as appropriate


...
調停服務的目的，是要提供一種簡單和比較簡單，快速和省時的方法，以協助勞資雙方解決勞資糾紛，促成和解。

同樣地，勞資糾紛的成立，是為市民解決勞資雙方的糾紛，程序簡單快捷，不需太多準備，收費費用不多。

這些程序在一定程度上不利於企業，但有幾個因素使企業處於不利地位，包括：

1. 勞資糾紛的發生往往與勞資雙方的關係有關，企業需要負起責任，企業與勞資雙方的關係，包括：
2. 勞資糾紛的發生往往與勞資雙方的關係有關，企業需要負起責任，企業與勞資雙方的關係，包括：
3. 勞資糾紛的發生往往與勞資雙方的關係有關，企業需要負起責任，企業與勞資雙方的關係，包括：
4. 勞資糾紛的發生往往與勞資雙方的關係有關，企業需要負起責任，企業與勞資雙方的關係，包括：
5. 勞資糾紛的發生往往與勞資雙方的關係有關，企業需要負起責任，企業與勞資雙方的關係，包括：

因此，企業需要盡力設法迅速解決糾紛，使勞資雙方的關係回到正常狀態，以配合企業的發展，否則企業可能會遭受巨大財政壓力，甚至完全停止業務。
<table>
<thead>
<tr>
<th></th>
<th>受訪者人數</th>
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<tbody>
<tr>
<td>失去工作</td>
<td>17</td>
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<td>財務問題</td>
<td>12</td>
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<td>缺乏資訊</td>
<td>8</td>
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<td>語言障礙</td>
<td>3</td>
</tr>
<tr>
<td>受害主威脅</td>
<td>3</td>
</tr>
<tr>
<td>提出申索的費用</td>
<td>2</td>
</tr>
<tr>
<td>不忠立的職員</td>
<td>2</td>
</tr>
</tbody>
</table>

圖表 2 受訪者指出在使用申索籌劃解決工作問題期間，遇到的最大難處
我不满意这个结果，因为我收到的金额非常少。虽然比没有胜诉的情况好，但我还是觉得不够。我希望在未来，类似的案件能够得到更高的赔偿。

2019年2月19日，Asis为雇主非法解雇，并要求雇主支付解雇金50,000港元（约6,885美元）。雇主声称，她在合同中未明确提及解雇金的条款。

这次案件反映了雇主在雇佣合同中的不明确条款。雇主应该在合同中明确支付解雇金的条款，以避免未来类似情况的发生。
另外一位印尼籍32岁的女佣，就申诉了一段时间被雇主并逼要交钱假期，谅解假期，甚至在雇主家的时日，并没有得到雇主的谅解。雇主更以恶劣的言辞和行为来挑衅女佣，使她感到非常气愤。女佣因无法忍受雇主的言行，最后向雇主辞职，但是雇主却拒绝支付女佣的辞职金。女佣只好向我求助，希望我能帮忙解决这个问题。
幾位受訪者都有表示，他們感到害怕，並描述在投票會議或法庭面前面對傷害如何困難。DVAM 表示，避免與傷害再見面，是她接受治療的原因之一。

在投票會議中，面對傷害的過程使照相受到重創。

她就在我面前，將事實扭曲。她說有關我的事都不是事實，她這樣做很難。

安達，一位患有高血壓的 40 歲婦女，她告訴我，她發現她的健康狀況後，開始接受治療，但她說她的生活並沒有什麼不同。她在 2013 年的診斷中，被診斷為精神疾病，需要治療。她說，治療的過程很艱難，但她無法避免。

在公民社會組織的協助下，安達在投票點就缺席。她告訴我，她無法忍受了。她說，治療的過程很艱難，但她無法避免。

其他受訪者也表示，他們相信，傷害體現在過去的經驗中，違反了他們的權益，甚至違反了他們的健康。因此，他們希望有機會改变這種情況，因為他們希望有機會改變這種情況，因為他們有權去選擇自己的未來。安達，一位患有高血壓的 40 歲婦女，她告訴我，她發現她的健康狀況後，開始接受治療，但她說她的生活並沒有什麼不同。她在 2013 年的診斷中，被診斷為精神疾病，需要治療。她說，治療的過程很艱難，但她無法避免。
勞工處指出，

28. 受訪者同意，把個案交由勞資審裁處處理的過程中，得到的支援不足，其中3位特別指出語言障礙的影響。傳譯服務包括由一個熟悉少數族裔人士

93. 支援服務中心提供的電話傳譯或現場傳譯。

94. 2016年觀察的個案中，有近60%的個案中的移工，有得到支援，主要來自民間社會組織

95. 2017年與2018年的研究亦指出，

96. 少數族裔人士會得到傳譯服務，確保他們不會受到語言障礙的影響。傳譯服務包括由一個熟悉少數族裔人士

97. 支援服務中心提供的電話傳譯或現場傳譯。

98. 「和諧」-- 少數族裔人士

99. 惡劣的行為，因為我不清楚整個傳譯的程序，只有我一個人的話，是很難與僱主

100. 然而，我不能自己做個案提交至勞資審裁處，因為我不清楚整個傳譯的程序，只有我

101. 有些人知道如何提交一個申訴，沒有組織的協助的話，

102. 我也曾獲教會的領袖和中介有幫我，他們給了我信心去跟進我的個案。
必須

必須

必須

必須

必須
<table>
<thead>
<tr>
<th>受訪者</th>
<th>索償金額 (港幣$)</th>
<th>得到金額 (港幣$)</th>
</tr>
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<tbody>
<tr>
<td>1. Althea</td>
<td>7,047</td>
<td>7,047</td>
</tr>
<tr>
<td>2. Angel</td>
<td>9,680</td>
<td>4,700</td>
</tr>
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<td>3. Anisa</td>
<td>60,000</td>
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<td>4. Baby Jane Allas</td>
<td>84,000</td>
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<td>5. Cristina</td>
<td>9,993</td>
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<tr>
<td>6. Dewi</td>
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</tr>
<tr>
<td>7. Dolores</td>
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<td>5,200</td>
</tr>
<tr>
<td>8. Edna</td>
<td>7,000</td>
<td>6,000</td>
</tr>
<tr>
<td>9. Eka</td>
<td>9,000</td>
<td>5,000</td>
</tr>
<tr>
<td>10. Flora</td>
<td>25,483</td>
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</tr>
<tr>
<td>11. Hazel</td>
<td>33,180</td>
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<tr>
<td>12. Jasmine</td>
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<td>13. Jessa</td>
<td>64,958</td>
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<td>14. Lilith</td>
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<td>15. Marisol</td>
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<td>16. Mary</td>
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<td>17. Nenita</td>
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<td>18. Nicole</td>
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<td>19. Nur</td>
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<td>20. Ratna</td>
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<td>21. Rita</td>
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<td>26. Veronica</td>
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<tr>
<th>得到金額為索償金額的百分比</th>
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</tr>
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</tr>
<tr>
<td>51%</td>
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</tr>
<tr>
<td>71%</td>
<td>小額薪酬索償仲審裁處</td>
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<tr>
<td>86%</td>
<td>調停會議</td>
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<tr>
<td>56%</td>
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<td>100%</td>
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</table>

78 18位沒有在調停會議中接受和解的受訪者中，有1位停止他的索償。另外6位在勞資審裁處處理的個案，訪問期間仍然進行中。
【發現香港】懸掛戰旗的香港郵政總局大樓，被列為香港一級歷史建築。

香港的郵政總局大樓，建於1865年，是香港最早的郵政建築之一。大樓的懸掛戰旗，代表着香港作為英國殖民地時期的重要郵政設施。大樓現為香港郵政總局使用，並已被列為香港一級歷史建築。

懸掛戰旗的香港郵政總局大樓，是香港郵政史的重要標誌之一，也是香港重要歷史建築之一。
成本與時間的問題

當訪問者被問到，使用中介程序所能解決什麼問題時，遇到的難題是什麼？最多訪問者指出的難題是失去工作的機會（17位）。

此外，所有82位訪問者都同意，在香港提出投訴時，是很有機會失去工作的機會，

投資者並失去工作的機會。故大多數人未去投訴，因為他們擔心香港的強制與雇主而產生的問題，

此情況，令部分投資者長期不敢提出投訴。投資者在投訴後，必須在兩星期內向香港投訴離職，

以至未能完成薪酬的問題。由於，投訴機構在兩星期內作出決定，投資者必須在兩星期內向香港投訴離職。
雖然上訴庭對結果感到失望，但因為菲律賓家中急需處理，所以還是接受了這個金額。

另一個類似的案例中，一位23歲的印尼女子，為一個僱主工作超過五年，2018年1月，她向僱主請假兩週，以出席女
兒的大學畢業。僱主是同意，但後來卻在5月反口。

另一位36歲的菲律賓女子，在2018年10月，她請了兩週的病假，僱主
卻拒絕給她任何薪水。

另外一個案例中，一位42歲的菲律賓女子，在2018年10月開始產假，
但因工作需要於當月27日返回。她與僱主協商，將產假延長至10月30日。

僱主最後同意，但拒絕支付金額，並在僱工薪酬表上塗改。

一位女子在中國工作時，因病請假，僱主卻拒絕支付金額，並在僱工薪酬表上塗改。

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此图像中的文本无法自然阅读。
### 表格1 受訪者索償的項目與金額

<table>
<thead>
<tr>
<th>索償項目</th>
<th>金額</th>
</tr>
</thead>
<tbody>
<tr>
<td>每月工資</td>
<td>港幣4,520元</td>
</tr>
<tr>
<td>一個月的代通知金</td>
<td>港幣4,520元</td>
</tr>
<tr>
<td>膳食津貼</td>
<td>每月港幣1,075元</td>
</tr>
<tr>
<td>疾病津貼</td>
<td>平均每日薪金的五分之四</td>
</tr>
<tr>
<td>每周工作日（連續不少于24小時）</td>
<td>每七日有一天</td>
</tr>
<tr>
<td>假期</td>
<td>每年12天法定有薪假期</td>
</tr>
<tr>
<td>年假</td>
<td>每年7天有薪假期</td>
</tr>
<tr>
<td>產假</td>
<td>十四周有薪假期</td>
</tr>
<tr>
<td>醫療</td>
<td>根據章程所需</td>
</tr>
<tr>
<td>長期服務金</td>
<td>最後一個月薪金的三分之二 x 服務年期</td>
</tr>
<tr>
<td>回程機票</td>
<td>港幣1,500-3,000元</td>
</tr>
<tr>
<td>返還居留地途中的膳食與交通津貼</td>
<td>每天港幣100元</td>
</tr>
</tbody>
</table>

### 全部33位訪問承委員均曾於勞工處提交申索，並有出席調停會議。其中八位個案中，僱主並沒有出席。

### 受訪承委員提出的申索當中，最多的四類個案是有關傷殘（32位受訪承委員中的88%）、膳食和交通津貼（33位中的26位）、工傷（33位中的25位）和醫療（33位中的22位）。
調停服務

2018年勞工處的勞案科處理共138宗申索個案，其中102宗有關於受僱外勞，5宗有關於移工，71宗有關於勞工，78宗有關於合約外勞，71宗有關於合約內僱員。在這些申索個案中，72宗通過調停服務達至和解。
바람직한 환경에 구현하기 위한

1. 천연재료 사용
   - 자연 환경에 부과된 기후 조건에 적합한 재료를 사용하여 건물의 이중화를 증가시킨다.
   - 환경친화적인 재료를 사용하여 건물의 수명을 늘리고 환경 오염을 줄인다.

2. 일자리 제공
   - 건설업의 일자리를 제공하여 경제 발전을 촉진한다.
   - 일자리를 제공하여 노동시장의 안정성을 높인다.

3. 인프라 개선
   - 인프라 구조를 개선하여 교통 혼잡을 줄이고 보행이 편리해진다.
   - 인프라 개선을 통해 도시의 경제 활성화를 촉진한다.

4. 사회적 가치 창출
   - 문화유산 보존과 지역특성을 극복하여 지역의 역사와 문화를 지켜나간다.
   - 경제적 가치와 사회적 가치를 동시에 창출하여 지속가능한 도시를 실현한다.
自2018年底，香港一共有98,000位移工及员工受聘。

22 她們在香港接受的收入和工作情况的报告。

23 本研究的目的在于深入了解，为在港的移工提供更佳的条件。

24 本研究的目的是在于更深入了解，为在港的移工提供更佳的条件。

25 本研究的目的是在于更深入了解，为在港的移工提供更佳的条件。
根據是次研究結果，研究小組於2018年5月23日向香港特區政府提出以下建議:

部分，但我們的職位沒有遵守。（

助我們，當我們得不到新公司和福利，而這些都是在僱用合約中保障的，並且是香港勞工法例的一
除了法令本身以外，還有其他原因導致移工與僱主角力處於不利的對立位置。這其中主要問題包括：

1. 移工對於勞資協議不符合預期的嚴重性及缺乏足夠的法律支援。
2. 專業知識不足，移工對程序及司法制度的不熟悉。

這種種問題並不存在表達勞資協議對移工完全沒有用。因此，對外勞勞資協議的缺失，亦或避開端午節的應酬，對於僱主來說，是一個必須面對的課題。因此，僱主應該對於移工的罷工採取積極的態度，並且積極キレイ地解決問題，而不是對此置之不理。這樣一來，移工的權益可以獲得保障，而僱主也可以免於法律的追責。
結論和建議

A sia說她「應該被W解僱」。W解僱後的補償是，雖然A sia感到被僱主解僱後的補償金20,000元（美金3,000元）低於她索償的金額，但她最終選擇了這筆補償。A sia說「我被W解僱，但又被W補償金。」此案例反映了多個受訪的家庭間的解決糾紛問題，包括期望保持溫和且簡單的解決程序。然而，在此情況下，她被W解僱後的補償金遠低於她索償的金額。這正是因為A sia索償的額外金額是因為她在港的兩星期內，W解僱A sia，並會在解僱後的兩星期內補償A sia。

結論和建議

A sia不希望她的經歷重複。W解僱後的補償金低於A sia索償的金額，但A sia最終選擇了這筆補償。A sia說「我被W解僱，但又被W補償金。」此案例反映了多個受訪的家庭間的解決糾紛問題，包括期望保持溫和且簡單的解決程序。然而，在此情況下，她被W解僱後的補償金遠低於她索償的金額。這正是因為A sia索償的額外金額是因為她在港的兩星期內，W解僱A sia，並會在解僱後的兩星期內補償A sia。

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[Text in Chinese]
移工受到財政壓力而接受較低的和解金額

對想工來說，香港的申請程序是相當繁複的。2018年的官方數字指出，一個案件由申請在勞資裁處的第一次聆訊，勞工處平均需要106天。一位移工，如果希望在五天內處理費用，可能需時6倍，求解受訪者平均需要等待106天。

過去一年，一名移工為了爭取工資，向裁決官申請和解，但和解金額被裁決官認為不高，因為該移工未能證明他的實際收入。最終，裁決官決定將移工的和解金額提高。

然而，最大的支出是移工申請和處理期間的費用。根據香港法例，申請和處理費用的平均為港幣2000元（約美金260元），加上律師、翻譯、翻譯費用等，總費用可達港幣10000元（約美金1300元）。這對於移工來說，是一個沉重的負擔。

對於移工來說，正是這些費用，使他們難以申請和解。即使他們能找到中介中心的贊助，也必須付出平均港幣3000元（約美金390元），才能協助他們申請和解。
申索個案的關鍵內容

全部26位受訪家務工均曾於勞工處提出申索

並有參與調停會議，嘗試與僱主達成和解。

只有17位受訪者則把個案提交至處理申索高於港幣8000元（美金1022元）的勞資爭議裁處。

她們的索償金額為平均港幣27391元（美金4836元）。

該金額相當於家務工的四成薪金。

眾多原因包括在港工作的高成本及家務工作的極度勞累。

受訪者亦表示家務工的工資普遍偏低，難以維持基本生活。

有24個個案為家務工，其月薪介乎2500元至3500元（美金321至431元）。


dan。
組織介紹

PLU是一個在香員家務工人的聯合會，具備團結力量、互助協作、推進家務工人的權益、安全及福利，以及推動勞工運動的宗旨。PLU致力推廣及保障香港所有家務工人的權益和福利，活動主要包括："組織工人、教育、能力培訓、政策倡議與公眾教育運動、服務、及提供法律援助及服務，以及香港家務工聯會（IDWM）的直接轄區。

PLU旨在踐行非牟利、非政治、非宗教、非國際的風格，是香港唯一的非政黨家務工人的聯合會。現時，PLU有眾多蒞臨及外籍家務工人的團體及海外家務工人的團體（ODWM）。
公義的代價

經驗

移民

資家

家務工

的解

決

港

勞

資

紛

工
公義的代價

在港移民家務工

的經驗

勞資糾紛