

Questionnaire for NGOs and other stakeholders on domestic servitude

This questionnaire is addressed to stakeholders such as international and regional organisations, national human rights institutions, UN agencies, funds and programmes, non-governmental organisations, trade unions, research institutions, businesses, community initiatives, private individuals, foundations and academia.

The below questionnaire is meant to assist the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Urmila Bhoola, with elaborating a comprehensive report on domestic servitude of migrant women and girls that will be presented to the Human Rights Council in September 2018.

The responses to the below questionnaire should be submitted to the Special Rapporteur on contemporary forms of slavery, including its causes and consequences in English, French or Spanish at [srsalavery@ohchr.org](mailto:srslavery@ohchr.org)

The deadline for submissions is 18 May 2017.

If not stated otherwise in your submission, the responses received will be published on the website of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences.

Question 1

Please provide information on your organisation and its work with migrant domestic workers who became victims of contemporary forms of slavery, including the countries in which you work on this issue.

Stop Trafficking of People (STOP.) a program under Branches of Hope, a Hong Kong-based non-government organization. STOP was established in November 2014 with the goals of raising awareness about human trafficking, connecting with key counter-trafficking groups, providing victims with support, allowing their voices to be heard, and to serving as a catalyst for positive change in the fight against modern-day slavery. We are a frontline organisation that responds to victims' need through legal referral and social assistance, network building, outreach and public education.

While we work to support all victims of human trafficking, the majority of our clients are migrant domestic workers. We currently partner with specialized service providers such as leading human rights law firms, counsellors and housing, together with our own case management services and expanding social assistance, in order to provide wraparound services for these victims. We also work closely with migrant worker federations and unions to provide up-to-date training on victim identification. Additionally, we assist with the repatriation of victims through our partnerships with organisations in Cambodia, Thailand and Kenya.

Question 2

A. Please characterise the legal and/or policy frameworks relevant to the protection of migrant domestic workers subject to contemporary forms of slavery, as well as any global

trends you would like to highlight. Please include information about provisions criminalising contemporary forms of slavery, those that might establish distinct rights and/or restrictions for domestic workers, including migrant domestic workers (in regards to, for instance, salary, working hours, freedom of movement, freedom of association, limited freedom to change employers, etc.), as well as measures to identify and support migrant domestic workers who are or were victims of contemporary forms of slavery.

B. Please include specific references to the source of law when possible.

Please refer to the HKSAR Government Security Bureau's webpage for an overview of the Hong Kong laws and policies relevant to trafficking in persons, including victims who are migrant domestic workers: <http://www.sb.gov.hk/eng/special/bound/iimm.htm>.

Please also refer to the HKSAR Government's *Action Plan to Tackle Trafficking in Persons and to Enhance Protection of Foreign Domestic Helpers* (March 2018) at: <http://www.sb.gov.hk/eng/special/>.

Question 3

Please describe the main challenges and barriers identified in the country or countries in which your organisation works to ensuring the human rights of migrant domestic workers victims of contemporary forms of slavery. Please also specify any global trends that you are aware of.

Hong Kong was placed on the Tier 2 Watchlist in the US Department of State's 2017 *Trafficking in Persons Report* and has been described as "primarily a destination, transit, and to a much lesser extent, a source territory for men, women, and children subjected to forced labor and sex trafficking".ⁱ At the end of 2017, there were about 370,000 migrant domestic workers in Hong Kong. An NGO report in 2016 estimated that approximately 1 in 6 migrant domestic workers are victims of forced labour.ⁱⁱ

One of the key challenges to ensuring the human rights of victims of trafficking is the HKSAR Government's ongoing denial that modern slavery is a problem in Hong Kong. The HKSAR Government has continued to insist that trafficking in persons is neither prevalent nor widespread in Hong Kong.ⁱⁱⁱ They support this claim by pointing to the small number of victims identified. However this only attests to the hidden nature of the crime and the fact that current laws and policies are not sufficient to properly identify and protect victims of trafficking, many of whom remain voiceless and invisible.

It follows that the lack of a comprehensive law against modern slavery in Hong Kong is a critical gap in the current legal framework. Hong Kong has no comprehensive legislation against trafficking but relies on a piecemeal, multi-legislation approach to cover trafficking-related offences. The only legal provision that deals specifically with human trafficking (section 129 of the Crimes Ordinance, Cap. 200), applies only to trafficking across borders for the purpose of prostitution. No other forms of trafficking are criminalised including forced labour or human trafficking for the purpose of forced labour.

The current piecemeal legislative approach fails to identify and punish perpetrators of trafficking for the crime of human trafficking. Rather, perpetrators may be prosecuted for other offences relating to

the component parts of trafficking or else they may slip through the cracks entirely. Victims of trafficking, many of whom are migrant domestic workers, have little incentive to seek help due as there is no clear pathway to justice for them and a lack of appropriate remedies. Access to legal aid, quality interpreters, emergency shelter, medical and psycho-social supports continue to be a struggle for victims and the NGOs assisting them. Further, the risk of victims being charged for breaches of labour contracts, violations of immigration laws and other offences continues to be a problem in the absence of formal legal provisions protecting victims from criminalisation.

Question 4

A. Please elaborate on any specific violence, threats of violence, abuse or harassment faced by migrant women and girls who are in situation of domestic servitude.

As a frontline NGO we have come across many different examples of violence and abuse suffered by migrant women who are victims of slavery in Hong Kong. For example, victims have been subject to verbal abuse and insults, others have been threatened with violence or dismissal from employment, withholding of their wages, exposure of their rape or prostitution to their families etc. Victims have also suffered physical abuse such as being beaten and punched. One victim recalled that “The mother and auntie of the children often beat me with sandals or punched me for no reason, and sometimes until my nose bled.” One of our clients had bleach mixed with water thrown on her. Another client was pushed into the bathroom and as a result suffered a back injury after she hit her back on the bathtub. We have also seen cases of sexual abuse of domestic workers by their employers. In other cases, migrant women were recruited to work as a domestic worker, waitress or other job in Hong Kong but upon arriving found themselves being forced to work as bar girls or prostitutes.

B. Please elaborate on any other human rights violation faced by migrant women and girls who are in situation of domestic servitude (including, for example, their right to health, water, housing, freedom of movement, freedom of association, etc.).

Other forms of human rights violations we have seen in our work include:

Right to work, good working conditions and equal pay for equal work

Many of our clients who are migrant domestic workers have been subject to various kinds of labour exploitation. Some have been charged exorbitant fees by employment agencies, up to 56 times what the law in Hong Kong allows. As a result they have had to take out large loans. The average payback time for those who were contracted in Hong Kong and borrowed in Hong Kong has been estimated to be about 6 months.^{iv}

We also have clients who have been severely underpaid. The Minimum Allowable Wage for domestic workers in Hong Kong is \$4410 HKD per month. One of our clients was paid \$2500 HKD a month.

Migrant domestic workers have also been deceived about the nature of their position and working conditions. One victim was told that she would be looking after two children but upon arriving in Hong Kong she found that she would be taking care of 4 children as well as an elderly couple, along with the

employers themselves. Others have been required to work in multiple locations despite this being prohibited under Hong Kong laws.

Right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay

Victims have reported being required to work very long hours (such as 17-18 hour days) and not being given their statutory holidays and compulsory rest day. “I was only allowed to sleep for about two hours a day, sometimes less,” said one victim. “I had to take care of four children and clean the apartment”.

Right to food and water

Under the Standard Employment Contract for hiring migrant domestic workers, employers are required to provide migrant domestic workers with food free of charge or otherwise pay them a food allowance of not less than \$1,053 HKD per month. One client was given only pork even though her employer knew she was Muslim. Another victim was only allowed to eat stale leftover food that was deemed unfit for the rest of the family. Sometimes, she would even be given food that was chewed and spat out by the children. In another case, the victim’s employer went on a 10-day holiday and only left her with \$100 HKD.

Right to health

Victims have fallen sick and suffered physical and psychological deterioration as a result of the stress, poor working conditions and trauma associated with their exploitation. Some of the symptoms and conditions we have seen our clients suffer from include malnourishment, hair loss, rotting teeth, anxiety, paranoia, hypertension, attempted suicide and HIV. In some cases, they have been denied access to proper medical care by their employer.

Freedom of movement

Many of our clients have had their passports and travel documents taken away by either their trafficker, employment agency or employer. Some have been locked in the apartment whenever the employer went out or have had their movements closely monitored and controlled.

Right to privacy

The mandatory rule for all migrant domestic workers to live in with their employers (‘live-in rule’) creates problems of privacy and also increases their risk of exploitation. A 2016 study found 35.2% of migrant domestic workers had to share a room with a child or the elderly and 2% were sleeping in a kitchen or shared living space.^v For example, one of our clients was made to work 18 hour days and sleep in the kitchen. She recalled that she often felt threatened by her employers, and felt scared by her employers’ verbal abuse. Another migrant domestic worker was made to live in the family’s storage room and she was told that she could not close or lock the door, as the employer’s husband often needed to go in to retrieve things.

Question 5

Please elaborate on the challenges faced by migrant women and girls who are at the risk of or who are already under conditions of domestic servitude to obtain protection against their human rights violations.

As discussed in Question 3, the lack of a comprehensive law against human trafficking in Hong Kong means there is no clear pathway to justice, remedies or supports for victims of modern slavery. Those migrant domestic workers who leave their situations of exploitation are not guaranteed access to relevant services and supports such as emergency shelter, medical, counselling and psychological services. For example, the six government-funded shelters in Hong Kong typically provide assistance only to female victims who hold a Hong Kong Identity Card. However, most of our clients are not in possession of an Identity Card and some are male victims.

Language barriers continue to be an obstacle for migrant workers seeking to access relevant services and supports. While there are translation and interpretation services in Hong Kong, availability is often limited, bookings must be made in advance and costs can be high for certain services. On many occasions we have been unable to access interpreters at police stations, hospitals and the immigration office. On other occasions, we have been told by our clients that the interpretation provided was difficult to understand and of poor quality.

Migrant domestic workers may also be reluctant to leave their employer and seek assistance because of the financial and emotional costs of participating in legal investigations and proceedings. As well as the time and stress involved, it is usually very difficult for migrant workers to find another employer who would be willing to hire and sponsor them for a visa while they still have an ongoing case.

Question 6

Please elaborate on the specific situation of migrant women and girls in domestic servitude, taking into consideration factors that might contribute to their increased vulnerability to contemporary forms of slavery, including poverty, identification to minority groups, indigenous people, age, and caste.

The majority of the 370,000 migrant domestic workers working in Hong Kong are women. Factors such as their gender, isolation from home, immigration status, ethnicity, language barriers and lack of knowledge about their rights in Hong Kong make migrant domestic workers vulnerable to trafficking and various forms of exploitation.

Additionally, the 'live-in' rule (as described under Question 5) dramatically increases the vulnerability of migrant domestic workers to exploitation. In Hong Kong's often space-poor homes, this requirement increases the vulnerability of migrant domestic workers to labour exploitation, physical violence and sexual abuse by blurring the boundary between work and personal life, increasing the likelihood of overtime work, reducing privacy and isolating them from the community.

Further, the 'two-week' rule requiring foreign domestic helpers to leave Hong Kong within two weeks of termination of their employment contract unless they find another employer, places undue pressure on migrant domestic helpers to remain in situations of exploitation. Many fear that they will

not find another employer within this time and will be unable to repay their recruitment debts or support their families.

Question 7

A. Please detail any examples of good practice in relation to protecting, identifying and rescuing migrant women and girls in situation of domestic servitude. This might include actions and initiatives taken by governments, civil society organizations, international organizations, media outlets, employers, individuals, survivors, etc.

STOP – At STOP we operate the following four-pronged service and advocacy model to rescue and support victims of modern slavery, including migrant domestic workers:

- Legal Referral and Social Assistance – Together with our own case management and social support services, we partner with specialised service providers such as leading law firms, counsellors and shelters to provide wraparound services and supports for those recovering from exploitation in Hong Kong.
- Community Outreach – We reach out to victims of sex and labour trafficking through weekly outreach in various areas in Hong Kong. Due to the hidden nature of human trafficking, victims are often isolated, afraid, and at risk. Outreach allows us to provide one-to-one emotional support to victims and gather information about human-trafficking, which we can then communicate to the wider audience.
- Network Building – Human trafficking is an organised crime, and in order to make progress organisations need to come together to collaborate to achieve common goals. We regularly meet with relevant frontline and anti-trafficking organisations to exchange information and explore possibilities for collaboration.
- Public Education – We provide training and informational materials in both English and Chinese to help build capacity for identifying and responding to victims of trafficking.

Freedom Collaborative - An online community platform that unites anti-human trafficking stakeholders from around the world. It is a tool that enables the sharing of information, news and updates. It also assist in the formation of relevant partnerships and connections.

Fair Employment Agency – A non-profit agency that presents a fair employment model for domestic workers and their employers in Hong Kong by ensuring transparent pricing and ethical practices, such as the removal of worker placement fees

Question 8

Please describe any challenges identified in ensuring that migrant women and girls who are survivors of domestic servitude have access to justice?

Challenges include access to free legal assistance and quality interpretation. In the last six months, three of our clients, who are migrant domestic workers and victims of trafficking, have been refused Legal Aid support.

The general low level of awareness among the community and law enforcement in Hong Kong also means that instead of receiving protection, victims risk being charged with offences they committed as a direct result of being trafficked. For example, victims have been charged and convicted of crimes such as overstaying their visa, violating their labour contracts, prostitution and drug trafficking.

The Prosecution Code has been amended to include a new section on 'Human Exploitation Cases' and a victim screening mechanism has also been introduced to various law enforcement agencies. However it is unclear the extent to which current screening mechanisms have been applied and whether potential victims of trafficking are being referred to appropriate services and protected from criminalisation. Through our work, we continue to hear examples of sex workers, some of whom are also domestic workers during the week, being arrested and charged for immigration and other violations during police raids.

Question 9

Please describe any projects delivered by your organisation or other civil society organisations to ensure protection of the human rights of migrant domestic workers victims of contemporary forms of slavery.

Projects delivered by STOP include:

[Human Trafficking Glossary](#) – In 2016, STOP published the first ever English-Cantonese glossary of human trafficking terms. Recognising the importance of language and absence of standardised terms to talk about human trafficking among the local Hong Kong community, we created this glossary to fill this gap and initiate conversations with the Cantonese-speaking community.

[Cards Against Trafficking](#) – Cards Against Trafficking is an educational resource created to engage the Hong Kong community on modern slavery issues in an interesting and culturally relevant manner. The boxset contains 47 cards in English and Chinese that provide both visuals and definitions to describe the wide array of terms used in the field of human trafficking.

[100 Stories](#) – 100storiesHK is a stories platform that aims to give a voice to survivors of trafficking in Hong Kong.

Question 10

Please provide any research, data or other information that your organisation has produced or is aware of relating to the protection of domestic workers victims of contemporary forms of slavery.

Mission for Migrant Workers (2017) [Pictures from the Inside: Investigating Living Accommodation of Women Migrant Domestic Workers towards Advocacy and Action](#)

Justice Centre Hong Kong (2016) [Coming Clean: The prevalence of forced labour and human trafficking for the purpose of forced labour amongst migrant domestic workers in Hong Kong](#)

Seefar, (2016) [Modern Slavery in East Asia: Protecting the rights and promoting the autonomy of domestic migrant workers from Indonesia and the Philippines](#)

Amnesty International (2013) [Exploited for Profit, Failed by Governments: Indonesian Migrant Domestic Workers Trafficked to Hong Kong](#)

Thank you for your cooperation. Please feel free to include any additional pertinent information on access to justice and remedy that you think would help the Special Rapporteur on contemporary forms of slavery, including its causes and consequences.

ⁱ US State Department, *Trafficking in Persons Report 2016: Hong Kong Country Narrative*, July 2016. At:9 <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271202.htm> (viewed 17 May 2018).

ⁱⁱ Justice Centre Hong Kong, *Coming Clean: The prevalence of forced labour and human trafficking for the purpose of force labour amongst migrant domestic workers in Hong Kong*, March 2018, p7. At: <http://www.justicecentre.org.hk/comingclean/> (viewed 11 April 2018)

ⁱⁱⁱ See for example: HKSAR Government, 'HKSAR Government rejects findings in US Trafficking in Persons Report', Press Release, 27 June 2017. At <http://www.info.gov.hk/gia/general/201706/27/P2017062700934.htm> (viewed 17 May 2018).

^{iv} Justice Centre Hong Kong, *Coming Clean: The prevalence of forced labour and human trafficking for the purpose of force labour amongst migrant domestic workers in Hong Kong*, March 2018, p46. At: <http://www.justicecentre.org.hk/comingclean/> (viewed 11 April 2018).

^v Justice Centre Hong Kong, 'Coming Clean: The prevalence of forced labour and human trafficking for the purpose of force labour amongst migrant domestic workers in Hong Kong' (March 2018). At: <http://www.justicecentre.org.hk/comingclean/> (viewed 11 April 2018).