



Enhanced Employment Agency Enforcement: A step towards eliminating one of HK's largest black- market industries

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Summary of the Impact

The following KE project successfully lobbied the Hong Kong government to amend the regulations of the employment agency (EA) industry in Hong Kong, particularly extending the statutory time limit for prosecution of abuses, in an effort to eliminate one of Hong Kong's largest black-market industries.

We organized NGOs and labour organisations focusing on migrant worker issues behind this goal and helped them draft statements for the Legislative Council. We also investigated several cases of agency illegality with HKU students, resulting in numerous media reports and criminal prosecutions.

Underpinning Research (or Teaching & Learning)

- Hong Kong's employment agency industry has been criticized worldwide for its widespread illegal business practices. Existing legislation in Hong Kong has proven to be unable to curb the rampant abuses by EAs, and the Code of Conduct for agencies, introduced by the Labour Department in 2016, is only voluntarily. Overall, there is a strong need for enhanced legislation.
- We identified inadequacies within the existing legal framework governing employment agencies
- We consistently conversed, assisted and consulted numerous stakeholders, including NGOs, police and governments
- In collaboration with students we spent months investigating fraudulent employment agencies and widespread money laundering, and brought the evidence to police.
- We also monitored data arising from our comprehensive, online resource for finding, rating and commenting on employment agencies in Hong Kong, and thereby disseminated such information to government agencies and NGOs to help in their agency policing efforts.

Underpinning Research (or Teaching & Learning)

2. Mr. Bishop is one of Hong Kong's foremost experts in issues relating to the HK employment agency industry. His research and work was undertaken from Sept 2015 and is currently ongoing. In a push towards more ethical behaviour in the EA industry, he also created Hong Kong's first online platform in 2016 where employment agencies can be transparently listed and rated.

Mr. Bishop also led teams of HKU students who assisted the investigations, research and more.

Underpinning Research (or Teaching & Learning)

3. Mr. Bishop's previous research has shown that over 70% of HK EAs working with migrant workers are either directly or indirectly engaging in illegal business practices such as charging excessive fees and withholding passports. However, in stark contrast, in recent years there have only been a handful of the 1,400 existing EAs who have been fined or lost their licence. This clearly indicates that the current legislations and voluntary code of practice for agencies are significantly ineffective.

Underpinning Research (or Teaching & Learning)

4. Mr. Bishop's work is innovative because it identified a loophole in the government regulations which had left the EAs largely unafraid of prosecution, and then Mr. Bishop subsequently succeeded at lobbying the government to amend the law in an effort to curb the rampant abuses by these agencies.

Underpinning Research (or Teaching & Learning)

5. The HK government is desperately trying to figure out ways to better regulate and police the EA industry. Unfortunately (prior to February 9 2018), the Employment Ordinance (EO) did not provide a time limit for bringing claims against EAs for violation of the EO and the Code of Practice (COP). The lack of an existing time limit meant that the EAs were restricted by the time constraints of the Magistrates Ordinance (cap 227) section 26 governing summary offenses which has a 6 months time limit. We identified this short time limit for summary offenses as a major obstacle for the Labour Department (LD) in going after unethical agencies, as workers often learn that they have been mistreated only until after that time — and even convincing the LD to prosecute a claim can take several months. Under those circumstances, many legitimate claims against illegal EA behaviour went uninvestigated and unprosecuted simply because there was insufficient time to do so.

Engagement

- Mr. Bishop and his students have produced a number of news articles and other content, both directly and behind the scenes, to highlight the inadequacies of the existing legal framework and calling for stronger regulations of the employment agency industry which spurred discussions and engagement citywide.
- Mr. Bishop has with great effort advocated for stronger regulations, particularly extending the statutory time limit for prosecution of abuses, to a wide array of stakeholders, including the government, police, NGOs and to the public.
- Mr. Bishop also met and collaborated with various stakeholders on numerous occasions, including the Employment Agencies Administration, the HK police, and NGO leaders.

Engagement

2. External partners

- Numerous NGOs and labour organisations focusing on migrant worker issues, particularly to help convince the government to extend the time limit.
- Journalists in both local and international media
- Several governments, in particular Hong Kong and the Philippines.
- Hong Kong police

Engagement

3. Innovativeness of the engagement approach

Our engagement process was, among others, innovative in the sense that we enabled and empowered students to have an effective local voice at addressing the EA illegalities, amend the law and be a vehicle for change. Mr. Bishop started Students Against Fees and Exploitation (SAFE) with a team of 17 HKU students who did extensive investigative work, disseminated such reports and called for stronger enforcement action in the media.

Impacts Achieved

1. Beneficiaries

About 10% of HK's working population are foreign domestic workers, and the number is expected to increase from 360,000 to 600,000 over the next 30 years, in particular due to a greater demand to cater for the ageing HK population. Today about 30% of families in Hong Kong employ domestic workers. What often goes unnoticed is how foreign domestic workers contribute a significant portion of HK's GDP, especially because they enable local women to further their education and join the workforce. Therefore, when the EAs are illegally indebting these domestic workers, they are directly and purposefully hurting HK's economy and they are creating instability in the home and increasing worker debt loads.

By eliminating illegal agency practices, millions of HK people will directly benefit; that includes foreign domestic workers and their employers — but also HK society and its economy as a whole.

Impacts Achieved

2. Nature and extent of the impact

- We were able to successfully lobby the HK government to amend the employment ordinance to make additional penalties on illegal agency behaviour — particularly extending the time limit.
- We organized and helped all NGOs to rally about extending the time limit at Legislative Council (*see Compiled Email Threads Showing Bishops Influence*), including student statement (*see Time Limit for Claims Against EAs - Student Doc*) and student speaker at Legislative Council .
- In collaboration with students we helped investigate several cases of agency illegality resulting in three front-page SCMP articles, multiple opinion pieces and other stories (*see “5. Sources to corroborate the impact”*).
- We worked with HK police and the Philippines government to prosecute the Emry’s money laundering case, including putting together the case binder (*see Full - Money Laundering - Binder*) and walking through the whole case with the Philippines consulate officials and HK police.

Impacts Achieved

3. Evidence of impact

- On February 9 2018 the government announced that it was extending the statutory time limit for prosecution of abuses from six months to 12 months, giving employers and domestic workers more time to bring legal claims against agencies. Additionally the amendment increased penalties for overcharging workers and operating an employment agency without a licence from HK\$50,000 to HK\$350,000 and three years imprisonment (*see Gazettal of Employment Ordinance 2018*).
- We created, and facilitated the creation of, news stories that were viewed all around the world.
- Our work on the Emry's money laundering case resulted in the Philippines government filing charges and the Hong Kong government bumping the case up to the regional crimes unit.

Example of media stories facilitated by our work and research:

- [Study finds Hong Kong domestic helpers subjected to employment terms abuse by more than 70 per cent of agencies](#)
- [Hong Kong is committed to protecting foreign domestic helpers' labour rights and safety](#)
- [How Hong Kong failed Madagascar's Domestic Helpers](#)
- [Hong Kong slow to act on suspected money-laundering scheme that duped Filipino maids, legal experts say](#)
- [Hong Kong's errant domestic helper agencies are everywhere and unafraid of the law](#)

Amending the Regulations of the Employment Agency Industry

Please find the following documents attached:

- BISHOP LegCo submission RE amendment to EO 2017.09.pdf
- Employment (Amendment) (No.2) Bill 2017_HELP.pdf
- SAFE LegCo submission RE amendment to EO 2017.09.pdf
- Time Limit for Claims Against EAs - Student Doc.pdf
- Compiled Email Threads Showing Bishops Influence.pdf

Gazettal of Employment (Amendment) Ordinance 2018

- LegCo Paper 19 Jan 2018.pdf
- [Official Press Release](#) – Feb 9, 2018

Emry's Money Laundering Case

- Full - Money Laundering - Binder.pdf