

Profile of Unrepresented Litigants

1. Introduction

- 1.1 This Appendix is based on an analysis of the Daily Cause Lists for the High Court,¹ District Court, Family Court and Lands Tribunal during the period from January 2004 to November 2005. Litigants who were unrepresented were identified from the Lists by matching the case numbers and names of litigants, tracing the development of cases appearing in the Daily Cause Lists during the period. Unrepresented litigants are those who do not have lawyer representing them, with the remark “in person” as shown in the Daily Cause Lists.² Nevertheless, it is noted that in some cases, the words “in person” do not appear, although one or more of the litigants were unrepresented. Consequently, statistics shown in this report may under-estimate the number and percentage of litigants who are unrepresented.
- 1.2 In the analysis, attempts have been made to trace the cases through their different stages of hearing at the respective courts to identify litigants who were unrepresented, initially represented but later unrepresented, or initially unrepresented but later represented, making use of the case numbers and names shown on the Cause Lists. As there is no unique identification of litigants, such as Identity Card numbers, there are admittedly some difficulties in correctly identifying each and every unrepresented litigant, especially for cases involving many litigants who are shown collectively as “applicants” or “respondents”. For cases transferring from one level of court to another, it is not possible to link case record numbers in the two different courts.
- 1.3 It is also not possible to conduct more in-depth analysis on the characteristics of unrepresented litigants (e.g. analysis by age, sex and economic activity status) and reasons for not being represented by lawyers, as such information is not available from the Daily Cause Lists. In addition, for cases that extend beyond the period from January 2004 to November 2005, it is not possible to ascertain whether the unrepresented litigants were unrepresented throughout or not.
- 1.4 The counting of cases and the number of litigants are based respectively on case numbers and names of persons appearing as parties involved. Cases involving more than one hearing will not be counted more than once, as long as the case number does not change. Nevertheless, in the absence of unique identifiers, the same litigants appearing in different cases are treated as different litigants in the data analysis.
- 1.5 Finally, it should be noted that the Daily Cause Lists are not designed for use in identifying unrepresented litigants. Consequently, as pointed out above, the statistics presented in this appendix only give a broad picture of the situation of unrepresented

¹ In the Daily Cause Lists for the High Court, cases dealt with by the Court of Final Appeal are included.

² For cases involving more than one litigant, unrepresented litigants are identified according to the order they appear as “parties” involved in the case and as representation being “in person”. For cases involving many litigants, the number of unrepresented litigants would have to be estimated from the number of parties involved and the number of legal representations appearing on the Daily Cause Lists.

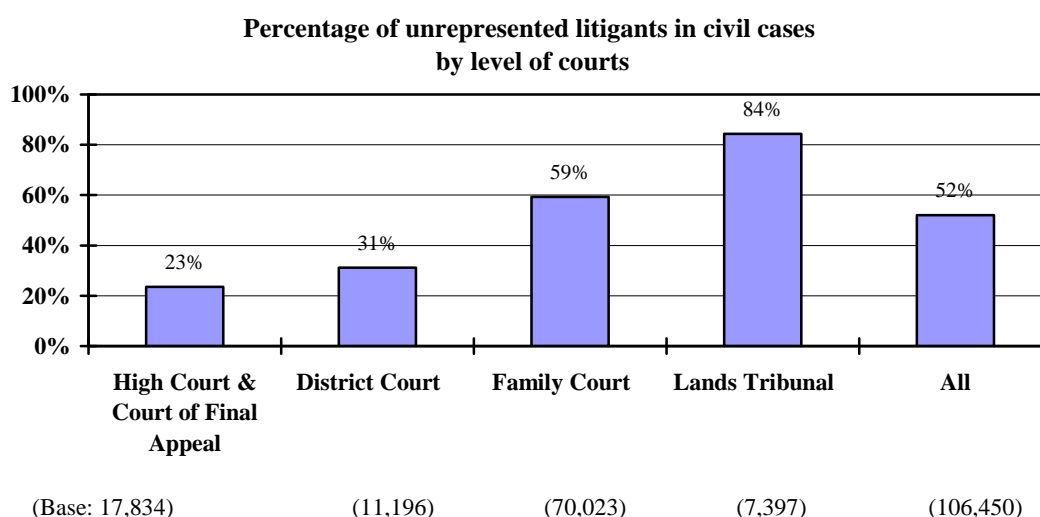
litigants. Readers should note the data limitations described above and interpret the statistics presented below with caution.³

2. Proportion of unrepresented litigants

2.1 It is estimated that there were about 31% of cases involving unrepresented litigants. The percentage was higher for civil cases, at 78%, and lower for criminal cases (21%). The percentage of litigants who were unrepresented was 49% for all cases. The percentage of unrepresented litigants was much higher for civil cases, at 52%, as compared to that for criminal cases (25%). It should be noted that in some cases (e.g. Family Court Special Procedure Lists), the number and names of litigants are not shown in the Daily Cause Lists. As a result, the number of litigants shown in the table below underestimates the actual number of litigants.⁴

	Criminal	Civil	All
Number of cases	10,502	56,195	66,697
% of cases with unrepresented litigants	21%	78%	31%
Number of litigants	13,774	106,450	120,224
No. of unrepresented litigants	3,463	55,442	58,905
% of unrepresented litigants	25%	52%	49%

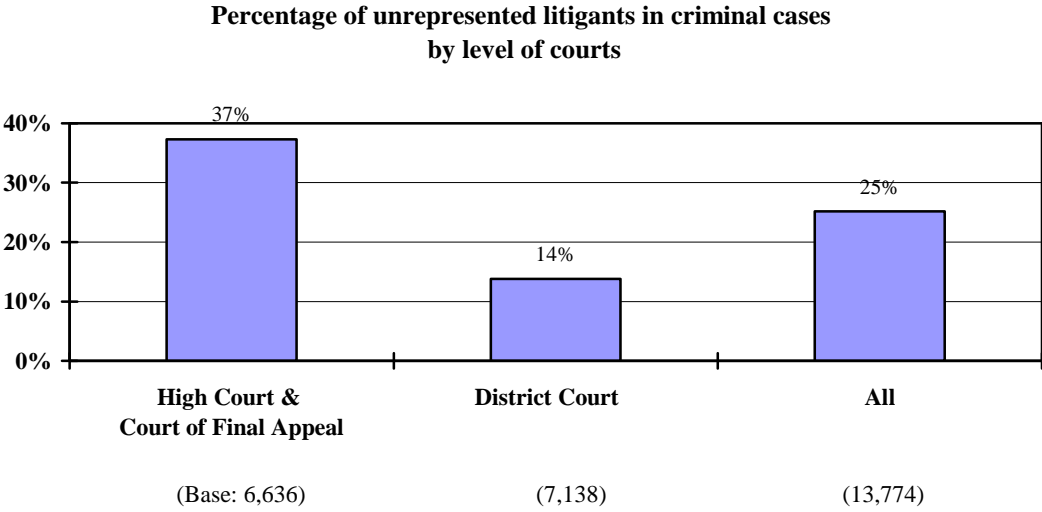
2.2 For civil cases, the proportion of unrepresented litigants was higher for cases dealt with by the Lands Tribunal, at 84%, and was lowest for cases dealt with by the High Court and the Court of Final Appeal (23%). The percentages of litigants who were unrepresented were 59% for Family Court cases, and 31% for cases in the District Court.



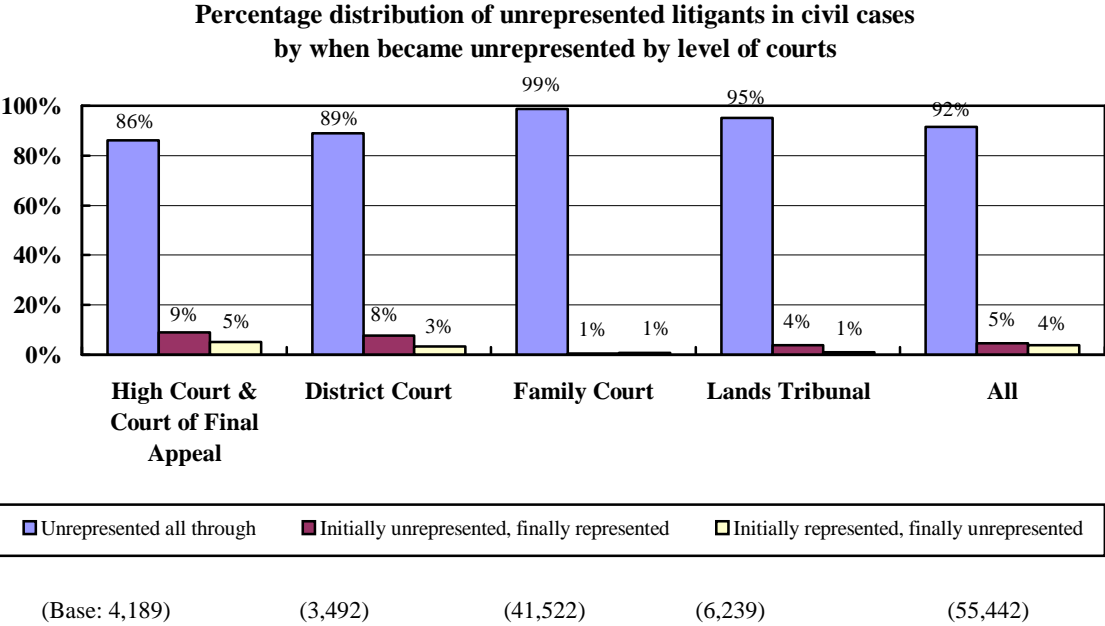
³ For instance, for ease of management, the category “miscellaneous proceedings” covers a wide variety of proceedings and is not designed for the purposes of distinguishing civil and criminal cases. For the present exercise, cases under the category “miscellaneous proceedings” have been classified as civil cases.

⁴ To reduce the extent of under-estimation, two litigants are assumed for all Family Court Matrimonial Causes cases.

2.3 In regard to criminal cases, the proportion of unrepresented litigants was 37% for cases dealt with by the High Court and the Court of Final Appeal. The percentage was lower for District Court cases, at 14%.

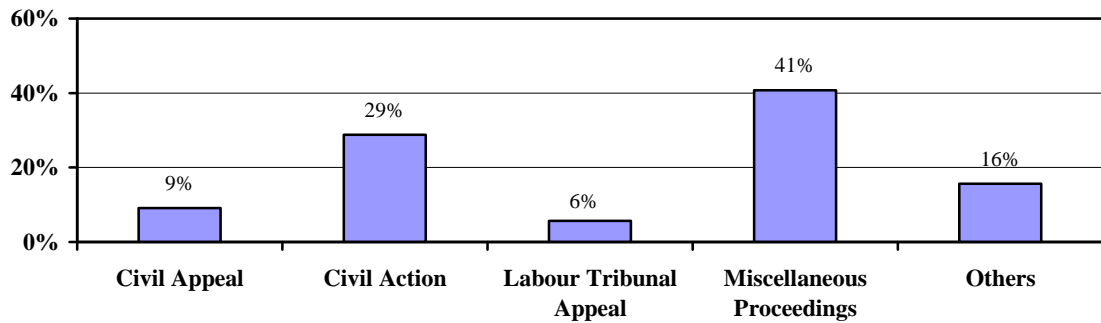


2.4 Most unrepresented litigants in civil cases (92%) were unrepresented by lawyers throughout the entire hearing process. At the High Court and Court of Final Appeal, a lower proportion of litigants (86%) were unrepresented throughout the hearing, with about 9% being initially unrepresented but later becoming represented, and the remaining 5% initially represented but later becoming unrepresented.⁵ For District Court cases, the percentage of litigants who were unrepresented throughout the hearing was 89%, which was lower than the corresponding percentage for Family Court cases (99%) and Lands Tribunal cases (95%).



⁵ Percentages do not add up to 100% due to rounding.

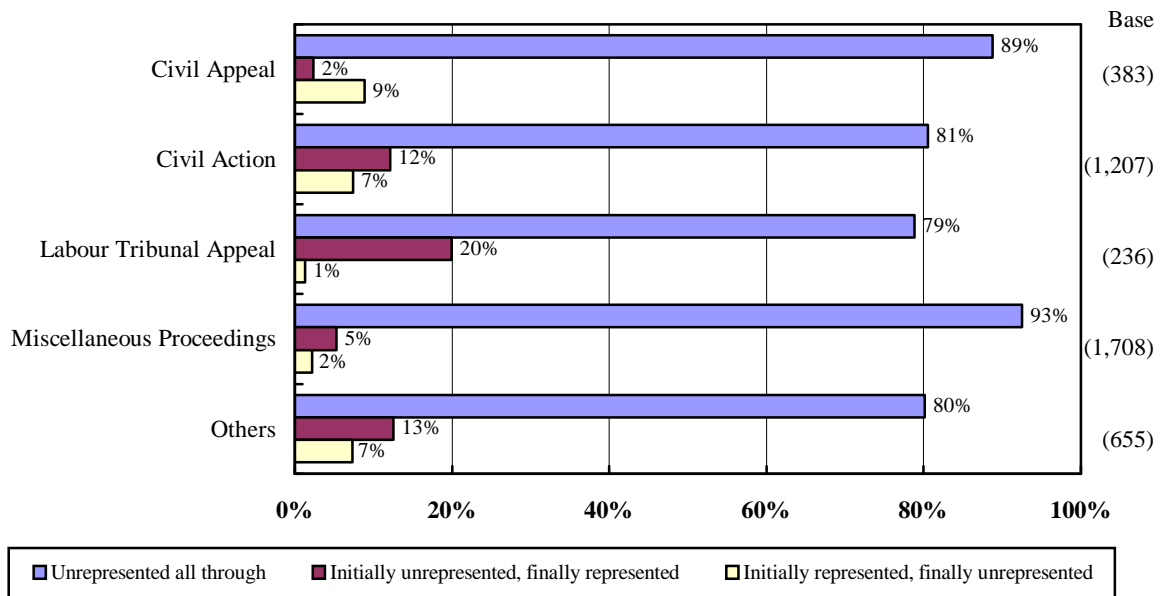
Percentage distribution of unrepresented litigants in civil cases in the High Court and the Court of Final Appeal by type of cases



(Base: 4,189)

3.2 As discussed above, for those litigants who were ever unrepresented, most of them were unrepresented throughout the hearing process. The proportion was lower for those involved in Labour Tribunal appeals (79%) and civil actions (81%). For these cases, the proportion of litigants who were initially unrepresented but later represented was higher, at 20% and 12% respectively.

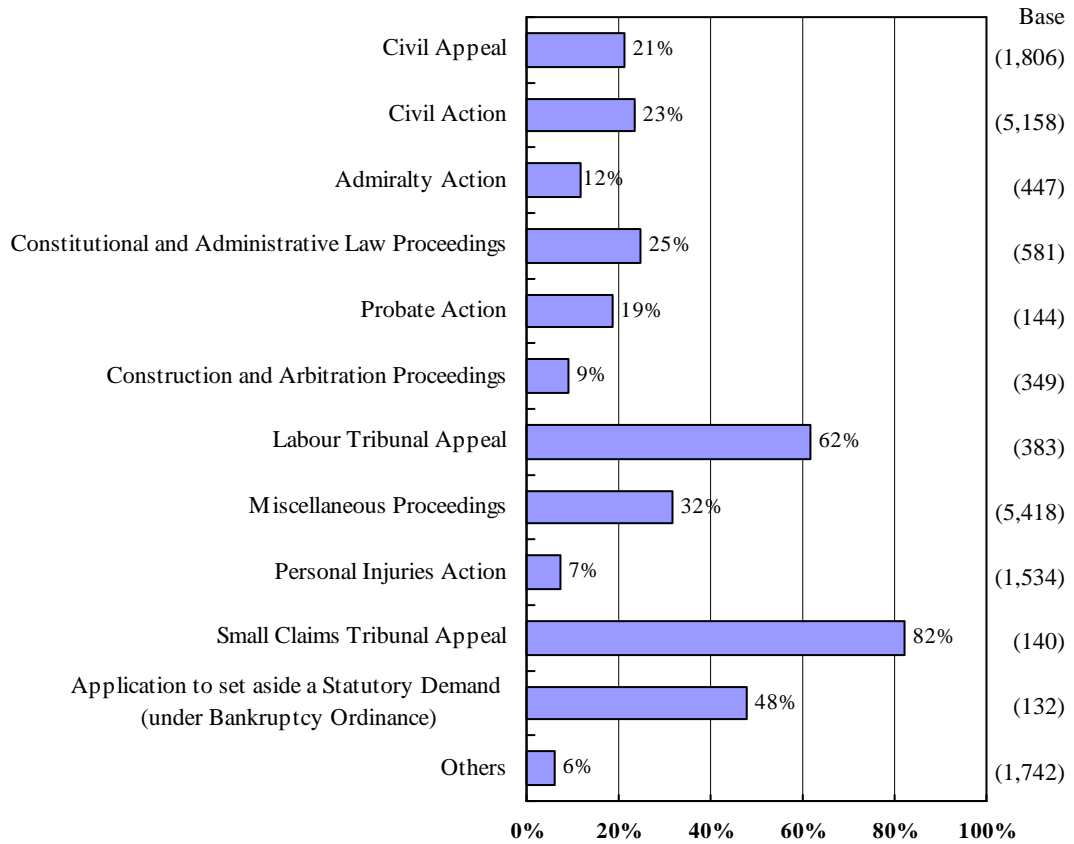
Percentage distribution of unrepresented litigants in civil cases in the High Court and Court of Final Appeal by when became unrepresented by type of cases



3.3 When analyzed by percentage of litigants who were unrepresented, the proportion was higher for litigants involved in Small Claims Tribunal appeals (82%), Labour Tribunal appeals (62%), applications to set aside a statutory demand (under Statutory Ordinance) (48%), and miscellaneous proceedings (32%). The percentage of unrepresented litigants was lower for personal injuries actions (7%), construction and arbitration proceedings (9%) and Admiralty actions (12%).⁷

⁷ The “others” category includes such cases as matrimonial causes and adoption applications.

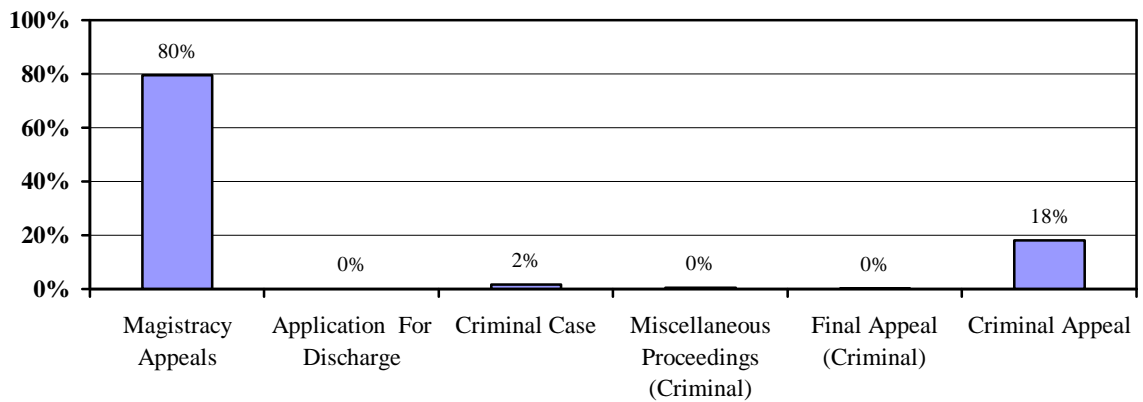
Percentage of litigants in civil cases who were unrepresented in the High Court and Court of Final Appeal by type of cases



Criminal cases

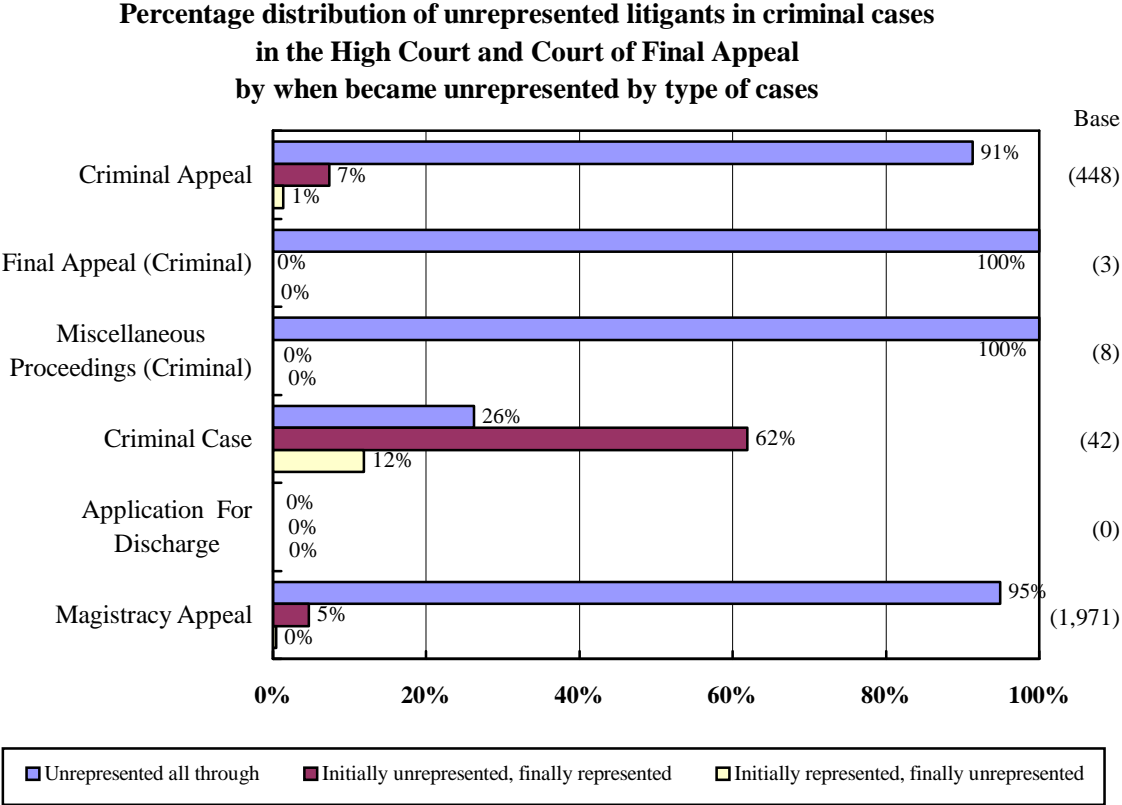
3.4 For litigants in criminal cases who were ever unrepresented in the High Court and the Court of Final Appeal, the majority (80%) were involved in Magistracy Appeals.

Percentage distribution of unrepresented litigants in criminal cases in the High Court and Court of Final Appeal by type of cases

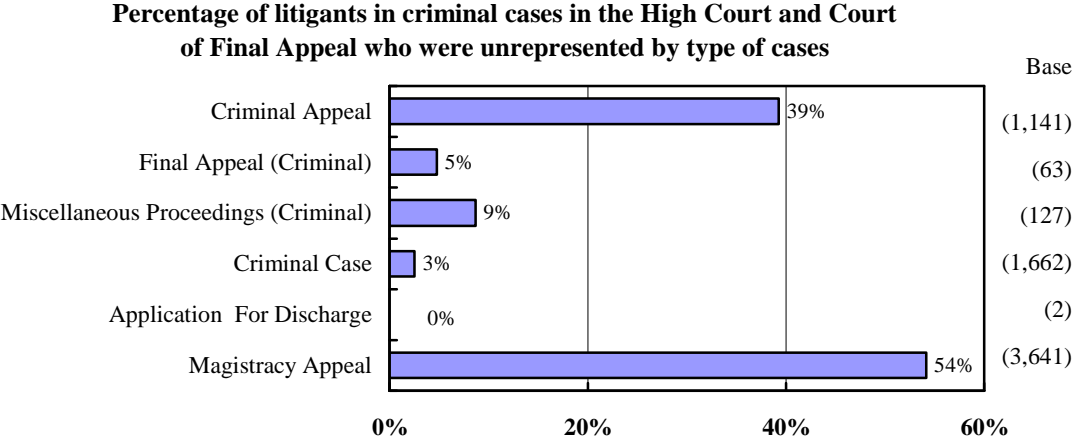


(Base: 2,475)

3.5 For unrepresented litigants in appeal cases, most of them were unrepresented throughout the hearing process. On the other hand, for unrepresented litigants involved in criminal cases, a lower proportion (26%) were unrepresented throughout the hearing process and a much higher proportion (62%) were initially unrepresented but later represented.



3.6 When analyzed by percentage of litigants who were unrepresented, the proportion was higher for litigants involved in Magistracy Appeal (54%) and was much lower for those involved in criminal cases (3%).

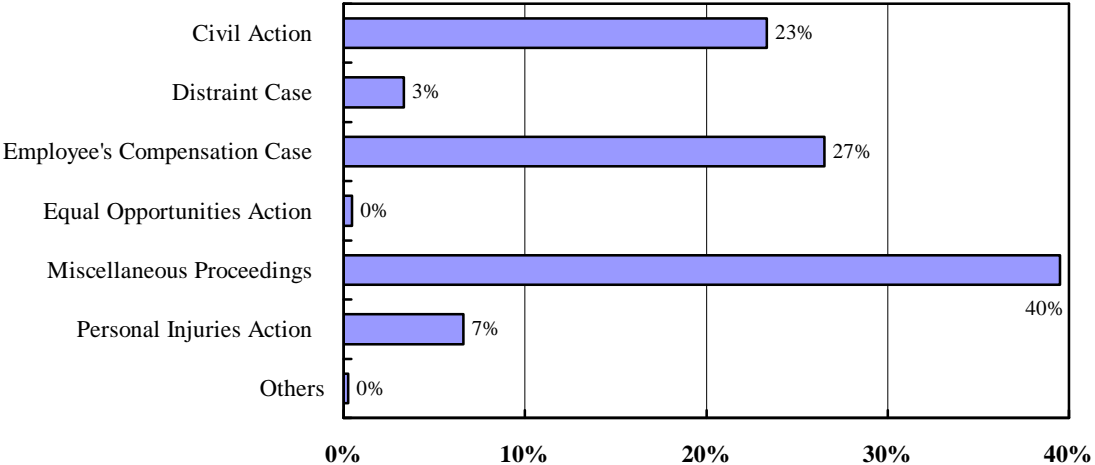


4. Unrepresented litigants in the District Court

Civil cases

4.1 For litigants in civil cases who were unrepresented in the District Court, slightly less than half (40%) were involved in miscellaneous proceedings⁸, 27% were involved in employee’s compensation cases, and another 23% in civil actions.

Percentage distribution of unrepresented litigants in civil cases in District Court by type of cases

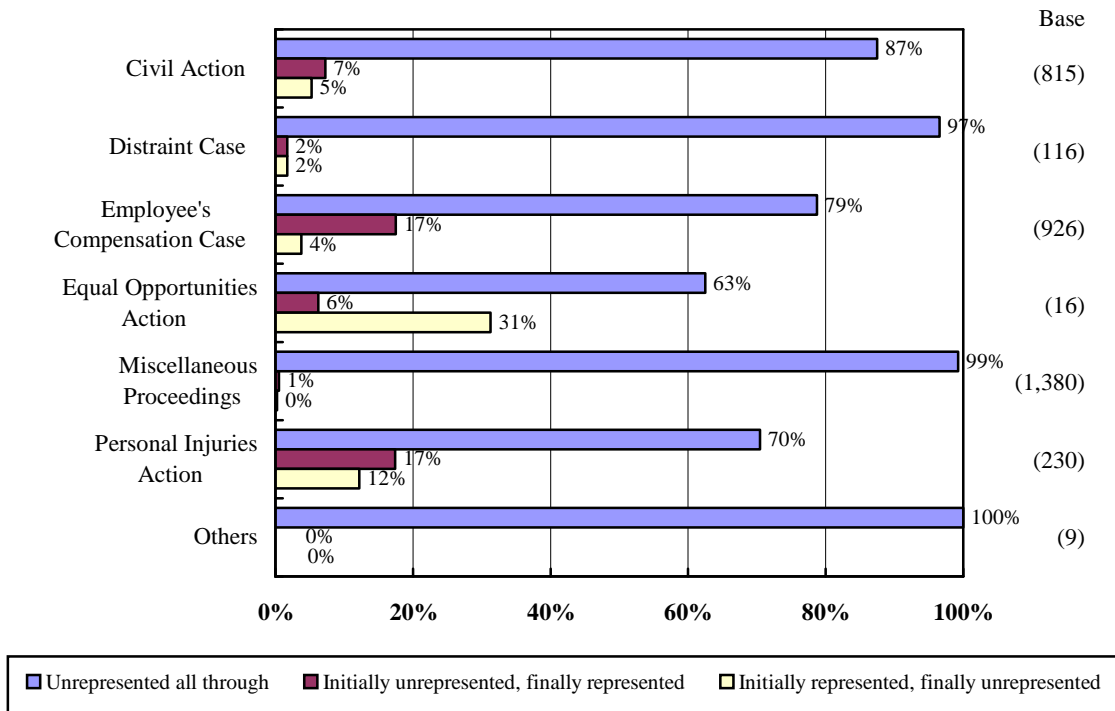


(Base: 3,492)

4.2 As presented above, for those litigants who were unrepresented, most were unrepresented throughout the hearing process. The percentage of litigants unrepresented throughout was lower for those involved in equal opportunities actions (63%) and personal injuries actions (70%). It may be noted that for unrepresented litigants involved in equal opportunities actions, a higher proportion of them were initially represented but were later unrepresented.

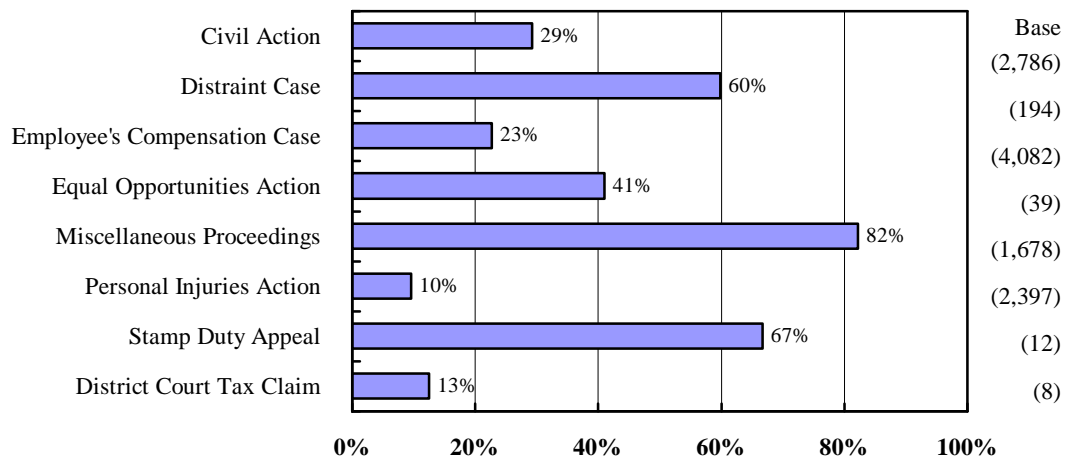
⁸ Miscellaneous Proceedings refer to court proceedings of a miscellaneous nature. Examples include but are not limited to application of restraint order, charging order, closure order, examination of judgment debtor, interpleader summons, garnishee order, production order or taxation etc.

Percentage distribution of unrepresented litigants in civil cases in the District Court by when became unrepresented by type of cases



4.3 When analyzed by litigants who were unrepresented, the proportion was higher for those involved in miscellaneous proceedings (82%), Stamp Duty appeals (67%), Distraint cases (60%), and equal opportunities actions (41%).

Percentage of litigants in civil cases in the District Court who were unrepresented by type of cases



Criminal cases

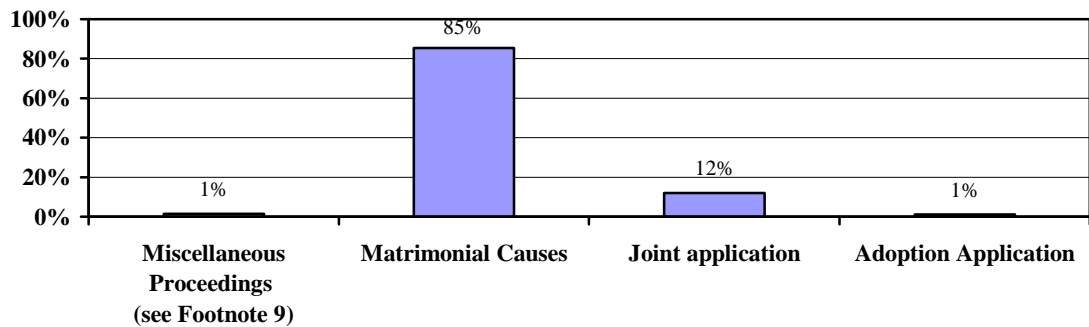
4.4 As presented above, for litigants in criminal cases in the District Court, 14% of them were unrepresented. For these unrepresented litigants, only 13% were unrepresented throughout the hearing process. A much higher proportion (83%) were initially

unrepresented but later represented. Only a small proportion (4%) were initially represented but later unrepresented.

5. Unrepresented litigants in the Family Court

5.1 For litigants who were unrepresented in the Family Court, more than half (85%) were involved in matrimonial causes, and a further 12% in joint applications.

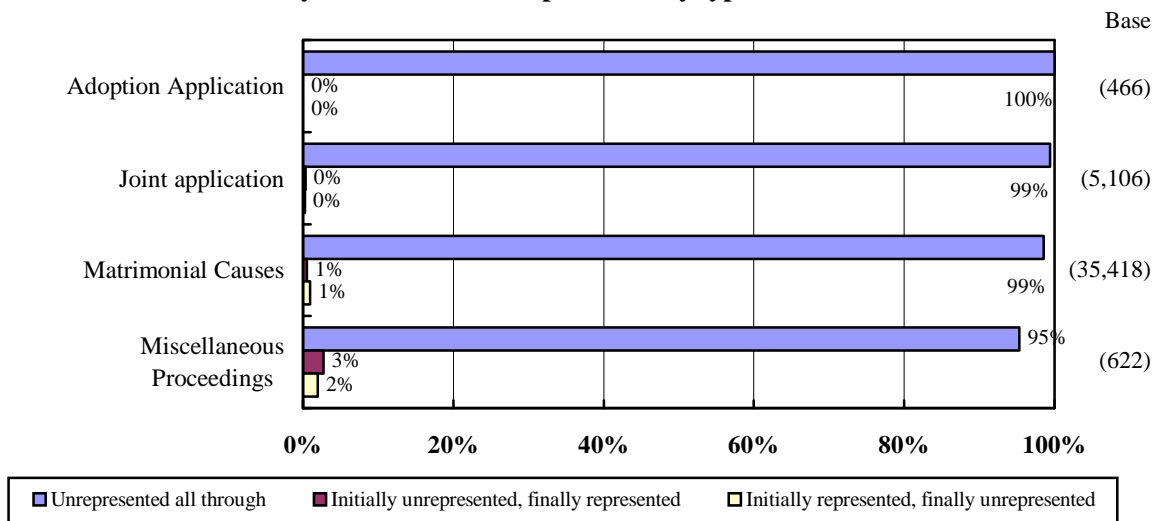
Percentage distribution of unrepresented litigants in the Family Court by type of cases



(Base: 41,522)

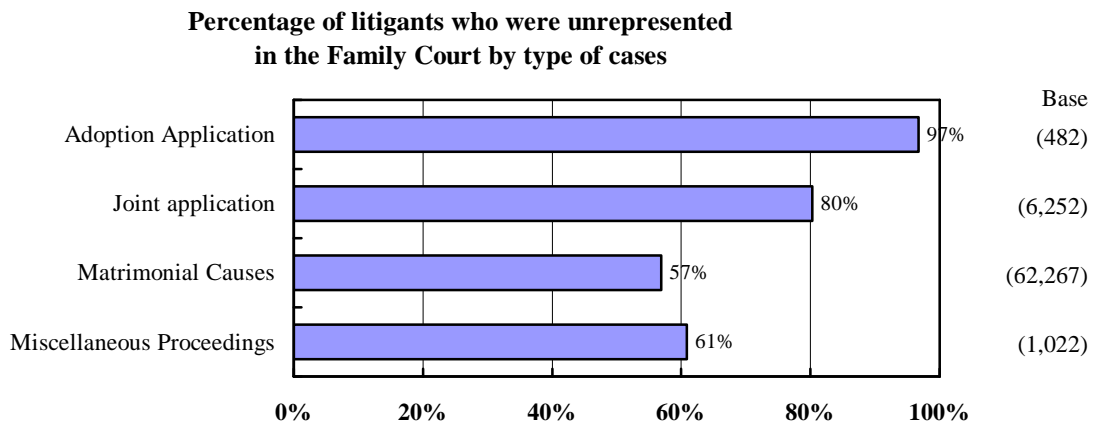
5.2 As presented above, for those litigants who were unrepresented, most were unrepresented throughout the hearing process. The percentage of litigants unrepresented throughout was slightly lower for those involved in Miscellaneous Proceedings (95%).

Percentage of litigants ever unrepresented in the Family Court by when became unrepresented by type of cases



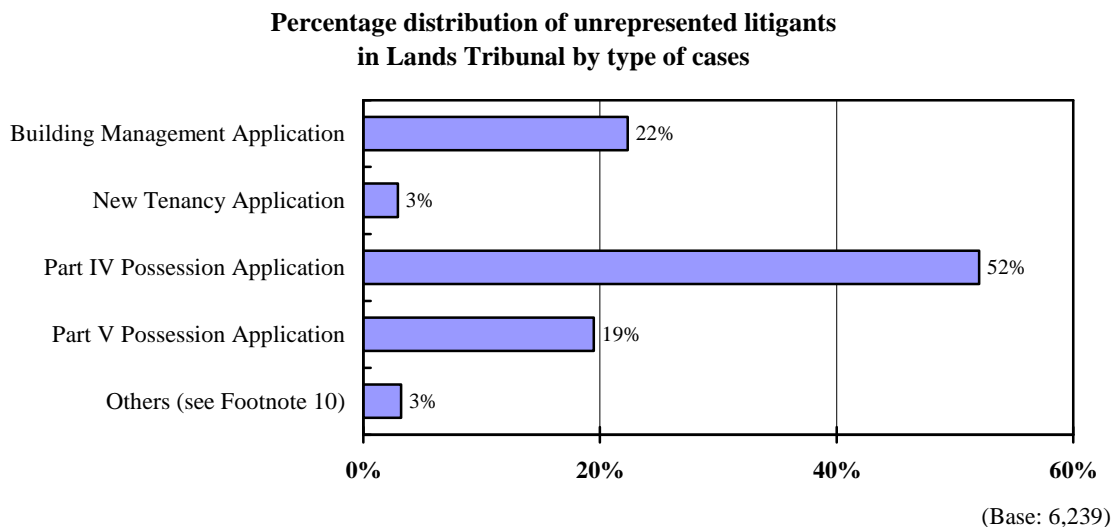
⁹ Miscellaneous Proceedings refer to court proceedings of a miscellaneous nature. Examples include but are not limited to guardianship, custody, maintenance, declaration for validation of marriage, or access, etc.

5.3 When analyzed by litigants who were unrepresented, the proportion was higher for those involved in adoption applications (97%), and joint applications (80%).



6. Unrepresented litigants in the Lands Tribunal

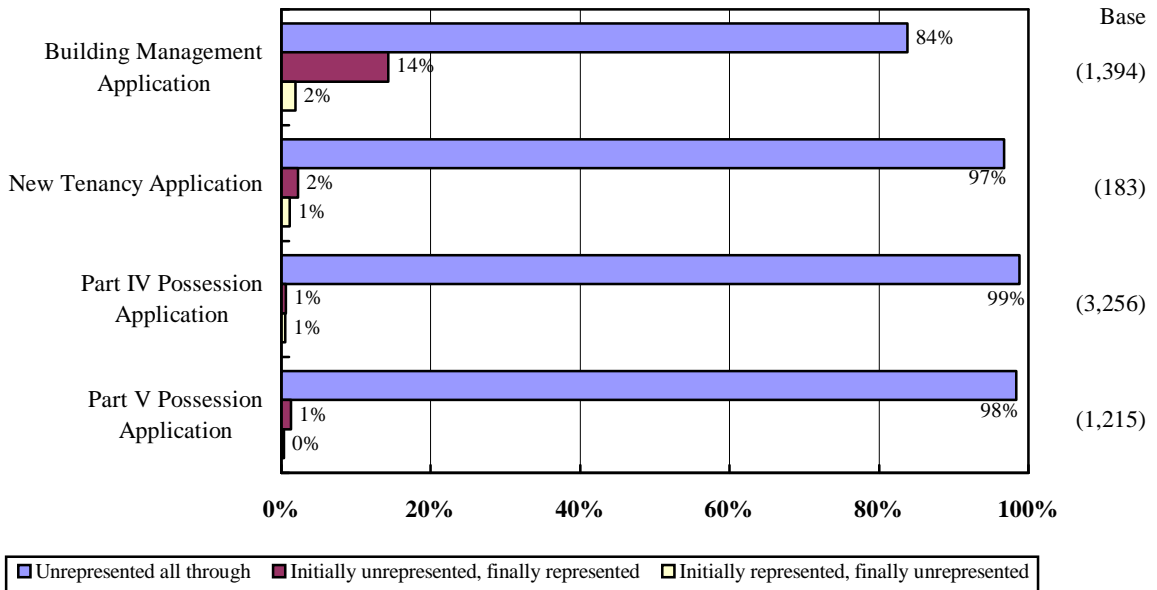
6.1 For litigants who were unrepresented in the Lands Tribunal, slightly more than half (52%) were involved in Part IV Possession applications, 22% were involved in building management applications, and another 19% in Part V Possession applications.



6.2 As presented above, for those litigants who were unrepresented, most were unrepresented throughout the hearing process. The percentage of litigants unrepresented throughout was lower for those involved in building management applications (84%).

¹⁰ The “others” category includes cases such as rating appeals, government rent appeals and miscellaneous proceedings applications.

**Percentage of unrepresented litigants in Land Tribunal
by when become unrepresented by type of cases**



6.3 When analyzed by litigants who were unrepresented, the proportion was higher for those involved in Housing Ordinance appeals (100%), Part IV possession applications (96%), Part V possession applications (95%), new tenancy applications (77%), and building management applications (69%).

**Percentage of litigants who were unrepresented
in Lands Tribunal by type of cases**

