

Justice Without Borders

Transnational Civil Litigation in Hong Kong: Seeking Damages for Migrant Workers Post-Return

26 October 2017

Program Outline

This workshop aims to introduce the wide variety of private law issues that migrant domestic workers (MDW) encounter in Hong Kong and upon their return home. The program includes introductions to substantive and procedural considerations, a hands-on case simulation, using facts from real-life cases, and a briefing on how to get involved in pro bono work with front-line organisations. The workshop will equip lawyers with the tools needed to develop this new area of practice on an international level.

Time	Activity
1300 – 1310	Introduction and Opening Remarks <u>Speakers</u> Ms. Lindsay ERNST, Lecturer, The University of Hong Kong Ms. Christine CUTHBERT, Herbert Smith Freehills
1310 – 1320	Introduction to Cross-Border Civil Litigation in the MDW Context <u>Speakers</u> Mr. Douglas MACLEAN, Justice Without Borders
1320 – 1400 Part I, Part II, Part III 1400 - 1415 Break: 15 minutes 1415 - 1500 Part IV, Part V, VI	Panel Discussion: Civil Compensation as a Tool for Addressing Problems Faced by MDWs <u>Moderator</u> Ms. Michelle YU, Justice Without Borders <u>Outline</u> This discussion will introduce common claims raised by Hong Kong’s migrant workers, including unpaid wages, excessive agency fees, physical and sexual abuse, and the available civil remedies. Procedural issues in different courts and tribunals will be included, along with a brief discussion of the roles played by law firms and NGOs in cross-border litigation. <i>Part I – Overview: Migrant Domestic Workers and the Cross-Border Problems They Face (~15 mins)</i> <u>Speaker</u> Mr. Leo TANG, Hong Kong Confederations of Trade Unions Ms. Holly ALLAN, HELP for Domestic Workers

	<p><i>Part II – Substantive Legal Remedies Against the Employer (~15 mins)</i> <u>Speaker</u> Ms. Christine CUTHBERT, Herbert Smith Freehills</p> <p><i>Part III – Labour Tribunal and Small Claims Tribunal (~10mins)</i> <u>Speaker</u> Mr. Leo TANG, Hong Kong Confederation of Trade Unions</p> <p>BREAK (1400 - 1415)</p> <p><i>Part IV - Procedural Considerations (~15 mins)</i> <u>Speakers</u> Mr. Fabian RODAY, Fangda Partners</p> <p><i>Part V – Other Considerations Regarding Cross- Border Litigation (~12 mins)</i> <u>Speaker</u> Mr. Douglas MACLEAN, Justice Without Borders</p> <p><i>Part VI – Discussion: The Role of Law Firms/Lawyers in Pursuing MDW Claims (~18 mins)</i> <u>Facilitator</u> Ms. Kareena TEH, Dechert LLP Mr. Harry C. EDWARDS, Herbert Smith Freehills</p>
1500 – 1515	REFRESHMENT BREAK
1515 – 1630	<p>Interactive Session (Group Work): A Case Study in International Litigation for Migrant Workers</p> <p><u>Facilitator</u> Mr. Fabian RODAY, Fangda Partners</p> <p><u>Outline</u> Working in groups, participants will discuss a fact pattern developed from actual cases. The groups will seek to identify and discuss several challenges that the “case” presents. JWB’s Practitioner’s Manual for Migrant Workers will be used as a reference. A full group discussion will follow, giving participants the chance to share ideas and insights. Presenters from previous sessions will also contribute their perspectives as appropriate.</p>

1630 – 1700

Panel Discussion: Pro Bono Opportunities—Meet Representatives from Hong Kong’s Non-Governmental Organizations Handling Migrant Worker Claims

NGO Representatives

Mr. Leo TANG, Hong Kong Confederation of Trade Unions

Ms. Holly ALLAN, HELP for Domestic Workers

Mr. Douglas MACLEAN, Justice Without Borders (JWB)

Outline

This session will feature three non-governmental organisations who will introduce their work and how it intersects with legal support for MDWs. They will also introduce various opportunities for the participants to get involved in meaningful and career-enhancing pro bono legal work on behalf of migrant workers.