

2020

LAW FOR CHANGE STUDENT COMPETITION

TEAM 2	PROJECT TITLE Employees' Compensation Personal Injuries Network ("EC-PIN")
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SCHOOL	The University of Hong Kong

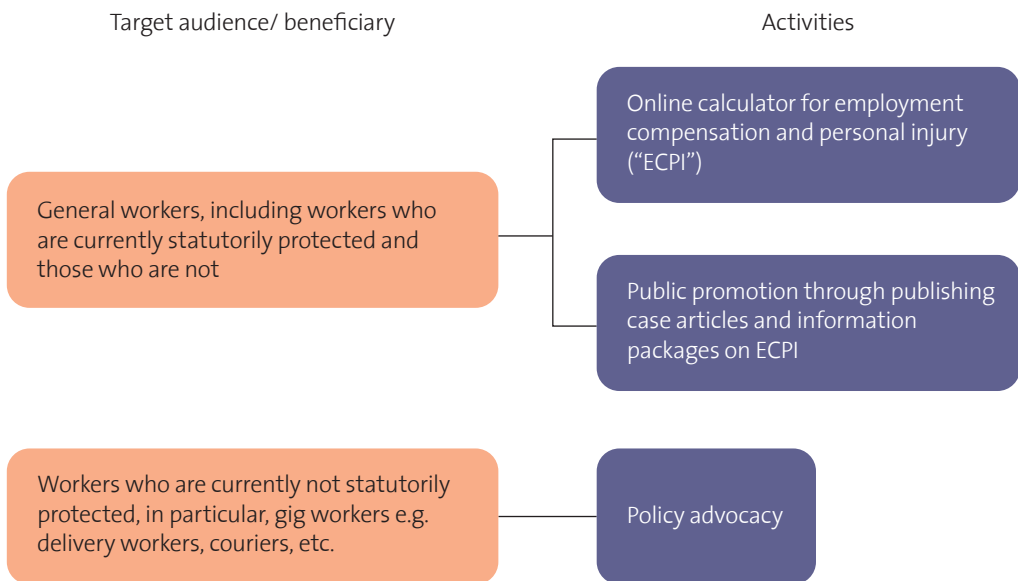
OVERVIEW

Project Summary

Employees' Compensation Personal Injuries Network ("EC-PIN") strives for easy protection of workers' rights to injury compensation. With 3 main components, this

project aims to empower both workers whose right to employees' compensation is statutorily protected and workers whose rights have not been recognized (figure 1).

Figure 1 - Summary of activities and relevant target audience



1. Relevance to the Theme of the Competition: "Resilience"

The constituents of community resilience are "local knowledge", "preparedness" and "proactive policy decisions". This project aims to help workers gain "knowledge" of their entitlement to sufficient injury compensation and caution employers and the wider community to be "prepared" to support and compensate work injury victims. Coupled with the rise of the gig economy, a resilient community requires up-to-date "policy decisions" that no longer neglect the right to injury compensation of gig workers.

2. Existing Available Remedies to Injured Workers

When a person is injured while working, he/she can now resort to remedies under different limbs, with respective availability depending on the circumstances of the injury and legal status of the worker:

Employees' Compensation Scheme under the Employees' Compensation Ordinance (Cap. 282) ("ECO")

Worker in a found employer-employee relationship can claim upon proving that the injury is an accident and arises out of and in the course of employment, or is a prescribed occupational disease.

An employer found to be liable usually pays through insurance companies. Insurance coverage in respect of all workers is stipulated in the ECO, and failure to observe the regulation is a criminal offence.

Personal injuries actions

Any worker who suffers bodily injuries to claim compensation from the wrongdoer. The amount of compensation is generally higher and more comprehensive compared to that under the ECO, but claimants may risk litigation costs, and double recovery under both ECO and personal injuries actions is not allowed.

Workers who are not statutorily protected and bear their own risks, mostly gig workers, may recover the compensation against the insurer directly if they have purchased insurance schemes.

3. Social and Legal Need Assessment

General workers: Lack of knowledge of rights

Under-informed or misinformed workers may not know whether they are eligible for compensation. In 2016, only 22,156 claims related to occupational injuries were made despite a total of 35,768 occupational injuries recorded by the Labour Department. Also, workers may omit important procedures in their applications, or are even time-barred from claiming compensation. There is currently no accessible public tool or system for injured workers to identify the injury compensation they are entitled to. An interview with Neighbourhood and Worker's Service Centre shows that most social workers handle these cases on a one-to-one basis. Social workers find it challenging to follow up on all cases especially when the injured workers are constantly approached or even harassed by insurance brokers representing the employers.

i.e. Nearly 40% of all occupationally injured workers did not make a compensation claim.

Gig workers: Loopholes in Hong Kong laws

Gig economy generally refers to “the collection of markets that match service providers to consumers of on-demand services on a gig (or job) basis”.

Gig workers are not entitled to protection under the ECO regime and are only entitled to personal injuries claim and/or compensation under insurance schemes offered by their platform “employers”, which can be as minimal as USD\$45,000 in case of a death or permanent total incapacity.

Up till May 2020, the Hong Kong government has shown no legislative intent to widen the existing employment protection coverage to workers under the new models of economy.

74% of our gig worker questionnaire respondents who had been injured during the course of work did not receive any form of compensation

4. Objectives of the Project

1. To empower all workers through equipping them with knowledge of their right to injury compensation and tools to help them exercise this right;
2. To raise public awareness of the inadequate support given to workers, especially gig workers, and the law of employee compensation;
3. To collaborate with non-governmental organisations (NGOs), councillors and lawyers to put forward policy proposals to protect workers who are currently not statutorily protected, particularly gig workers.

DETAILED PROJECT PROPOSAL

Stakeholders

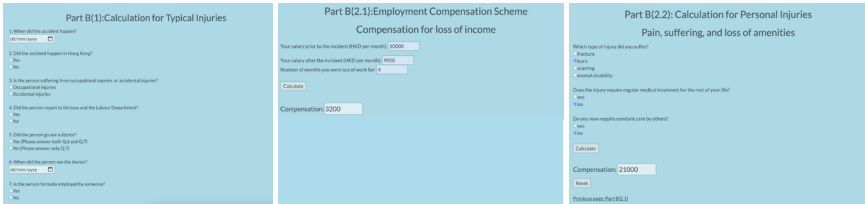
EC-PIN Project Directors (“we”)	to promote EC-PIN, establish the online calculator, draft policy papers, carry out research, coordinate all activities, etc.
NGOs that serve workers	to help promote the online calculator, supervise policy advocacy, distribute information packages, etc.
Law firm partner/ independent lawyers	to supervise and review the online calculator, review the information packages and policy paper.
University law students as student volunteers	to look up new cases for the online calculator, prepare case articles and information packages.
Computer science experts/ students	to support the technical operation of the online calculator.
Translators	to translate case articles and information packages.

Summary of the Activities

Online ECPI calculator	We will establish an online calculator for personal injury and employment compensation to be incorporated into websites of NGOs.
	The calculator aims to provide the users with a brief picture of the availability and approximate amount of compensation they are entitled to.
	The calculator shall be user-friendly, easy to understand, for general reference but not of advisory purpose.
Public promotion of ECPI law through publishing Case Articles and Information Packages	Student volunteers will publish case articles on EC-PIN’s own social media platform and websites of NGOs.
	Information packages regarding various topics of the ECPI law will also be published regularly to promote ECPI law.
Policy proposal	We aim to motivate the Government and the Legislature to develop comprehensive and innovative policies and framework on safeguarding the right to injury compensation of gig workers. We will conduct research and draft policy papers under the guidance of lawyers and NGOs. We will also play a supervisory role to evaluate companies which predominantly engage gig workers. We aim to raise public awareness on the right to injury compensation of the gig workers to attract support from different stakeholders through petitions.

Project Timeline and Targets to be Achieved

1. Online ECPI Calculator

Actions	Proposed Timeline
Phase 1 - Research and Setting up Calculator	
<p>We have established a flowchart, which will effectively guide the user to answer a comprehensive list of general questions (e.g. dates of accident and of filing claims, form of employment or engagement relationship, etc.).</p> <p>Users can operate the calculator simply by entering numerical answers according to instructions on the calculator, which will then process the answers using the formulas in the backend and generate the range of compensation.</p>	
<p>What does our ECPI Calculator offer?</p> <ul style="list-style-type: none"> • Generate an approximate range of total compensation amount under different heads of claims; • Present basic information such as legal procedures involved in personal injury proceedings, time limit for the user to apply to the Court for employees' compensation and/or for filing a personal injury claim; • A short survey at the end to collect feedback from users. 	
<p>Target: An online calculator with all the requisite formula, statutory constants, legal procedures and a comprehensive database with at least 5 case laws per variable will be up and running by the end of March 2021.</p>	
<p>Conduct research on case laws on ECPI and set up a database by extracting data and information from case laws in the 4 particular areas:</p> <ol style="list-style-type: none"> 1. Statutory constants in the formula (e.g. discount rates, multiplier, Mandatory Provident Fund rate, etc.); 2. Amount of compensation under heads of damages (e.g. PSLA, general future loss in working capacity); 3. Distribution table providing the percentages of claimants getting different percentages of claimed compensation, and; 4. Legal procedures involved in a claim for compensation. 	Jan - Mar 2021
<p>Establish the calculator</p> <p>We will build a database of data from case laws in the form of a Microsoft/ Google Excel sheet. HTML and CSS will be used for backend development of the calculator, which will consist of the actual formulas used to calculate the amount of compensation. HTML Javascript will be used to sculpt the user interface.</p>	
Phase 2 - Testing	
<p>We have invited and engaged Hong Kong Freelancer Server Union (HKFSU), Hong Kong Confederation of Trade Union (HKCTU), Neighbourhood and Worker's Service Centre and lawyers whose expertise lies in personal injuries actions, including Mr Normal Hui and Mr Edward Poon, as advisors to the calculator.</p>	
<p>Target: An online calculator, which is accurate and user-friendly, will be approved by lawyers and NGOs and will be ready for public use by the end of April 2021.</p>	
<p>Review by lawyers on its legal position and accuracy and by NGOs on its user-friendliness</p>	Apr 2021
<p>Recruit at least 10 workers to test and comment on the calculator</p>	
<p>Refine calculator to eliminate problems discovered during the review and testing sessions</p>	

Actions	Proposed Timeline
Phase 3 - Launch	
We will host the calculator in a webpage. We will also provide training to NGOs as to the operation of the calculator.	
Target: The online calculator will be readily accessible by the public and NGOs will be ready to support workers on using the calculator by the end of May 2021.	
Design and build a webpage to host the calculator	May 2021
<ul style="list-style-type: none"> • The calculator will be attached to a website domain/server, which will be connected to a Firebase console for security and Google Analytics to monitor usage of the calculator. • A pop-up window displaying a liability exemption clause which the user has to accept before using the calculator will be incorporated into the website so as to avoid possible liability issues. 	
Incorporate the calculator webpage into the NGO's website	
Provide at least 2 hours of training to NGOs in case they receive enquiries from workers	
Phase 4 - Promotion	
We will design promotional materials to promote the online calculator, which will be reviewed, approved and distributed by collaborating NGOs.	
Target: At least 1,000 interactions with the calculator will be achieved within 6 months after the calculator is launched, with over 80% "positive feedback" from the user survey.	
Design promotional materials, including web banners and leaflets	Apr 2021
EC-PIN's promotional materials reviewed, approved and distributed by NGOs through <ul style="list-style-type: none"> • Distribution of 1,000 leaflets about the calculator in the center(s) of the NGOs; • Sharing Facebook posts of EC-PIN biweekly or monthly, and; • Incorporating our web banners into the websites of the NGOs permanently. 	May 2021 onwards
Phase 5 - Regular Update and Evaluation	
The formula and variables in the calculator will be updated regularly since the courts regularly adjust the amount of compensation stipulated by statute and the maximum claimable amount according to inflation. We also evaluate the usage rate, accuracy of the outcome and effectiveness of the calculator internally and with our advisors.	
Target: The calculator will be constantly improved in various aspects.	
Bimonthly update on database by extracting data and information from the most updated case laws	May 2021 onwards
Half-year internal evaluation amongst Project Directors	
Annual evaluation with NGOs and Lawyers	

2. Public Promotion of ECPI Law through Publishing Case Articles and Information Packages

Actions	Proposed Timeline
Phase 1 - Research and Preparing Case Articles and Information Packages	
<p>We will recruit and instruct student volunteers, who will read cases on ECPI law and write case articles. Student volunteers will also produce information packages which will take the form of reader-friendly and engaging infographics and social media posts so as to reach out to audiences effectively. Case articles will be reviewed by Project Directors and information packages will be reviewed by lawyers so that the materials are accurate and error-free to avoid misleading the workers and the general public.</p> <p>Given that workers have diverse ethnic backgrounds, the case articles and information packages will be translated into Urdu, Hindi, Punjab and Tamil as basic information should be made accessible to all people.</p> <p>Target: At least 10 case articles will be completed on a monthly basis, subjected to the number of ECPI cases per month, and 5 information packages will have been produced by the end of 2021. The case articles and information packages will be translated to at least two other languages apart from Chinese and English.</p>	
Recruit around 6-10 LLB/JD student volunteers from HKU by promotion through posting up posters, sending mass emails and brief presentations during lecture breaks	Mar - Apr 2021
Recruit at least 2 translators with the help of NGOs	
Conduct research on the latest cases on ECPI law by student volunteers (in groups of 2) and write 1-2 case articles weekly, which will be reviewed by Project Directors before publication	 May 2021 onwards
<p>Prepare at least 5 information packages on ECPI law by student volunteers, which will be reviewed by lawyers before publication.</p> <p>Information package 小冊子</p> <p>The following are some suggested themes of the information packages:</p> <ol style="list-style-type: none"> 1. What are accidents arising out of and in the course of employment; 2. Compensable occupational disease; 3. Legal procedures involved in personal injury proceedings; 4. Time limit for an application to the Court for employees' compensation and/or for filing a personal injury claim; 5. Heads of damages for a non-fatal claim and that for a fatal claim; 6. Application of Legal Aid. 	 Sep - Nov 2021
Translation of case articles (from May 2021 onwards) and information packages (from Dec 2021 onwards) from Chinese and English to Urdu, Hindi, Punjab and Tamil by translators	May/ Dec 2021 onwards
Phase 2 - Publish	
<p>The case articles and information packages will be published on our own social media platform and websites of NGOs, and distributed in the form of booklets with the help of NGOs.</p> <p>Target: Public awareness on the law of ECPI is raised through achieving over 10,000 interactions with our social media within 6 months. We will also ask NGOs for feedback from the readers to see how we can improve in terms of the content and delivery of the case articles and information packages.</p>	
Publish case articles online through our social media and websites of NGOs upon review and approval by NGOs	May 2021 onwards
Publish information packages online through our social media and websites of NGOs upon review and approval by NGOs	Jan 2022 onwards
Distribute 1,000 printed information package booklets in the NGOs' center(s), in which at least 10% of the printed packages are in languages other than Chinese or English	Feb 2022
Phase 3 - Repeat Phase 1 to 2 on a yearly basis	Mar 2022 onwards

3. Policy Advocacy

Actions	Proposed Timeline
Phase 1 - Research and Public Engagement	
<p>We have engaged HKFSU and HKCTU who will be onboard of our policy advocacy for gig workers. We will also engage lawyers and law firms to supervise our research and policy paper drafting. Apart from conducting research and identifying possible models or policies to protect the right to injury compensation of gig workers, we wish to play a supervisory role with the help of NGOs to evaluate companies (mostly delivery/ takeaway platform companies) that predominantly engage gig workers.</p>	
<p>Target: 2-3 viable policies, frameworks and models that are currently adopted by or under consideration in foreign jurisdictions will be identified and comprehensively analysed. We will also interview and have received questionnaire feedback form from at least 100 gig workers on evaluating various companies.</p>	
<p>Conduct research on protection of right to injury compensation of gig worker in other jurisdictions under the guidance of lawyers and NGOs</p>	Jan - Apr 2021
<p>Distribute questionnaires to and interview at least 100 gig workers (who each ideally works in more than two of the delivery platform companies for effective comparison) to understand the following:</p> <ul style="list-style-type: none"> • the amount of injury compensation and coverage of compensation scheme offered by each individual company that engages gig workers; • other relevant policies of each individual company that engages gig workers, and; • how responsive the company is in the event that a worker is injured in the course of work 	
<p>Approach companies that mainly engage gig workers (mostly delivery/ takeaway platform companies) to know more about their mechanism when handling injured gig workers</p>	
Phase 2 - Policy Paper	
<p>We will draft a supervision report per company to present the questionnaire and interview outcomes, which may possibly (and foreseeably) point to minimal injury compensation available and lack of responsive policies to support injured gig workers. The series of supervision reports will be incorporated into the policy paper, which we will draft to present all our research findings. The policy paper will be reviewed by lawyers and NGOs and further revised.</p>	
<p>Draft one supervision report per company to evaluate the following through a quantitative scoring system for effective comparison:</p> <ul style="list-style-type: none"> • the coverage of injury compensation scheme; • relevant policies to support injured workers, and; • responsiveness to accidents of each individual company that engages gig workers. 	May - Aug 2021
<p>Prepare a policy paper to recommend reform on protection of labour rights of gig worker, covering the following aspects:</p> <ul style="list-style-type: none"> • Problem identification, i.e. existing legal need to injury compensation of gig workers; • Supervision report of every company to show the inadequacy of the injury compensation and the lack of existing remedies available to gig workers; • Policies that are currently adopted by or under consideration in foreign jurisdictions; • In-depth analysis of the applicability of the above policies, frameworks and models to Hong Kong; • Suggestion(s) jointly put forward by the EC-PIN team, HKFSU, HKCTU and other NGOs, etc. 	Jun - Aug 2021
<p>Comment on the first draft of the policy paper by NGOs and lawyers</p>	Sep 2021
<p>Revise the policy paper</p>	Oct 2021
<p>Comment on the second draft of the policy paper by NGOs and lawyers</p>	Nov 2021
<p>Revise and finalise the policy paper</p>	Dec 2021

Actions	Proposed Timeline
Phase 3 - Submission and publication of the policy paper	
<p>We will submit the policy paper to various government departments and LegCo members in hopes that they would consider the policies advocated in the paper. We will also publish the policy paper to the public so as to raise public awareness, and to pressurize the companies to enact better policies to safeguard the workers which they engage. To aggregate support from the public, we will promote our policy advocacy online (e.g. through petitions on www.change.org or Google Forms) and by setting up street booths. Petitions which have successfully met the target number of signatures will be sent to the government departments and LegCo members.</p>	
<p>Target: The policy advocacy will achieve at least 50,000 signatures in petitions and receive feedback from at least one governmental department or LegCo member within 12 months of submission and publication of the policy paper.</p>	
<p>Submit the policy paper to Labour Department, Housing Department and LegCo Members</p>	Dec 2021
<p>Publish the policy paper on websites of NGOs and labour unions, in newspaper and media outlets</p>	
<p>Online and street booth petitions</p>	Dec 2021-Jan 2022
<p>Revise and finalise the policy paper</p>	Dec 2021

Budget

EC-PIN adopts a cost-efficient model by utilizing online promotion of activities and support from student volunteers predominantly. Most of the costs incurred

will concern requisite technical support, promotion and printing of materials to raise awareness on ECPI law and incentivize the public to support our cause. Our budget plan is as follows.

Activity	Item	No. of units	Cost per unit (HK\$)	Expected expenditure (HK\$)
Online ECPI Calculator	Purchasing VPS Hosting	1/year	480	480/year
	Purchasing a website domain/server	1/year	86	86/year
	Purchasing SSL Certificate	1/year	500	500/year
	Assistance from IT experts	-	-	5,000 for the first year 2,000/year for subsequent years
	Printing feedback survey of the calculator	20	2	40/year
	Disbursements for interviewed workers	20	200	4,000/year
	Printing training workshop handouts	40	10	400/year
	Printing promotional leaflets	1,000	0.5	500/year
Sub-Total:				11,006 for the first year 9,006 /year for subsequent years
Public Promotion through Publishing Case Articles and Information Packages	Printing posters for student volunteers recruitment	20/year	2	40/year
	Printing information booklets	1,500/year	10	15,000/year
	Translation Cost (e.g. From Chinese and English to Hindi, Urdu, etc.)	-	-	3,000/year
	Advertising on social media	-	-	500/year
Sub-Total:				18,540 /year
Policy Advocacy	Printing policy papers	30	20	600
	Roll-up banner for street booths	2	150	300
	Foldable table for street booths	1	625	625
	Pen for street booths	10	7	70
	Clipboard for street booths	5	10	50
Sub-Total:				1,645 (to be incurred in the first year)
TOTAL:				First year: HK\$31,191 Second year onwards: HK\$29,191/year

MONITORING, EVALUATION AND IMPACT ASSESSMENT

The goals of our project are listed based on the COM-B model in figure 2. Through evaluation meetings, EC-PIN Project Directors will review whether the targets per phase of each activity (figure 3) were met, which would

progressively lead to the attainment of our ultimate goal - easy protection of workers' rights to injury compensation.

Figure 2 – Goals of EC-PIN under the COM-B Model

1	Psychological Capability	Enhance workers' knowledge of their right to injury compensation
2	Reflective Motivation	Enhance workers' appreciation of their entitlement to sufficient injury compensation and optimism in the system
3	Automatic Motivation	Incentivize and caution employers to and compensate work injury victims; pressurize companies that engage gig workers to enact better policies
4	Physical Opportunity	Aggregate resources from and connections with NGOs, councillors, lawyers and student volunteers
5	Social Opportunity	Raise public awareness of the inadequate support given to both general and gig workers

Figure 3 – Targets per phase under the COM-B Model

Outcomes (aligned with targets) and stakeholders' feedbacks	Goals based on the COM-B model				
	1	2	3	4	5
Online ECPI Calculator					
An online calculator, upon approval by lawyers and NGOs, will be readily accessible by the public and NGOs will be ready to support workers on using the calculator by the end of May 2021	•	•	•		
Constant improvement of the calculator	•	•	•		
User feedback: At least 1,000 interactions with the calculator within 6 months after launch and over 80% 'positive feedback' from the user survey, both with an increase of not less than 5% annually	•	•	•		
Publishing Case Articles and Information Packages					
At least 10 case articles per month and 5 information packages per year in at least 4 languages	•	•	•		•
Over 10,000 interactions with our social media within 6 months, with a 10% increase annually	•	•	•		•
User and NGO feedback: Evaluate and make changes as to how we can improve in terms of the content and delivery of the case articles and information packages	•	•	•		•
Lawyer feedback: Feedback on the quality of the case articles and information packages				•	
Policy advocacy					
Feedback from at least 100 gig workers working for various platform companies			•	•	•
At least 50,000 signatures in petitions			•	•	•
Public feedback: Positive feedback from at least one governmental department or LegCo member within 12 months of submission and publication of the policy paper			•	•	•
Public feedback: Response from companies that predominantly engage in gig workers and noise from the general public			•	•	•

SUSTAINABILITY PLAN

EC-PIN provides a free, accessible tool for calculating an approximate range of total compensation amount and present essential information such as legal procedures, and a free, accessible platform for knowledge dissemination to enhance the knowledge of their right to injury compensation of both workers and the general public, as opposed to the conventional model of individual consultation sessions. The number of service users that can be reached is far greater than handling cases on an incidental basis.

Engaging student volunteers to write case articles and prepare information packages annually also saves cost while keep the publication running perpetually.

The policy proposal will be a long-term project aiming to make noise from the general public and the media. The EC-PIN Project Directors and the NGOs will keep aggregating public opinion, attracting media attention and refining the proposal until we meet the goal of receiving feedback from at least one governmental department or LegCo member and response from companies that predominantly engage in gig workers.