



# **Cultivating A Multicultural Society And Combating Racial Discrimination in Hong Kong**

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<b>Contents</b>	<b>Page</b>
I. Introduction	2
II. Definitions	2
Racial discrimination	2
Typology of denial	3
Multiple discrimination	3
Multicultural society	3
Equal opportunities	3
Ethnic minorities	4
III. A multicultural vision	4
“Asia’s World City”	4
The right thing to do	4
Changing cultural landscape	5
Economic benefits	6
IV. Creating a sense of belonging and preventing alienation	11
V. Racial discrimination is a serious problem	11
Government surveys	12
Evidence from other surveys	13
Common misperceptions about racism	15
Education and the ethnic minorities	17
Social services and political participation	19
VI. Policy recommendations	19
Legislation	19
Education	25
Language policy	26
Employment	27
Immigration, customs, police officers	27
Inclusion	27
VII. Conclusion	27
Acknowledgements	28
Appendix I	29
Appendix II	31

# **Cultivating a Multicultural Society And Combating Racial Discrimination in Hong Kong**

**By: Kelley Loper  
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*This Paper is prepared for policy makers to consider what Hong Kong should do as the United Nations Conference on Racism and Xenophobia is about to take place in Durban, South Africa.*

## **I. Introduction**

Racial discrimination is a serious problem in Hong Kong although it is often denied. However, over the last year, continuous media and international attention has brought a degree of soul-searching within the community, and in particular among policy makers, as those who suffer discrimination came forward with their testimonies.

The face of racism is complex. Discrimination may be systemic rather than personal, which makes it harder to identify. Where discrimination is deeply entrenched and internalized, some victims even deny that they are oppressed or at some level accept their condition. The complexity of discrimination needs to be better understood by policy makers as they have a responsibility to end racism.

This paper explores the problem of racial discrimination, its damaging effects, the positive aspects of promoting equal opportunities and the possible policy solutions that could help the Hong Kong Special Administrative Region Government (HKSARG) achieve its aim for Hong Kong to become “Asia’s World City”. Such an aspiration must by definition include a multicultural and international outlook about how people of different ethnic and national backgrounds are to be treated.

Appendix I and Appendix II provide real examples of how racial discrimination is expressed in Hong Kong. It serves to show how racist attitudes lie very deep.

## **II. Definitions**

### **Racial discrimination**

Racial discrimination is any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.<sup>1</sup>

The strength of this definition used by the United Nations (UN) in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) lies in its breadth. It covers distinctions based on race, colour, descent, and national or ethnic origin.<sup>2</sup> It catches measures that are intended to result in inequality and measures, which (with or

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<sup>1</sup> The International Convention on the Elimination of All Forms of Racial Discrimination, Article 1.1, 1965. Hong Kong has been party to this Convention since 1969.

<sup>2</sup> It includes discrimination against those who share the same ethnic origin but came from different parts of a country, e.g. in Hong Kong’s case, as regards Mainland immigrants. Please see page 5-6.

without intent) have an unequal effect on the rights and freedoms of individuals and groups involved.<sup>3</sup>

Critics consider the UN definition too broad but whatever definitions are used, care should be taken to keep a clear focus. Forms of discrimination are found in all societies and in many areas of life, and need to be named – however complex or subtle they may be. *Only when identified and labeled can racism be recognized, understood, and eventually addressed effectively.* Since defining racism is not straightforward, meeting this objective is not straightforward either. The denial that discrimination is racial is almost as ubiquitous as the prejudice itself, and is itself a primary obstacle to progress.<sup>4</sup>

### Typology of denial

Denial of racial discrimination takes many forms. It may be denial in good faith (I didn't know) or an outright lie. Most denial lies somewhere in between. There is a partial knowing, a knowing-without-knowing, a knowing that is suppressed.

It is often assumed, as it is in Hong Kong among policy makers, that better education will solve the problem. Experience around the world shows otherwise. Racist attitudes appear to lie very deep. It may be that we suppress awareness of racism, not because it is painful to face, but that we cannot be bothered because it does not affect most of us.<sup>5</sup>

### Multiple discrimination

In many cases, women, the disabled, the elderly and children experience double or even triple discrimination. In general, vulnerable groups within communities that suffer racism are disproportionately discriminated against. An example is migrant workers in Hong Kong, most of whom are women from South East Asian countries with a low socio-economic status working as domestic helpers.

### Multicultural society

A multicultural society is one that recognizes the diversity of cultural differences that exist in a pluralistic community and where individuals of all cultures are accepted and accorded respect. Such a society encourages a positive acceptance of races, religions and cultures, and recognises such diversity as healthy and beneficial.<sup>6</sup>

### Equal opportunities

Equal opportunities are about using human resources effectively. Its basic philosophy is to create a level-playing field for the individual. In employment, it means matching the right person with the right job. Equal Opportunities also means building a society based on meritocracy ignoring irrelevant factors and giving individuals a fair chance to go as far as their talents and abilities can take them ensuring equal participation for every individual in all aspects of public life.<sup>7</sup>

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<sup>3</sup> “The persistence and mutation of racism”, International Council on Human Rights  
<http://www.international-council.org>

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Adapted from the Saskatchewan Association for Multicultural Education, “Multicultural Education in Saskatchewan: A Vision for the Future”, 1989.

<sup>7</sup> As defined by the Hong Kong Equal Opportunities Commission (EOC) <http://www.eoc.org.hk>

## Ethnic minorities

Ethnic minorities in the Hong Kong context include all those who do not consider themselves Hong Kong Chinese, which includes residents who are not of Chinese descent as well as those who are recent immigrants from Mainland China, and those with mixed ethnic backgrounds.

### III. A multicultural vision

#### “Asia’s World City”

Cultivating a multicultural society is key to realizing Hong Kong’s World City aspirations. World cities are places where there is a depth of diversity in peoples and cultures, and where human enterprise, job generation and quality of life are welded together through an enabling infrastructure to produce attractive living and working environments.<sup>8</sup> Furthermore, the concept of world cities has developed in recent years to define those centers where decisions over activity can be taken and are taken efficiently.<sup>9</sup>

Hong Kong’s Chief Executive stated in his 1998 policy address that: “Hong Kong ... has the potential to become, not only a major city within one country, but also the most cosmopolitan city in Asia”. The Commission on Strategic Development (CSD) outlined a strategy to achieve this vision and stated that one of Hong Kong’s key goals should be “to develop a socially cohesive and stable society with a recognition that Hong Kong’s diversity strengthens the cosmopolitan outlook of the community”.<sup>10</sup>

The CSD also noted that key characteristics of world cities include:

openness and diversity ... By definition, world cities are cosmopolitan and outward looking. They actively seek to attract international capital, businesses and skilled individuals from around the world. They, therefore, tend to be characterized by ethnically and culturally diverse populations, which are highly mobile.<sup>11</sup>

At the same time, Hong Kong must recognize and address the problems that often arise from difference – including racial discrimination, misunderstandings between various ethnic and cultural groups, racial stereotypes, prejudice and other tensions. By doing so, Hong Kong can more effectively harness the economic, cultural, and social potential of a diverse society. A vision of Hong Kong as “Asia’s World City” is, in essence, a vision of a multicultural community.

#### The right thing to do

Promoting equal opportunities is the right thing to do. Creating a culture of respect for everyone in Hong Kong is a moral obligation as well as in the economic, social and cultural interests of society. Protection of the rights of everyone in society and guaranteeing equal access to opportunities are the cornerstones of a tolerant, fair community. Hong Kong has long prided itself on having a level playing field and a sense of fairness but it risks jeopardizing that reputation by denying ethnic minorities legal protections against discrimination.

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<sup>8</sup> This definition is adapted from “Sydney 2020 – the city we want” produced by The Committee of Sydney Inc in October 1998. The definition here is broader than the one used for Sydney.

<sup>9</sup> “London: World City, Moving into the 21<sup>st</sup> Century”, Coopers & Lybrand, November 1991.

<sup>10</sup> Commission on Strategic Development, “Bringing the Vision to Life, Hong Kong’s Long-Term Development Needs and Goals,” February 2000.

<sup>11</sup> Ibid.

## Changing cultural landscape

In recent years, certain groups of immigrants have arrived in Hong Kong in significant numbers and are changing the social and cultural landscape. These changes provide new opportunities but have also created tensions.

Hong Kong's foreign population constitutes about 7.1% of the total population.<sup>12</sup> If recent immigrants from the Mainland are added to this figure, the percentage of minority populations in Hong Kong is significant.

### 1. Nepalese<sup>13</sup>

The Nepalese community in Hong Kong has grown significantly. Nepalese children born to Gurkha soldiers in Hong Kong before January 1983 automatically acquired first the right to land and later the right of abode. Before the mid-1990's relatively few Nepalese took advantage of this right. But the numbers have increased substantially in the mid-1990s. In 1990 there were 340 Nepalese Nationals living in Hong Kong while in 1999 the number had increased to 17,681. An additional unknown number of ethnically Nepalese residents in Hong Kong may be of British or another nationality. The population of some villages in the New Territories near former Gurkha bases are now estimated to be as high as 80% Nepalese.<sup>14</sup> Many Nepalese do not speak English or Chinese and have an especially difficult time adjusting to Hong Kong.

### 2. Domestic helpers and migrant workers<sup>15</sup>

Foreign domestic helpers (FDH) have become very much a part of Hong Kong life. For some 30 years, they have worked in the homes of Hong Kong people and have brought up their children. They replaced the last generation of Chinese amahs providing live-in domestic services to Hong Kong families.

Since the 1970s the population of the non-Chinese migrant workers has steadily grown. Hong Kong allowed a limited number of Filipino FDH – about 2,000 – to work in Hong Kong in the mid-1970s. Hong Kong's demand for FDH grew as Hong Kong's economy expanded. In 1982, there were 20,959 FDH legally registered in Hong Kong, 96% coming from the Philippines. By 1990, this number increased to 141,368 - including mainly Filipinos, Thais, and Indonesians. By May 2000, the numbers of FDH reached 202,900 – or 41% of the foreign population in Hong Kong.

### 3. Mainland Chinese

Mainland China is Hong Kong's principal source of immigrants. Recent arrivals from the Mainland are included in this discussion of racial discrimination, although they are ethnically Han Chinese, because they represent a distinct group in Hong Kong that can be distinguished

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<sup>12</sup> Hong Kong Immigration Department, December 1999, cited in "Baseline Research on Racial and Gender Discrimination Towards Filipino, Indonesian and Thai Domestic Helpers in Hong Kong" (Baseline Research), Jointly undertaken by Asian Migrant Centre, Asian Domestic Workers Union, Forum of Filipino Reintegration and Savings Groups, Indonesian Migrant Workers Union, Thai Women Association, February 2001, p. 14.

<sup>13</sup> "Report of the Hong Kong SAR under Article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination" (Hong Kong ICERD Report), Paragraphs 34-38.

<sup>14</sup> Sherry Lee, "A Wall of Contention", South China Morning Post (SCMP), 26 February 2001.

<sup>15</sup> Data in this section comes from Baseline Research.

from the majority by language and culture and sometimes face severe discrimination as a result.

The immigration quota for Mainland Chinese immigrants has steadily increased in recent years and is now 150 per day or about 54,000 per year. Between 1 July 1995 and 31 December 1999, 246,500 people from the Mainland have settled in Hong Kong.<sup>16</sup> This is a significant proportion of the population and many of the problems facing them are similar to those facing immigrants from other countries. Communication problems are a key difficulty because many Mainlanders in Hong Kong do not speak Cantonese or English.

### **Economic benefits**

#### 1. Corporate social responsibility

Enlightened business leaders now recognize the importance of corporate social responsibility (CSR) both in terms of contribution to the community and having a positive impact on economic performance. An important element of CSR is commitment to diversity and equal opportunities in the workplace.

The notion of CSR can be generally defined as:

business decision-making linked to ethical values, compliance with legal requirements, and respect for people, communities and the environment ... CSR is operating a business in a manner that meets or exceeds the ethical, legal, commercial and public expectations that society has of business. CSR is seen by leadership companies ... as a comprehensive set of policies, practices and programs that are integrated throughout business operations, and decision-making processes that are supported and rewarded by top management.<sup>17</sup>

As social responsibility becomes an important element of the international corporate agenda, Hong Kong companies too will have to respond. Diversity practices should not be seen only as a cost. A number of studies have demonstrated the link between social responsibilities and enhanced economic performance.<sup>18</sup>

As part of this trend, the UN initiated the Global Compact in 1999 asking business “to do its part by demonstrating good global citizenship”. Business should “support and respect the protection of internationally proclaimed human rights within their sphere of influence” and “eliminate discrimination in respect of employment and occupation”. The document points out that “a clear demonstration that basic and broadly popular social values are being

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<sup>16</sup> Hong Kong ICERD Report, Paragraphs 39 and 44.

<sup>17</sup> “Introduction to Corporate Social Responsibility”, from the Business for Social Responsibility web site: <http://www.bsr.org>

<sup>18</sup> Ibid. “A 1999 study, cited in Business and Society Review, showed that 300 large corporations found that companies which made a public commitment to rely on their ethics codes outperformed companies that did not do so by two to three times, as measured by market value added. A 1997 DePaul University study found that companies with a defined corporate commitment to ethical principles do better financially (based on annual sales/revenues) than companies that do not. A recent longitudinal Harvard University study found that “stakeholder-balanced” companies showed four times the growth rate and eight times the employment growth when compared to companies that are shareholder-only focused. Similarly, a study by the University of Southwestern Louisiana entitled “The Effect of Published Reports of Unethical Conduct on Stock Prices” showed that publicity about unethical corporate behavior lowers stock prices for a minimum of six months”.

advanced as part and parcel of the globalization process will help ensure that markets remain open, and will truly bring the people of the world closer together”.<sup>19</sup>

In a recent speech, Anna Wu, chairperson of the Hong Kong Equal Opportunities Commission (EOC), gave several examples demonstrating global businesses’ increased interest in these issues:<sup>20</sup>

- The Dow Jones Sustainability Group Indexes (1999) track the performance of companies in terms of economic, environmental and social criteria.
- Correlation has been made of the Standard & Poor’s 500 companies showing higher annualised returns for companies that practice diversity policies.
- Social audits of companies are now undertaken to meet the demand of shareholders for ethical investment.
- Influential, non-aligned watchdogs that scrutinize the social responsibility performances of corporations now include Business for Social Responsibility in the United States and Corporate Social Responsibility in Europe.
- In the United Kingdom, some 700 companies have joined a “Business in the Community” campaign, committed to creating a positive impact on society.
- Many of these companies have also formed a network, “Race for Opportunity”, to work on race and diversity as a business agenda.<sup>21</sup>

## 2. Benefits of diversity and costs of discrimination

Equal opportunities, non-discrimination and diversity policies within companies are important elements of social responsibility. A commitment to these strategies in the workplace improves productivity and economic performance.

As a result, the Council of Small Business Organisations of Australia has endorsed a guide that outlines a clear business case for diversity and non-discrimination.<sup>22</sup>

“A productive and fair workplace is one, which acknowledges diversity and recognises the need to promote equality and discrimination-free working environments.

A discrimination-free workplace makes good business sense

- It means you choose the best possible people from the widest pool of potential employees
- You enhance your corporate image as a responsible employer
- You increase the productivity of your workforce
- Your customers appreciate the diversity of your workforce
- You minimise complaints, disruption and legal liability

How your business benefits from diversity

Diversity

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<sup>19</sup> The Global Compact can be found at: <http://www.un.org/partners/business/fs1.htm>

<sup>20</sup> Speech by Anna Wu, “Human Rights: An Agenda for All”, at the Sixth Annual Human Rights Press Awards, Hong Kong, 16 June 2001

<sup>21</sup> Race for Opportunity includes 150 of the leading private and public sector organisations across the UK. web site: <http://www.raceforopportunity.org.uk>

<sup>22</sup> “Diversity is Your Business”, from the Australian Human Rights and Equal Opportunity Commission web site: [http://www.hreoc.gov.au/racial\\_discrimination/race\\_for\\_business/diversity.html](http://www.hreoc.gov.au/racial_discrimination/race_for_business/diversity.html)

- Provides improved service to your diverse customer base
- Draws on a greater breadth of skills, knowledge, experience and level of creativity
- Increases your productivity and innovation
- Enhances your reputation in the local community
- Diminishes conflict and grievance issues

Why you should be concerned about discrimination and harassment

- It is unfair and morally wrong
- There may be decreased production, low staff morale, absenteeism and high staff turnover
- There may be increased costs for recruitment and training for new staff
- Your reputation in the marketplace may be damaged.”

A study of FTSE 100 Companies in the United Kingdom completed in February 2000 on “Racial Equality and the Corporate Agenda” concludes that:

once organizations have seen the commercial significance of racial equality, they are prepared to invest appropriately in its development within their organization. The steps taken by the leading companies are simply sound strategies that would be the norm for any other business issue ... The task for companies, therefore, is to address themselves to removing all obstacles and to harness the diversity available to them, using it to build stronger, more competitive organizations.<sup>23</sup>

In addition to the benefits of non-discrimination within organizations, there are also significant costs involved in *not* pursuing diversity strategies. A study published in the American Journal of Economics calculated that discrimination in hiring practices in the United States cost the country US\$194 billion in 1987. This figure was based on wage differentials of different gender and racial groups and was controlled for factors such as skill differences, education and training.<sup>24</sup>

The study concluded that:

Discrimination costs the business firm, for when the pool of workers is arbitrarily limited a certain number of better workers is certain to be excluded. But discrimination costs the worker far more, in lost earnings, lost promotions, and lost opportunity. Discrimination is, for the corporation, economically irrational ...<sup>25</sup>

### 3. Diversity in Hong Kong

Diversity strategies are especially important to companies and economies that rely heavily on the global marketplace. Hong Kong, despite its small size, plays an important and unique role in China, Asia, and the world by virtue of its location and history. Hong Kong companies – even small firms – do business on a regional and global scale and encounter a large variety of cultures and nationalities. As described in *The Hong Kong Advantage*, Hong Kong is “where

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<sup>23</sup> Sandra Sanglin-Grant and Robin Schneider, Schneider-Ross Ltd., “Moving on Up? Racial Equality and the Corporate Agenda, A Study of FTSE 100 Companies”, A Report for the Runnymede Trust, February 2000.

<sup>24</sup> Ralph Estes, “The Cost of Discrimination”, from The Stakeholder Alliance web site: <http://www.stakeholderalliance.org/discrimination.html>

<sup>25</sup> Ibid.

East meets West, East meets East, North meets South, developing nations meet industrialized nations, and Mainland China meets everywhere else”.<sup>26</sup>

In order to fully capitalize on the opportunities created by this unique position, professionals within Hong Kong firms must understand the value of diversity and be “culturally competent” possessing “a wide repertoire of skills and a broad cultural knowledge base to interpret and understand the world views, communication styles, and unique ways of ‘thinking, being and doing’ of others”.<sup>27</sup>

#### 4. Attracting talent

To become “Asia’s World City”, Hong Kong must attract and retain the best talent from all over the world. The Chief Executive’s Commission on Innovation and Technology stressed the importance of overseas talent to Hong Kong’s overall economic development in its final report published in July 1999:

Human capital is the single most important factor supporting Hong Kong’s development into a knowledge-driven and technology-intensive economy ... Bringing in additional intellectual capital would boost economic growth and employment in the same way as external financial capital contributes to the economy ... in its post-war economic development Hong Kong has benefited significantly from a large pool of entrepreneurs and skilled and motivated workers from the Mainland. In addition, Hong Kong has a sizeable expatriate business community which brings to Hong Kong new ideas, technical know-how and advanced management practices from all over the world. These are important contributing factors to the development of Hong Kong into the international business centre that it is today ... A liberal immigration policy to attract talents is a common thread among many successful economies in the world.<sup>28</sup>

Hong Kong already has a significant shortfall of skilled information technology (IT) workers and estimates that this problem will intensify in coming years. In addition to providing training for students and workers, Hong Kong will need to compete for the best, most sought-after talent worldwide.

An example of the negative effects of discrimination on Hong Kong’s ability to attract IT talent, is the difficulty some companies have in luring Indian IT experts to Hong Kong. India is renowned for its IT expertise, but Indian scientists and experts are sometimes reluctant to work in Hong Kong because of stories they hear from their friends and family of racial discrimination against South Asians. The head of a Hong Kong company stated privately that the company had relocated its research division to Singapore because it was unable to attract the Indian scientists it needed to Hong Kong in part due to a perception of racial discrimination. Other Indians have claimed they are worried about the quality of public schooling for South Asian children in Hong Kong since education policy has long neglected the special needs of ethnic minority children.<sup>29</sup>

Discrimination against recent arrivals from Mainland China can similarly affect Hong Kong’s ability to attract talent. Some of the most sought-after IT or other professional experts from

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<sup>26</sup> Michael Enright, Edith Scott, and David Dodwell, *The Hong Kong Advantage*, Oxford University Press, Hong Kong, 1997, p. 81.

<sup>27</sup> Jose Soto, “Diversity is About Change and Leadership”, the Multicultural Pavilion International Project web site: <http://curry.edschool.virginia.edu/go/multicultural>

<sup>28</sup> Chief Executive’s Commission on Innovation and Technology, Final Report, Hong Kong, July 1999.

<sup>29</sup> Based on an interview with an Indian employer for a Hong Kong company that hires IT experts. Please see the discussion on discrimination in the education system on page 17-19.

the Mainland may choose to go elsewhere if they do not feel welcome in Hong Kong. Discrimination against Mainland Chinese is institutionalized through discriminatory immigration policies.

One such policy is the Admission of Talents Scheme, which is designed to attract the best Mainland talent in the IT and financial services industries to work in Hong Kong. However, the scheme is much more stringent than policies to admit professionals from any other jurisdiction. However, if a Mainlander lives abroad for more than one year, such applicant is judged on the same criteria as other foreigners. As a recent editorial points out: “There’s no good explanation for why a potential Chinese immigrant is more acceptable after a year spent in the U.S., other than prejudice. Does time spent outside China wash away some kind of ‘Chineseness’ that Hong Kong people find offensive?”<sup>30</sup>

Part of the reason for discriminatory policies against Mainlanders is fear of a political backlash. Hong Kong people are concerned that an influx will take jobs and use up precious resources. But these fears are unfounded. In fact, if Chinese professionals were allowed into Hong Kong on the same basis as other foreigners, they would not be allowed to take lower-skilled jobs.

Hong Kong also wants to maintain its status as a link to the outside world and be a regional hub for multinational companies. But it is also a financial and service center for southern China. Mainlanders help to bridge the gap between Hong Kong and the many different regional cultures within the Mainland.

Some recent commentaries have been critical of a government decision to allow Mainland graduates from Hong Kong universities to remain in Hong Kong stemming from fears that local graduates will lose out on job opportunities. In reality, a larger talent pool will stimulate the economy and create more jobs across the board. Hong Kong should realize that it is not the only game in town. Today, Mainland graduates can work elsewhere, and Hong Kong faces a shortfall of 120,000 professionals with high academic qualifications over the next five years.<sup>31</sup>

### 5. Attracting visitors

Racial discrimination also affects the tourism industry. Hong Kong would like to attract more visitors from South Asia and Mainland China. Indeed, Mainland visitors represent Hong Kong’s largest tourist market with nearly 3.8 million visitors in 2000. However, as outlined in the previous section on attracting talent, Hong Kong may face difficulties marketing the HKSAR as a tourist destination to South Asians and studies indicate that Hong Kong Chinese discriminate against Mainland tourists based on their background.<sup>32</sup> These factors could negatively impact on one of Hong Kong’s largest industries.

### 6. Diversity and culture

Greater acceptance of ethnic minorities and allowing all groups equal access to opportunity can also enhance the richness and diversity of Hong Kong’s cultural offerings.

A cultural expert speaking at a recent conference on “Cultures of World Cities” explained the importance of immigrants to the development of New York City’s successful and abundant cultural environment. Immigrants not only contribute their labour to the economy but they

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<sup>30</sup>Hugo Restall, editorial, *The Asian Wall Street Journal*, 7 February 2001

<sup>31</sup> Editorial, “The smart move”, *SCMP*, 25 July 2001.

<sup>32</sup> John Ap and Heidi Chan, “Residents’ Perceptions of Tourists and the Tourist Characterization Scale”, Department of Hotel and Tourism Management, The Hong Kong Polytechnic University, 1996.

also participate in the production of cultural products. The resulting diversity creates a more fertile cultural climate – an important element of a world city and a high quality of life. Culture is a major generator of wealth in places like New York and London and contributes to the tourism industry.<sup>33</sup>

#### IV. Creating a sense of belonging and preventing alienation

A key objective of a multicultural approach is allowing everyone to achieve his or her full potential and contribute as much as possible to society. When denied equal opportunity, people feel alienated and excluded with little sense of belonging to a community. This creates a harmful cycle.

No serious efforts have been made to achieve equal opportunities for ethnic minorities. Many, including the HKSARG, generally fail to realize the extent of racial discrimination or the importance of cultivating a multicultural society. There are several reasons why such a large problem has been overlooked. Because racial discrimination has not been openly discussed in the past, victims are often unwilling to speak publicly about their experiences. Some do not wish to “rock the boat” or fear repercussions from friends, employers and associates. Some feel they will not be believed. A Pakistani wrote that victims “do not complain, because they feel so ashamed”.<sup>34</sup>

There is also a lack of clarity about the definition of racial discrimination creating misunderstandings about what actually constitutes racism. Some believe it only exists when violence is involved. Others feel that acts of discrimination actually stem from rudeness or assumptions about a person’s economic status rather than racial factors.

The lack of recognition of the problem and misunderstandings are dangerous because they result in greater feelings of frustration and alienation. Many are resigned to facing discrimination and attempt to ignore it while some decide to leave if they can. An Indian man expresses his feeling of detachment from Hong Kong society: “I who am a fourth generation here still feel that I am an outsider/foreigner”. A professional Filipina who has lived in Hong Kong for 18 months describes extreme frustration with the discrimination she faces: “I am counting the days until I leave and I cannot say that I’ll be giving Hong Kong good press.”<sup>35</sup>

In one recent survey, nearly half of the ethnic minority respondents have considered going to another country to live. According to another survey 10.8% of recent arrivals from the Mainland preferred to return to their homeland due to the racial discrimination they face in Hong Kong. The respondents expressed feelings of unhappiness, anger, and resignation.<sup>36</sup>

#### V. Racial discrimination is a serious problem

Ethnic minorities in Hong Kong frequently face discrimination in a number of areas in the private and public sectors including employment, accommodation, public health, immigration policy, public transport and other services such as restaurants and shops, education, social services, law enforcement, political participation, etc.

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<sup>33</sup> These general points were made by Sharon Zukin from City University of New York at “Cultures of World Cities” organized by the Central Policy Unit of the Hong Kong SAR Government, 31 July 2001.

<sup>34</sup> Letter to the editor, “Racist Minibus Driver”, SCMP, 25 June 2001.

<sup>35</sup> These quotes were provided by Hong Kong Against Racial Discrimination (HARD) from their compilation of case studies of racism in Hong Kong, March – August 2001.

<sup>36</sup> Society of Community Organization (SoCO), “Hong Kong Racial Discrimination Study Series II: Ethnic Minorities, Executive Summary”, July 2001 and “Research on Racial Discrimination against New Immigrants from Mainland China”, 2001.

This section does not provide a scientific study of racial discrimination but seeks to highlight flaws in government surveys; provide an overview of data from other available surveys; illustrate prevalent attitudes, stereotypes, and prejudice toward various ethnic groups; reveal common misperceptions about the meaning and effects of racial discrimination; and describe typical experiences faced by victims of discrimination in the Hong Kong context. The evidence presented here only represents the tip of the iceberg but reveals a clear pattern of racial prejudice and discrimination throughout Hong Kong society.

### Government surveys

Government surveys have added little valuable information to the discussion of racial discrimination in Hong Kong. In fact, the HKSARG has not, to date, completed a comprehensive survey to determine the extent and nature of the problem.

The Home Affairs Bureau (HAB), who has responsibility for equal opportunity, conducted a consultation exercise in 1996/1997 and concluded racial discrimination was not a serious problem in Hong Kong: “The dictum ‘if it ain’t broke, don’t fix it’ encapsulates the Government’s pragmatism in its approach to anti-discrimination generally and to racial discrimination in particular ... [the] Government has taken the view that racial discrimination is not a significant issue in Hong Kong”.<sup>37</sup>

The results provided the basis for a decision not to introduce legislation. The majority of respondents were members of the ethnic majority – Hong Kong Chinese – who, by and large, do not face discrimination to the same extent experienced by ethnic minorities. The views of some respondents actually – and ironically - demonstrate the *need* for legislation rather than provide any reasonable arguments against it. Several of those who opposed legislation revealed their own prejudice and racist attitudes. Here are some examples.<sup>38</sup>

1. “[Hong Kong should] educate those who are likely to be discriminated not to act so differently from others. Most of those who are laughed at do not get laughed at for the color of their skins, but for what they do, like dressing strangely - out of fashion, or simply wrapping their heads”.
2. “Mainland Chinese complain about ‘racial discrimination’ probably because many of them behave in an anti-social manner, they should learn how to mingle and blend into the local community ... How can anyone think about anti-racial (sic) legislation to restrict people’s treatment of others on ground of race when they have not looked into whether the way these groups are being treated is because of their own unacceptable behaviour”.
3. “Please DO NOT let a few disgruntled grumblers who could not even gain a decent respect from their own country/government and claim (sic) racial discrimination here. They ought to examine themselves why they were treated that way. I object setting (sic) legislation on racial discrimination in Hong Kong. Speaking as a Chinese living in Hong Kong, please do not let these people disrupt Hong Kong people’s lives, as well as wasting tax payers money on this matter”.
4. “Filipino maids cannot be naive and presumptuous (sic) enough to demand that such a capitalistic society will start to worship those obviously without capital, and who furthermore, seem to be doing their level best to invite opprobrium. Listen to the tourists’

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<sup>37</sup> Home Affairs Bureau, Hong Kong Government, “Equal Opportunities: A Study on Discrimination on the Ground of Race, A Consultation Paper”, February 1997.

<sup>38</sup> Home Affairs Bureau, “Consultative Document on Equal Opportunities: A Study of Discrimination on the Ground of Race, Compendium of Submissions”, June 1997.

stunned comments at the sight in Central, the en masse squatting, littering, and chattering that has taken the art of making oneself at home to new heights. Then there is the hanging out in Wanchai bars, American ships, pawn shops, etc. Our respectable amahs of old, working for decent families, had never behaved this way. Instead of excusing themselves by blaming racism, they could try to clean up their act by behaving in a dignified manner and the feedback could turn positive”.

A more recent survey conducted by AC Nielsen for the HKSARG in October 1999 and January 2000 was meant to determine the numbers of ethnic minorities in Hong Kong and their special needs but did not include any questions about racial discrimination. This could have provided valuable data and was a wasted opportunity.

### Evidence from other surveys

#### 1. The Hong Kong Transition Project<sup>39</sup>

The Hong Kong Transition Project surveyed 837 randomly selected respondents regarding their experience with various forms of discrimination. Respondents included 82% who consider themselves Hong Kongers, 6% expatriates and 7% Mainlanders or other professionals. The survey concluded that racial discrimination is much more rampant than previously thought “because the actual number of foreigners available to discriminate against is much higher than most realize... 8% [of those surveyed] reported some experience of racial discrimination, meaning that every ‘foreigner’ and even many ‘Chinese’ ethnics from overseas encounter racial bias”.

#### 2. Hong Kong Human Rights Monitor<sup>40</sup>

The Hong Kong Human Rights Monitor found that 98 out of 123 (around 80%) ethnic minority respondents supported anti-discrimination legislation; 67% had been witnesses or victims of racial discrimination and racial discrimination was witnessed or experienced in such diverse areas as employment, admission to facilities, the sale and delivery of goods or services, government services, and home purchase or rental.

#### 3. Society for Community Organisation (SoCO)<sup>41</sup>

SoCO surveyed 83 people from 8 different ethnic minority groups including Pakistanis, Indians, Africans, Indonesians, Filipinos, Thais, Nepalese and Sri Lankans.

- 32% of respondents have experienced rejection for a job on the grounds of race and 70% of those who are or have been employed have experienced some kind of discrimination in their job in the form of lower pay or longer working hours than other races who have the same level position.
- 30% have been rejected by a landlord when trying to find accommodation due to their ethnicity.
- Of those who have been in contact with the police 30% have faced discrimination by the police and 50% of all respondents have been checked for their Hong Kong identification cards.

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<sup>39</sup> Hong Kong Transition Project, “Becoming China: The Public State of Mind on Hong Kong’s Integration with the Mainland”, April 2001 and Michael DeGolyer, “The hidden victims”, Hong Kong iMail, 25 April 2001.

<sup>40</sup> Hong Kong Human Rights Monitor, “Survey Results on Racial Discrimination in Hong Kong,” October 1998. Web site: <http://hkhrm.org.hk/english/reports/survey.html>

<sup>41</sup> SoCO “Study Series II”.

- At least 60% have suffered from discrimination in the area of immigration and customs.
- 46% of those who have been in contact with health services have suffered from discrimination in health care.
- 82% have faced discrimination in shops, markets or restaurant and 80% have felt discrimination when taking public transportation.
- 69% are in favour of both legislation and education to fight racial discrimination. Most believe the government should provide courses for ethnic minorities to learn Cantonese; should teach ethnic minority children their mother language and about their ethnic culture; and feel that the schools catering to ethnic minority children are inadequate.
- More than half of the respondents (55%) think that racial discrimination has become worse since 1997.
- 97% think that they should have the same opportunities and rights as Hong Kong Chinese people.

#### 4. The Equal Opportunities Commission (EOC)

Although the EOC has no jurisdiction to deal with complaints of racial discrimination, they have recorded 247 specific and general enquiries related to racial discrimination – mainly dealing with employment - since 1996. For the period January 2000 through November 2000, the EOC received 64 allegations of racial discrimination, as compared to 62 complaints during the period 1996 through 1999.<sup>42</sup>

#### 5. Asian Migrant Centre<sup>43</sup>

This study showed that FDH often suffer from triple discrimination based on race, gender, and occupation. According to this report: “Statistical tests of association and significance establish that the unequal treatment of FDH is significantly related (95% or 99% confidence level) to the race and gender of the FDH ... The analysis showed that the cases covered by the study are not rare or isolated, but affected a significant portion of the FDH population”.

More than 23% suffer from verbal abuse, 4.5% have been slapped, 3.5% hit with objects, 2.6% have been kicked, and almost 2% experienced sexual abuse. Other common problems include contract violations, underpayment, and exorbitant agency fees.

Some commentators have argued that poor treatment of FDH is based on class or economic status and not race. However, the above-cited study reveals that while 60% of FDH believe they are discriminated against because of their job a significant 22% of the helpers themselves pointed to their race as a factor. Case studies collected by migrant workers groups also reveal racist attitudes towards helpers from the Philippines, Thailand, Indonesia, and South Asia due to darker skin complexion.

#### 6. Caritas

A survey by the Caritas Youth and Social Service Centre revealed that 42.8% of respondents agreed that Mainland immigrants were discriminated against and 14.1% actually admitted that they had discriminated against them.<sup>44</sup>

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<sup>42</sup> Equal Opportunities Commission, “Statistics on Racial Discrimination Enquiries”, for the period 20 September 1996 to 31 January 2001 and Glenn Schloss, “Rising racism complaints ‘tip of iceberg’”, SCMP, 29 December 2000.

<sup>43</sup> Baseline Research and Mary Ann Benitez, “One in Four Foreign Helpers Abused: Report”, SCMP, 15 February 2001.

<sup>44</sup> Chow Chung-yan, “Poll highlights strong bias against migrants and gays”, SCMP, 27 November 2000.

### 7. Society for Community Organization (SoCO)<sup>45</sup>

SoCO surveyed 100 households made up of Mainland immigrants living in Hong Kong fewer than seven years.

- 82% believed they had faced racial discrimination in Hong Kong; 98.8% of them felt the degree of discrimination they faced ranged from average to very serious.
- 29.7% of those looking for work faced rejection from prospective employers because they had not yet obtained a permanent residency card or because they appeared to be new immigrants.
- Of those with working experience in Hong Kong 21% had longer working hours than their local counterparts; 40% felt their wages and benefits were lower; nearly 30% had been insulted in the workplace because of their new immigrant status.
- Of the 79% of respondents with experience renting private housing, landlords refused 35% of them because they had newly arrived children or landlords were afraid that new immigrants could not afford the rent.
- 19% were refused schooling due to their new arrival status; classmates insulted many students.
- Others denounced 30% of those seeking social welfare as social burdens which significantly affected levels of self-confidence.
- 58% have been insulted in shops and markets; 44% felt they had received unfair service compared to their local counterparts.
- As a result of discrimination, 67.6% found it difficult to be part of the community; 56.8% expressed reluctance to form connections with Hong Kong people; and 51.4% preferred to stay home.
- 72.5% indicated they were often intercepted by police officers checking for identity cards.
- 46.8% who had contact with the social welfare department indicated they had encountered problems including criticism from officials who criticised them for using social or legal services.

### 8. The Chinese University<sup>46</sup>

A poll conducted by Professor Kenneth Chau Kin-lam found that 80% of those surveyed believed that new arrivals from the Mainland had a low level of education; 60% thought the immigrants would take locals' jobs; and 30% had no intention of getting acquainted with newly arrived migrants.

## **Common misperceptions about racism**

### 1. “Racial discrimination only affects a small minority in Hong Kong”

People often assume that any racial discrimination that exists only affects a small minority of the population and therefore cannot be considered serious. Although any discrimination against anybody should not be tolerated, ethnic minorities, including recent arrivals from Mainland China make up a larger percentage of Hong Kong than most people realize. In fact cases of racial discrimination affecting the majority group – Hong Kong Chinese – also exist and the legacy of colonialism has entrenched a culture of discrimination that often goes unnoticed.

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<sup>45</sup> SoCO research on Mainland immigrants.

<sup>46</sup> Chloe Lai, “Migrants dirty and uneducated: poll”, SCMP, 7 September 1999.

### 2. “Hong Kong has no racial violence”

The HKSARG claims that Hong Kong does not have a serious race problem because it does not suffer from the same level of racial violence seen in other jurisdictions: “[Hong Kong] has not had people with white hoods going around lynching people for being black. And if you look on the walls you can see no hate-graffiti.”<sup>47</sup>

People on the street also express this view: “Racism means one race fighting against or harming another ... Hong Kong people are not racist in that way, they just think they are the best ... There might be minor racism, like someone might joke, ‘I find Indians ugly,’ but there is no harm done, no violence”<sup>48</sup> and “To me racism equates with the hideous violence that you get perhaps in the West, and you don’t see that [in Hong Kong]”<sup>49</sup>

A victim of racism experiences the deepest feeling of offence, humiliation, shame and pain. It is a denial of his or her claim to be fully human whether physical violence is involved or not.

### 3. “It’s not racial discrimination, it’s because they’re poor”

Another common misperception is that claims of racial discrimination are not based on race, but result from economic discrimination. Again, this view is promoted by some government officials and is often expressed by members of the public: “The rich discriminate against the poor ... there is discrimination against Mainlanders, who are poorer and lower class, but that’s not racial discrimination.”<sup>50</sup>

However, forms of discrimination based on economic status and race are difficult to separate and are actually mutually reinforcing. In other words, people coming from developing nations may face discrimination because they are perceived as poor and eventually poverty and a race become associated in people’s minds.

Prejudice against Filipinos is one example. Because many Filipinos work as domestic helpers in Hong Kong they are perceived to have lower social and economic status. Eventually this characteristic – low status – is attributed to Filipinos generally. At this point it becomes both racial and economic discrimination because people assume that Filipinos are poor and therefore poverty becomes associated with ethnicity. People’s views about “Filipino” as a nationality become linked with both racial and economic factors. People may see a Filipina, and, based on her darker skin and accent, assume that she is poor. These stereotypes proliferate and lead to acts of discrimination against Filipinos that may be based on both race and class.

The problem with this cycle is that once a particular group is perceived negatively, the stereotype becomes entrenched and self-reinforcing. If, for example, Nepalese or Mainland Chinese are perceived as poor and therefore dirty, uneducated, and unworthy of respect, they will find themselves facing a number of forms of discrimination that will serve to reinforce their economic position.

Nepalese have difficulties finding school places and are often relegated to sub-standard schools with teachers who do not seem to care about them or do not know how to

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<sup>47</sup> John Dean, Principal Assistant Secretary for Home Affairs, Quoted in Shelley Thomas, “The Scourge of Racism”, Hong Kong iMail, 16 March 2001.

<sup>48</sup> Polly Evans and editorial staff, “How Racist a City is Hong Kong?” HK Magazine, 18 May 2001.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

communicate with them. Some Nepalese who have gone to the police to report crimes are assumed to be criminals themselves. Many face discrimination when applying for jobs, finding housing, and a range of other areas of daily life that make it difficult to achieve economic advancement. These patterns reinforce their lower economic position, which, in turn, reinforces the stereotypes associated with them.

Understandings of racial discrimination have evolved in the context of globalization and economic status cannot be separated from a discussion of racial discrimination:

If racism is understood as a set of beliefs and practices whereby certain ethnic groups are discriminated against in a given society because of their real or imagined racial and/or ethnic characteristics, then the new name of racism at the end of the twentieth century is no longer colonialism or nazi ideology but rather *xenophobia and social exclusion* related to international migrations, the emerging of new kinds of ethnic or racial minorities, and the persistent and in fact growing inequalities between the “haves” and “have nots” in a globalized economy.<sup>51</sup>

#### 4. “Public education is the best way forward”

The assumption that better public education will eliminate racism goes against experience. Racist attitudes appear to lie very deep. Changing attitudes requires raising and sustaining public awareness as well as education together with other instruments, the most important of which is to have laws in place to prohibit racial discrimination.

Despite the HKSARG’s belief in public education, the amount of resources it is prepared to devote to it is very small. Its current budget for public education about racial discrimination for 2001-2002 is only HK\$0.98 million plus there is a HK\$1.6 million fund that is allocated to worthy projects covering race and sexual orientation. Because there is a lack of commitment to eradicate racial discrimination and a lack of understanding about the seriousness of the problem, these efforts are piecemeal and ineffective.

Although some areas of the school curriculum could include human rights education if an individual teacher chose to cover certain subjects from a human rights perspective, there is no requirement to teach human rights or racial equality to primary or secondary students.<sup>52</sup>

### **Education and the ethnic minorities**

The education system is a particularly important area to address since education provides the basis for economic advancement within a society. The system in Hong Kong has perpetuated a cycle of poverty among ethnic minority groups who cannot afford to send their children to more expensive international schools.

Education policy makers have virtually ignored ethnic minority children in the past and only recently have taken piecemeal measures to address some of their special needs but policy still lacks a real commitment or understanding of the problems or the benefits of encouraging diversity.

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<sup>51</sup> Rodolfo Stavenhagen, “Structural Racism and Trends in the Global Economy”, International Council on Human Rights Policy Consultation Session on Racism and Human Rights, Geneva, 3-4 December, 1999, p.7.

<sup>52</sup> Hong Kong Human Rights Monitor, “Shadow Report to the United Nations Committee on the Elimination of Racial Discrimination Regarding the Report of the Hong Kong Special Administrative Region of the People’s Republic of China”, July 2001.

A survey by Yang Memorial Methodist Social Service completed in August 2000 found that 40% of students from South Asian ethnic minorities have difficulty finding suitable places in government-subsidized schools. Many of these students do not read or write Chinese. About 40% also said they experienced studying difficulties and communication difficulties with Chinese classmates.<sup>53</sup>

The Education Department responded to this survey by introducing a school-based support scheme grant for schools with intake of newly-arrived children. Primary and secondary schools receive a one-off payment for each minority pupil enrolled – primary schools receive HK\$2,750 per student and secondary schools receive HK\$4,080 per student. This scheme was originally introduced for newly arrived children from Mainland China and was only extended to other minority students in response to the Yang Memorial survey.<sup>54</sup> However, other schemes designed for Mainland children have not been extended including a full-time Initiation Program for newly arrived children and an arrangement for Placement of New Arrival Children from the Mainland. There are no programs tailored to meet the educational needs of ethnic minority children under the age of 6 or over the age of 15.

Five primary and two secondary schools cater to ethnic minority groups and many who cannot afford the school fees at international schools can only find places at these schools. The mother-tongue teaching policy has drastically reduced the number of English-medium schools giving minority children who cannot read and write Chinese fewer school choices. Some of the better performing, so-called “elite” English-medium schools accept the best performing students and many of the ethnic minority children have little chance of finding places at those schools. This policy effectively segregates ethnic minority children in the public school system making integration into mainstream society difficult.

The following problems are commonly faced by ethnic minority children in the public education sector:<sup>55</sup>

1. Lack of choice of school and sometimes difficulty finding places at any school
2. Poor exam results suggesting poor teaching quality
3. Poor English language instruction
4. Parents are not informed about the problems their children are facing and are not invited to the school to speak with teachers
5. Teachers are not held accountable for the poor results
6. Teachers do not make an effort to communicate with the students
7. Teachers are less willing to teach the ethnic minorities due to prejudice and communication problems
8. Not enough opportunities are provided to learn Chinese making it more difficult for students to integrate into the local community and find jobs
9. Students often have low self-esteem
10. Students perform poorly in mathematics due to inadequate training at primary school
11. There are very few teachers from ethnic minority groups because the government does not recognize their qualifications from certain countries. One teacher with a degree from an Indian University and 25 years of teaching experience in Africa, was hired at the lowest grade and has not received a promotion for 7 years
12. Higher form students lack career guidance
13. Teachers do not receive diversity and cultural competence training

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<sup>53</sup> Martin Wong, “Minorities face school woes”, SCMP, 16 August 2000.

<sup>54</sup> “Special Grants Will Help Minority Pupils”, SCMP, 17 August 2000.

<sup>55</sup> Collected from the following sources: interview by Ingrid Tsui and David Lawrence with the vice principal of Delia Memorial School, interviews with G.S. Batra, Bethal Thakral, Fermi Wong, and Neena Pushkarna.

14. There are claims that some Chinese teachers ridicule and make racist comments toward ethnic minority students
15. One Indian teacher has reported incidents of racial discrimination and racist comments directed toward her by a Chinese teacher

### **Social services & political participation**

A common attitude among members of the majority is that public resources should be used to assist Hong Kong Chinese before considering the needs of other groups in society. One social worker revealed that some of her colleagues believed she should pay more attention to the local Chinese rather than spending valuable time and resources on the problems faced by the Nepalese community.<sup>56</sup> The sentiment that ethnic minorities are not really a part of Hong Kong and are somehow less important is commonly expressed. Poor treatment of recently arrived Mainland immigrants by social welfare department officials is documented by the SoCO survey summarized previously.

Only permanent residents are allowed to vote in Hong Kong elections. Unlike other foreign workers, FDH cannot obtain permanent residency after seven years of living in Hong Kong. This policy effectively excludes a portion of long-term Hong Kong residents from participating fully in civic life and the political process. Yet, for the Legislative Council, foreigners could hold up to a total of 12 seats from among the 30 functional constituency seats.

Although not explicitly stated, it is generally understood that people who are not ethnically Chinese cannot obtain Chinese citizenship and thus even if they spend their entire lives in Hong Kong or even Mainland China, it is extremely difficult to become a part of those societies and become politically active.<sup>57</sup>

## **VI. Policy recommendations**

### **Legislation**

Hong Kong needs to develop a comprehensive policy to combat racial discrimination and cultivate a multicultural society. Discrimination is deeply imbedded in Hong Kong and it will take time to change the attitudes, prejudice and stereotypes that can lead to acts of discrimination.

The Bill of Rights Ordinance prohibits race discrimination in the public sector but there is no legislation that does the same for the private sector although Hong Kong has an obligation under international human rights law to legislate domestically. Without providing specific legislation, there is no real recourse for victims of racial discrimination. Thus, passing legislation is an essential step.

The push for anti-discrimination legislation is not new. Attempts to introduce bills by private members in the Legislative Council include Anna Wu's comprehensive anti-discrimination bill in 1994; Elizabeth Wong's bill outlawing racial discrimination - based on Wu's draft - in 1997; and Christine Loh's attempts to put forward a re-drafted bill based on the format of existing equal opportunities laws between 1998 and 2000. These efforts were unsuccessful.

However, a number of developments in recent months have led to a change in the climate of opinion and have given the push for legislation new urgency. More people are willing to

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<sup>56</sup> Interview with Fermi Wong, 28 May 2001.

<sup>57</sup> Hong Kong Human Rights Monitor.

speak out about their experiences and more evidence of racial discrimination has become public; Hong Kong has learned positive lessons from six years of experience with other forms of equal opportunities legislation; and a new commitment to be “Asia’s World City” means that Hong Kong must embrace diversity and multiculturalism.

### 1. International obligations

Hong Kong has clear international obligations to legislate. Three UN human rights bodies have urged the HKSARG to fulfill its obligations under international treaties and legislate against racial discrimination.

#### a. International Covenant on Economic, Social and Cultural Rights (ICESCR):

Article 2(2) states that the rights outlined in the ICESCR shall be exercised “without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

In May 2001, the Committee on Economic, Social and Cultural Rights (CESCR) made the following statement regarding Hong Kong’s obligations:

It is the Committee’s view that the Hong Kong SAR’s failure to prohibit race discrimination in the private sector constitutes a breach of its obligations under article 2 of the Covenant. The Committee calls upon the HKSAR to extend its prohibition of race discrimination into the private sector.<sup>58</sup>

The CESCR also urged Hong Kong to legislate against racial discrimination in 1994 and 1996.<sup>59</sup>

The HKSARG responded to these remarks by stating its obligations under the ICESCR are “aspirational” in nature. The CESCR, however, has said that their concluding recommendations are legally binding for States parties. Virginia Bonoan-Dandan, chairwoman of the CESCR recently reiterated this point during a visit to Hong Kong:

Whatever the committee adopts as a form of concluding observation is valid and binding ... if the covenant is a legal instrument, then anything the committee says in relation to the provisions is also legally binding. It’s a violation of the covenant [if the Government does not carry out the recommendations].<sup>60</sup>

#### b. International Convention for the Elimination of All Forms of Racial Discrimination (ICERD):

Article 6 of ICERD outlines States Parties obligations to legislate:

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from

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<sup>58</sup> Concluding observations of the CESCR, E/C.12/1/Add/58, 11 May 2001

<sup>59</sup> Concluding observations of the CESCR, E/C.12/1994/19, 21 December 1994 and Concluding observations of the CESCR, E/C.12/1/Add.10, 6 December 1996.

<sup>60</sup> Virginia Dandan in an interview with Frank Ching on ATV’s Newline, 15 July 2001, quoted in Jimmy Cheung and Kong Lai-fan “UN warning of human rights treaty violations”, SCMP 16 July 2001.

such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

The Committee on the Elimination of Racial Discrimination (CERD) elaborated on this obligation generally in 1991:

The CERD has indicated that the [ICERD] is addressed not only to present practices but also to problems which may arise in the future, and that in ratifying the [ICERD], all States parties have undertaken to put its provisions into national law.

Some reports [from States Parties] have given the impression that if the [ICERD] has become part of the supreme law of the country, no further legislative action is necessary. However, the [ICERD] requires legislation to make certain acts punishable and also calls for action in the fields of education, culture and information. Similarly a State party does not fulfill its obligations under the [ICERD] simply by condemning racial discrimination in the Constitution of the country.<sup>61</sup>

The CERD expressed its concern over Hong Kong's failure to implement their past recommendations to give full effect to the provisions of ICERD in domestic legislation at its meeting in August 2001.

... the Committee ... reiterates its concern about the continuous absence in the Hong Kong Special Administrative Region of legal provisions protecting persons from racial discrimination to which they may be subject by private persons, groups or organizations. The Committee does not accept the argument put forward for not initiating such legislation, i.e., that such legislation would not be supported by the society as a whole. It is recommended to the Government of the State party and to the local authorities in the Hong Kong Special Administrative Region that the existing unsatisfactory situation be thoroughly reviewed and that appropriate legislation be adopted to provide appropriate legal remedies and prohibit discrimination based on race, colour, descent or national or ethnic origin similar to what has been done with regard to discrimination on the grounds of gender and disability.”<sup>62</sup>

c. International Convention on Civil and Political Rights (ICCPR):

The ICCPR prohibits racial discrimination in Article 26:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The UN Human Rights Committee – the body that oversees the ICCPR - has called on Hong Kong to outlaw racial discrimination in the private sector on several occasions.<sup>63</sup>

Emphasizing the importance of legislation, Mary Robinson the UN High Commissioner for Human Rights<sup>64</sup> stated:

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<sup>61</sup> Fact Sheet No. 12, The Committee on the Elimination of Racial Discrimination (CERD), May 1991.

<sup>62</sup> Concluding Observations of the CERD, 9 August 2001.

<sup>63</sup> Concluding observations of the Human Rights Committee, CCPR/C/79/Add.57, 9 November 1995 and Concluding observations of the Human Rights Committee, CCPR/C/79/Add.117, 4 November 1999.

It is key that in every country racism be outlawed, that there be a remedy for racism and access to that remedy. I would also like to see a more proactive approach, preferably through a race relations commission or an independent human rights commission, and a program of education about tolerance and diversity.<sup>65</sup>

### 2. Equal opportunities legislation – successful precedents

In addition to legal obligations under international treaties, Hong Kong has practical, positive experience with three existing equal opportunities laws banning discrimination based on sex, disability and family status. These laws, and the statutory body formed by these laws – the EOC - have been successful in protecting victims of discrimination in these three areas. The laws are now accepted by society at large, including the business community and prominent chambers of commerce have recently come out in favor of adding race legislation to this body of ordinances.

The executive director of the British Chamber of Commerce has said:

We feel if Hong Kong is aspiring to become Asia's world city, we should be able to live with people of different ethnic backgrounds and colours. Priority should be given to education structures from kindergarten . . . backed by legislation. We believe legislation needs to be amended to include sex, age, race, disability and all forms of discrimination.

The Indian Chamber of Commerce has also stated their views in favor of legislation<sup>66</sup> and five other chambers of commerce have indicated their support.

Many of the fears expressed during earlier debates about equal opportunities legislation have not materialized. There has not been an onslaught of litigation. There has not been a backlash or resentment against women and the disabled as a result of legislation. The EOC has provided a clear channel for airing grievances, investigating complaints, conciliating disagreements, and, when necessary, pursuing litigation.

The EOC has played a significant role in increasing public discussion and awareness of discrimination in the three areas it covers. There is no logical reason why race should be excluded from proper equal opportunities protections and therefore from the important educational activities sponsored by the EOC. Racism is no less “wrong” than any other form of discrimination. It would be a straightforward matter to add race legislation to the mandate of the EOC.

### 3. Clarifying the definition of racial discrimination

At the moment, the definition of racial discrimination is unclear in Hong Kong. People often speak of different things when they speak about discrimination. A law would provide a legal definition that would serve as a basis for discussing racial discrimination in the Hong Kong context. As a result, lawyers, judges and police would become more familiar with equal

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<sup>64</sup> Mary Robinson is also the chair of the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance that will be held in South Africa from 31 August to 7 September 2001.

<sup>65</sup> “A Conference Against Racism-and for Its Victims”, A Ford Foundation Report, Spring 2001.

<sup>66</sup> Cynthia Wan, “Expat business leaders consulted over anti-racism laws, SCMP, 23 July 2001 and letter from C.N. Subramanian, Secretary General of the Indian Chamber of Commerce to the LegCo Panel on Home Affairs, 3 January 2000.

opportunities law in the area of race and more aware of problems of discrimination when they arise.

Jurisprudence in other common law jurisdictions has shown that the law provides an objective measure of racial discrimination. Cases in Australia and New Zealand indicate that the motive or subjective intent of the discriminator is irrelevant. The outcome of the act of discrimination is what matters when determining whether something constitutes racial discrimination or not.

Legal experts generally agree that: “the motive of the discriminator is irrelevant to the question of whether the treatment was on grounds of race. Equally, the subjective reason for the treatment, even if the motivation is a good one, is irrelevant”.<sup>67</sup>

#### 4. Legislation is education

The HKSARG’s stated policy is to educate the public about racial discrimination and not legislate. In a recent letter, the HAB stated that a study they completed on the question of racial discrimination in 1996/97 still forms the basis of this policy. They are currently undergoing a review of the situation but “pending its conclusion, our position remains that, in general, persuasion is preferable to coercion. We will reassess that position when we have concluded the present exercise”.<sup>68</sup>

The HKSARG’s position reflects a common view that legislation and education are mutually exclusive and that education is the only effective solution to the problem in the long run. In fact, the law itself is an important means of educating the public and is a crucial part of a comprehensive policy to make society aware of the wrongs of discrimination. Outlawing racial discrimination would demonstrate a serious commitment to providing equal opportunities for all ethnic groups. Without this commitment, efforts to educate will fall short.

Legislation would demonstrate moral leadership on the part of the government and would lead to greater policy commitment devoted to combating discrimination. Other effective policy initiatives can only arise from a true commitment to eliminate racial discrimination; a clearer understanding of the definition of racial discrimination; channels for victims to voice complaints; and proper protections and remedies. Effective educational policies would arise from and complement legislation.

#### 5. Comparisons with other jurisdictions

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<sup>67</sup> Butterworths Discrimination Law, issue 0, 1999, Butterworths, London as quoted in Vandana Rajwani, “The Relationship between Racism and Economic, Social and Cultural Rights”, presented at the “Asia Pacific Forum Regional Workshop on the Role of Human Rights Institutions and Other Mechanisms in promoting and Protecting Economic, Social and Cultural Rights”, 13 July 2001. Rajwani, a Hong Kong barrister, also outlines several cases in Australia and New Zealand of racial discrimination that are parallel to high profile case studies of discrimination in Hong Kong. The comparison indicates the merit of claiming that the Hong Kong incidents involve racial discrimination. For example, some bars in the Wanchai district of Hong Kong charge higher entry fees for Chinese and Indians than Caucasian customers. These were justified by the bars and the government as “commercial decisions” [Alison Smith, “High price for having ‘wrong’ skin colour”, SCMP, 1 June 1998]. In a similar case in Australia [Dennison & Anor v Conroy] an aboriginal customer was charged \$9 more when purchasing a cask of wine than a white customer was for a similar purchase of wine. The respondent claimed that he did this to get money back for damage to his hotel allegedly caused by Aboriginals. The tribunal held that the respondent had treated the complainant unfairly on the grounds of race and was ordered to publish an apology in the newspapers and pay damages of \$2000.

<sup>68</sup> Letter from John Dean for Secretary for Home Affairs to HARD, 26 June 2001.

The Chief Executive made comments recently in the Legislative Council that legislation is not the best way to tackle racial discrimination and compared Hong Kong to other jurisdictions:

I think all places, all cosmopolitan cities have racial discrimination. Hong Kong also has this problem. But is legislating the best option? I think the US and UK have worse racial discrimination problems than we do, even though they have a lot of such legislation. I think the most important thing is to educate ... people to know that discrimination is wrong.<sup>69</sup>

Of course, in other jurisdictions, such as the US and the UK, legislation has not entirely solved the problem of racial discrimination. Racial discrimination still affects most countries in the world. However, without proper legislation the situation would arguably be worse and – most importantly - victims would have no recourse.

### 6. Purpose of legislation

Legal experts on human rights and equal opportunities have long agreed that legislation serves several valuable functions in fighting racial discrimination and ensuring a fair society.

One purpose is to provide an objective measure for what constitutes racial discrimination. Some commentators have noted that attitudes and feelings cannot be regulated by legislation.<sup>70</sup> But, as Anthony Lester points out in a recent article in *Public Law*: “the purpose [of anti-discrimination legislation] is not to try to enforce moral attitudes by law”.<sup>71</sup>

He goes on to quote Lord Boyle of Handsworth:

Most people are opposed to using criminal law in order to enforce morality as such. But race relations is not just a matter of private morality – it is a major issue affecting what John Stuart Mill would have called the ‘public domain’. Racial Discrimination as a practice is both wasteful and divisive, in a manner that quite transcends tastes and prejudices. It is also extremely insidious.<sup>72</sup>

The fact that racial discrimination has such detrimental effects on society is one of the main reasons to enact legislation prohibiting racism.

Lester answers the question: “What can legislators hope to accomplish in tackling such a complex social problem?” by listing several principals outlined by the First Annual Report of the Race Relations Board, in April 1967.

1. A law is an unequivocal declaration of public policy.
2. A law gives protection and redress to minority groups.
3. A law thus provides for the peaceful and orderly adjustment of grievances and the release of tensions.

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<sup>69</sup>“Tung Rejects Anti-racism Law Idea”, Ambrose Leung, SCMP, 15 June 2001.

<sup>70</sup> Kevin Sinclair, “New Laws Unlikely to Stamp out Racial Prejudice”, SCMP, 25 April 2001. Sinclair writes: “Even with the most noble of intentions, it is impossible to pass laws forcing people to like each other. Sad, but true, and something that needs to be remembered as Hong Kong considers legislation aimed at combating racism”.

<sup>71</sup> Anthony Lester, “Equality and United Kingdom Law: Past Present and Future” reprinted from *Public Law*, Spring 2001, Sweet & Maxwell and Contributors.

<sup>72</sup> Lord Boyle of Handsworth, “Race Relations: the Limits of Voluntary Action”, *Race*, Vol. 9, No. 3, pp. 289-302, quoted in Lester, page 84.

4. A law reduces prejudice by discouraging the behaviour in which prejudice finds expression.<sup>73</sup>

These points are useful when discussing the benefits legislation would provide in the Hong Kong context:

Point 1: Hong Kong needs “an unequivocal declaration of public policy”. The HKSARG has failed to demonstrate sincerity and commitment toward fighting racial discrimination.

Point 2: There are no protections for minority groups in the private sector. It could take years or decades to significantly change attitudes through education. In the meantime, legal protections are important when incidents of racial discrimination occur.

Point 3: There are no channels for victims to voice complaints or have them investigated and therefore no “peaceful and orderly adjustment of grievances and the release of tensions”. This leads to alienation and a build-up of ethnic tensions.

Point 4: The HKSARG claims that education is the best approach for dealing with racial discrimination but fails to understand the educational benefits of legislation.

Finally, a law is not designed to completely resolve all problems:

No law can restrain the determined law-breaker. It is aimed at the great majority of the community who are ordinarily law-abiding. As Allport put it in his classic study of the nature of prejudice, the law: “will not deter the compulsive bigot or demagogue. But neither do laws against arson deter the pyromaniac. Laws ... restrain the middle range of mortals as a mentor in moulding their habits”.<sup>74</sup>

## Education

- Hong Kong needs a comprehensive review of the curriculum and teaching materials to ensure that stereotypes are not perpetuated and that students can effectively learn about racial discrimination and the importance of diversity.
- Schools should develop multicultural education policies. Multicultural education is an interdisciplinary educational process which has been defined in many ways but contains a number of key elements:<sup>75</sup>
  1. Every student must have an equal opportunity to achieve to her or his full potential.
  2. Every student must be prepared to competently participate in an increasingly intercultural society.
  3. Teachers must be prepared to effectively facilitate learning for every individual student, no matter how culturally similar or different from her or himself.
  4. Schools must be active participants in ending oppression of all types, first by ending oppression within their own walls, then by producing socially and critically active and aware students.
  5. Education must become more fully student-centered and inclusive of the voices and experiences of the students.
  6. Educators, activists, and others must take a more active role in reexamining all educational practices and how they affect the learning of all students: testing

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<sup>73</sup> Quoted in Lester.

<sup>74</sup> G.W. Allport, *The Nature of Prejudice* (abridged), Doubleday, 1958, p. 439, quoted in Lester.

<sup>75</sup> These six points are listed in Paul Gorski, “The Challenge of Defining a Single Multicultural Education”, from the McGraw Hill Multicultural Supersite:

<http://www.mhhe.com/socscience/education/multi/define.html>

methods, teaching approaches, evaluation and assessment, school psychology and counseling, educational materials and textbooks, etc.

- Develop and provide diversity training programs for all teachers and proper support for teaching in a multicultural classroom.
- Assess teachers' attitudes and address their possible unwillingness to teach ethnic minority students.
- Recruit more non-Chinese teachers both in schools that cater to ethnic minority students and mainstream schools so that students can benefit from the experience of teachers from a variety of cultures and backgrounds.
- Review the practice of discriminating against professional teaching degrees and experience from various jurisdictions when making hiring and promotion decisions with the aim to diversify the teaching profession. For example, complaints have been made that degrees obtained from Indian institutions are devalued.
- Study best corporate diversity practices to see if they have any relevant applications in schools in line with recent trends to improve accountability and productivity in schools.
- Provide greater government support for school induction programs for new immigrants and ethnic minority students.
- Provide effective language training in English and Chinese for ethnic minority students.
- Mathematics is a particular problem for some ethnic minority students. Develop programs in this area.
- Encourage greater integration for ethnic minority students into mainstream schools to avoid the current situation, which isolates and segregates many ethnic minority students from mainstream Hong Kong society. This policy also limits the contact Hong Kong Chinese students have with students from other backgrounds.
- Provide materials with information about the education system in relevant languages for ethnic minority parents and students who do not speak or read Chinese and English.
- Carry out a review of educational problems faced by ethnic minority students.

### Language policy

- Government should develop a language policy for all public bodies and provide all published materials in both Chinese and English. Public bodies should also produce materials in other relevant languages whenever those materials affect ethnic minority groups who may not be proficient in Chinese or English.
- The private sector should be encouraged to produce bilingual materials as part of an overall diversity strategy. Many companies are willing to comply when asked. The government should play a leadership role in this regard.

### Employment

- Encourage diversity training programs for human resources professionals and others in small and medium sized enterprises. Promote exchange between larger multinationals with internal diversity policies and training and smaller companies in order to benefit from international best practices.
- Create job training and skill enhancement programs tailored to meet the needs of ethnic minorities, especially the development of language skills.
- Provide diversity training and more information on human rights and equal opportunities for social welfare officials, other social workers and labour department officials so that they will better understand the importance of diversity and equal opportunities in the context of their work.

### Immigration, customs, police officers

- Help frontline officers to move away from negative stereotypes of Mainlanders, South Asians, South East Asians, and Africans.
- Provide sensitivity and diversity training for immigration, customs and police officials to help them better deal with people from different backgrounds.
- Provide diversity training and address “profiling” policies. Police often assume that people of a certain ethnicity or nationality are criminals.

### Inclusion

- Include ethnic minorities in the policy-making process broadly and, more specifically, on issues that directly affect them. Giving stakeholders a voice creates better solutions and empowers people to make those solutions effective.
- The HKSARG should liaise with groups representing ethnic minority interests on a regular basis to keep apprised of their special needs and problems. A more comprehensive study of the ethnic minorities is necessary to determine the nature of the racial discrimination they face so that the problem can be tackled more effectively.

## VII. Conclusion

Hong Kong is an international city and a rapidly changing community that is striving to find its place within China, Asia, and the international arena since the change of sovereignty in 1997. Hong Kong has positioned itself as “Asia’s World City” and, despite its small size, plays an important role in the process of globalization. As such, cultivating a multicultural society is a key public policy issue.

A first step in addressing policy concerns is to acknowledge that racial discrimination exists in Hong Kong and then commit to tackling it. The problem is serious and has adverse affects on individuals, individual companies, and the overall economic, social and cultural development of Hong Kong. In any strategy to deal with racism, the government has a central role as it has the duty to protect the rights of everyone within its borders, to enact laws that prohibit racial discrimination and ensure that officials understand those laws, and apply them. The government is also duty bound to monitor actively the incidence of racism in its own institutions and in society and condemn it publicly whenever it is found.

First and foremost, Hong Kong needs legislation banning racial discrimination in the private sector. Protections for minorities and a commitment to equal opportunities are a cornerstone of a tolerant, civilized society. Hong Kong must also work toward changing the culture of denial and lack of attention that serves to worsen the problem and escalate tensions created by discrimination.

An effective, committed approach to these issues will result in greater opportunities for Hong Kong to enrich its culture, promote its economic competitiveness, demonstrate its commitment to human rights, and provide a level playing field for all.

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## APPENDIX I

## Common attitudes, prejudice, and stereotypes

The following quotes by Hong Kong residents illustrate a cross-section of common attitudes about various groups in Hong Kong. In general, the most negative views are reserved for people with darker skin and people from developing countries, including Mainland China. These are real quotes by Hong Kong people of different ages including young children, who often express their elders' opinions:

1. "I don't have a good impression of blacks and Indians, as I think they are culturally inferior. I think it's natural to have racist tendencies. People think locals are superior to races such as Indians and Pakistanis".<sup>76</sup>
2. "Everyone hates the ah char [derogatory term for Indians] ... It's just that Indians have lifestyles that don't really suit our needs. Like hygiene, they're really dirty, they litter everything, right out of the windows".<sup>77</sup>
3. "I know that most of the Hong Kong Chinese people think that Indians are dirty and smelly. Sometimes these opinions come from the newspaper".<sup>78</sup>
4. "My mom hates taking the lift after an Indian has just used it. She can't stand the way they smell".
5. "Mainland Chinese are very dirty. They spit on the floor".
6. "Hong Kong Chinese don't have respect for Filipinos. Because they work for us, people think they are inferior and not intelligent".
7. "Hong Kong is no doubt a racist city. I discriminate against others sometimes. Filipino maids with dark skin who come to work as domestic helpers are considered inferior to Westerners".<sup>79</sup>
8. "We won't let them [the Nepalese] be our [village] head. They want to be the village head? They must be dreaming ... Our children dare not play outside the village gate, it is now dominated by their kids, the Nepalese have taken over."<sup>80</sup>
9. "Discrimination means people who are handicapped, mentally retarded or with dark skin are considered inferior. I wouldn't mind if my children got along with people of other races ... But I will surely object if they want to marry an Indian, Pakistani or African, since there would be a cultural conflict and I think they are quite dirty".<sup>81</sup>

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<sup>76</sup> Quoted in Polly Evans and editorial staff, "How Racist a City is Hong Kong?" HK Magazine, 18 May 2001.

<sup>77</sup> Ibid.

<sup>78</sup> The next four quotes are from children who were asked about Hong Kong people's views of particular groups, such as Mainland Chinese, Filipinos, Indians, etc. during a class discussion on racial discrimination.

<sup>79</sup> Quoted in Shelley Thomas, "The Scourge of Racism", Hong Kong iMail, 16 March 2001.

<sup>80</sup> An old Chinese woman in Tai Hong Wai commenting on the prospect of a Nepalese running for the office of village head. Tai Hong Wai is estimated to be 80% Nepalese. See Sherry Lee footnote 14.

<sup>81</sup> Quoted in Shelley Thomas.

10. "Hong Kong is a racist city. People with dark skin, such as Africans and Filipinos are considered inferior. Many locals look down on new immigrants from the Mainland, thinking they are dirty and greedy".<sup>82</sup>
11. "Racism is not very serious in Hong Kong ... I think people of a darker colour have a lower level of education and their family background is not as good as those from white families".<sup>83</sup>
12. "Sometimes I look down on Mainlanders. Once, I spotted a Mainlander who had difficulty using a public phone, and I thought, 'Oh! Such a country bumpkin!'"
13. "They're letting hundreds of [Mainland Chinese] in every day. It's wrong. Hong Kong is going to sink. That's not right. Hong Kong people have no jobs".
14. "One time, a customer from Mainland China and I were having tea in a restaurant. He is a typical Mainland Chinese. Just on the carpet in the restaurant, he spat. He behaved like that in the public place, I felt ashamed at being with him at the same table".<sup>84</sup>

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<sup>82</sup>Ibid.

<sup>83</sup>Ibid.

<sup>84</sup>Quoted in "The Images of Asia-Pacific in Hong Kong", Research Study Conducted by the Department of Journalism and Communication, The Chinese University of Hong Kong, 22 June 1999.

## APPENDIX II

The case studies provide brief descriptions of cases of racial discrimination covering a range of areas in the public and private sectors, which are representative of the types of discrimination found in Hong Kong.<sup>85</sup> The list is not exhaustive and these are not isolated incidents. They demonstrate the urgent need for positive solutions to this problem.

### Employment

1. An Indian who spoke fluent Cantonese called a food factory in response to its recruitment advertisement for a job. She was told there was no vacancy only when the person on the other end of the line realized that she was Indian.
2. A Caucasian woman with 10 years of international working experience at the senior management level of multi-national companies was told by a leading recruitment agency that they would not help a non-Chinese find a job. Some Human Resources Departments stated that they would give preference to an ethnic Chinese.
3. A Chinese who had stayed overseas for a long period of time called about a job in a school but was told that they would only hire Caucasians.
4. An Indian man who spoke English with no accent, was turned down for an English teaching position because of his race.
5. A language centre asked an Indian woman to change her name so it sounded more “European” before agreeing to hire her for an English teaching position. The employer claimed that parents would not want their children taught by an Indian.
6. A Filipina domestic helper landed a job in Hong Kong but was fired a day after arriving because the employer thought that her skin was too dark and she “looked like a monkey”
7. A Nepalese woman had been looking for a job for 6 months. A social worker called a large number of restaurants and snack shops on her behalf to apply for dishwashing jobs. At first some employers were interested when learning of the applicants skills and offered interviews. However, when they discovered the applicant’s nationality, many withdrew their offers and some hung up the phone without reasonable cause.
8. An ethnically Indian woman who speaks unaccented English applied for an English teaching position and arranged for an interview with the employer. However, when the employer asked her ethnicity and she said “Indian” the employer responded that they only wanted people with “blond hair and blue eyes” to teach their child.
9. A bar employee in Lan Kwai Fung claimed that Filipina employees at the bar were paid substantially lower wages than Caucasian employees doing the same work.
10. An Indian woman from England, Kiran Nihalani was denied a job teaching English in a kindergarten. The school head asked her “What colour are you?” and said, “Sorry, we only hire people from England and America ... white people.” Ms. Nihalani decided to return to England out of frustration.<sup>86</sup>
11. A new immigrant from Mainland China was forced to resign because she was not able to speak fluent Cantonese although the job did not require this skill.
12. An Indian man claimed he was discriminated against at his work place because of his race.
13. According to the South African Consul General, some South Africans in Hong Kong have been denied employment due to their race: “when applying for work in Hong Kong, some spouses were declined positions specifically due to their race, and not because they

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<sup>85</sup> These case studies were compiled by Hong Kong Against Racial Discrimination (HARD). Some were emailed to [HARDcomment@yahoo.com.hk](mailto:HARDcomment@yahoo.com.hk) and others include complaints recorded by the Equal Opportunities Commission, incidents compiled by groups representing migrant workers and ethnic minorities, experiences described by social workers, evidence from surveys, newspaper accounts and interviews with victims of racial discrimination. To protect their identities, some of the victims’ names have been omitted.

<sup>86</sup> Lucia Palpal-Iatoc, “School job applicant fails on skin colour”, Hong Kong Standard, 25 April 1998.

could not speak Cantonese. This was pointed out quite clearly to them by the prospective employers.”<sup>87</sup>

### Accommodation

1. A Nepalese man was unable to rent accommodations and was told directly by landlords that they would not rent to a Nepalese – this happened several times with different landlords. When renting office space, the landlord required the man’s ‘white’ friend to sign the lease because she was Caucasian.
2. Sham Balani, an Indian man, was unable to rent an apartment in the “luxury section” of Stubbs Road as the landlord told the agent he was not interested in renting to Indians “period”. This happened on three different occasions. Finally he posed as an Italian in order to secure his current flat.<sup>88</sup>
3. Anita Moorjani, an Indian woman, was rejected on several occasions from renting apartments in the luxury sector because of her ethnicity. In the end she and her agent collaborated and Moorjani posed as the agent while the Caucasian agent posed as the prospective tenant.<sup>89</sup>
4. A Filipina woman tried to rent a room at a club that houses young women. The club called her to view a room, but when she arrived the manager told her, in a rude tone of voice that there were no available rooms. Upon showing her business card (and thus proving she was not a domestic helper) the manager’s manner changed and she invited her into the office.
5. In a survey of discriminatory practice in real estate rental business by the South China Morning Post, ethnic Caucasians, Chinese and Pakistanis posed as customers with the same requirements, salary and family size in search of rental housing in Hang Fa Chuen and Prosperous Gardens (Yau Ma Tei). Caucasians and Chinese customers were shown more and better flats, while Pakistani customers were shown fewer flats of worse quality.<sup>90</sup>

### Public health

1. A Nepalese woman had complications after giving birth. The hospital doctor treated her poorly and told the nurse she was “trouble”. She visited a private doctor a week later who was shocked when he saw her condition and re-treated her immediately.
2. A Nepalese man was asked at a public hospital why he was there rather than at a private hospital. The doctor then ignored him and called other patients. The doctor finally acknowledged him when the man went to lodge a complaint.
3. A doctor in a public hospital told an African man that he did not know how to treat a rash on the man’s hand because he had black skin and this was different than the doctor’s own skin color.
4. An Indian woman, Harinder Veriah was treated at a public hospital after an epileptic seizure. She felt that she was discriminated against and told her husband she was at “the bottom of the pile” as the only non-Chinese in her ward
5. A Filipina woman was ill-treated by nurses at a public hospital. She was dying of rabies and when she asked for help to use the toilet the nurses refused saying that the Filipina girl was troublesome. She tried to get up by herself, fell down and wet herself.

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<sup>87</sup> Gregory De’eb, Letter to David Lan, Secretary for Home Affairs, 27 January 1999.

<sup>88</sup> Mary Ann Benitez, “Indian masqueraded as Italian in frustrated quest to rent flat”, SCMP, 17 June 2001.

<sup>89</sup> Mary Ann Benitez, “Pair ‘turned British’ to rent flat”, SCMP, 24 June 2001 and Interview with Anita Moorjani.

<sup>90</sup> Gren Manuel, “Racism in Hong Kong”, SCMP, 16 August 1998.

6. An Indian businessman, Gautani Serraf, accused Queen Elizabeth Hospital of callous treatment and claimed doctors “seemed to be contemptuous ... because I was Indian”.<sup>91</sup>

### Immigration – South Asians

1. Nepalese are disproportionately stopped for body searches and urine tests when entering Hong Kong.<sup>92</sup> One Nepalese Hong Kong resident was asked to queue in a separate line and was subjected to a body search and urine test with no explanation. Immigration officials ignored all of his questions regarding these checks.
2. According to Immigration statistics, travelers from India, Thailand and Pakistan are more likely to be body searched than people coming from other locations.
3. In 1998 the Immigration Department curtailed the visa-free access period for nationals from India, Pakistan and Bangladesh from three months to two weeks.
4. In October 1998 visa-free access to Hong Kong was cancelled altogether for Nepalese nationals.
5. Nepalese and other South Asians are sometimes discriminated against when approving whether or not a spouse can enter Hong Kong as a dependent. The president of the Nepal Ex-servicemen’s Association has received at least 100 complaints from Nepali residents claiming that it was difficult for them to apply for their dependents to settle in Hong Kong.<sup>93</sup>
6. Thai women crossing the border are sometimes asked if they are sex workers by immigration officials.<sup>94</sup>
7. The Immigration Department has rejected applications by South Asian families who want to hire foreign maids even when they meet housing and income requirements. An immigration consultant said “families were routinely rejected on the grounds of not having ‘a genuine need for a foreign domestic helper’. The phrase was not usually used with residents from other places.”<sup>95</sup>
8. A director of a multinational company – an ethnic Filipina – was coming to a conference in Hong Kong and was stopped by immigration officials and questioned about prostitution. She had business cards and was dressed in business attire.<sup>96</sup>

### Public Transport and Services

1. A Nepalese man claims that people will not sit next to him on public transportation.
2. People get up from their seats when G.S. Batra, an Indian Sikh, sits on the bus or MTR. He now stands on public transport in order to avoid humiliation.
3. A Caucasian man noticed that on the MTR Chinese people would squeeze together on the opposite side of train rather than sit next to him.
4. Some bars in Wanchai charge higher entrance fees to Indians and Chinese customers while Caucasians are generally allowed in for free. The Hong Kong government and bar owners justified this practice as a “commercial decision”. Bar owners claimed that Indians and Chinese were more likely to start fights and would get drunk faster than Caucasians.<sup>97</sup>
5. Many South Asians, southeast Asians and Africans have complained that taxis often refuse to stop and pick them up although they were waiting first.

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<sup>91</sup> Yonden Lhatoo, “Indian Accuses Doctors of Racism”, Hong Kong Standard, 6 April 1995.

<sup>92</sup> “Strip-searches at airport raise question of racism in Customs”, Hong Kong Standard, 11 March 1999.

<sup>93</sup> Stella Lee, “Rejection of Spouses Breaches Human Rights, say Nepalis”, SCMP, 19 March 2001

<sup>94</sup> Glenn Schloss, “Thais urged to boycott HK over vice ‘insult’”, SCMP, 18 March 1999

<sup>95</sup> Alex Lo and Patsy Moy, “Immigration rulings branded racist”, SCMP, 19 March 2001.

<sup>96</sup> Polly Evans, “Bigoted laws, why Hong Kong needs anti-racism legislation”, HK Magazine, 25 May 2001.

<sup>97</sup> Alison Smith, “High price of having ‘wrong’ skin colour”, SCMP, 1 June 1998.

6. A Filipina woman queued at a bus stop with some friends. Although they were first in line, the Chinese bus driver let the Chinese people on first claiming he did this because they were Chinese.
7. A Pakistani man was asked to sit at the back of a minibus by the driver although there were empty seats in the front.
8. A Nepalese Hong Kong resident claimed shopkeepers followed him around a shop and gave the impression they did not trust him. On one occasion, a shopkeeper refused to serve him saying “no, no, no” when he inquired about some clothes.
9. A Filipina woman was refused service at shops on several occasions with shopkeepers simply turning their backs on her.
10. A Filipina woman is often shouted at by shopkeepers.
11. Several Caucasians have complained of being charged higher prices in shops and restaurants.

## Insults and General Intolerance

1. An Indian woman, a teacher in an international school, accidentally bumped a Chinese man on the MTR. She apologized and he responded by yelling at her and telling her she should “go back home” to India.
2. Some Chinese families have prohibited their children from playing with Indian and African children.
3. A Filipina woman married to a Chinese man claims she is often mistaken for a domestic worker. People who call on the telephone, including government officials, sometimes ask “Where is your master?” She claims that she experiences racial discrimination every week: “I have been to many places in the world but I have never felt so degraded in my life as here in Hong Kong where they see Filipinas only as domestic helpers and treat us in a very, very low stature.”
4. An Indian woman working for an NGO in Hong Kong was looking for a flat in Jordan, an area where many Indian domestic workers live in cramped housing: “When I was hunting for a flat in this area, people would just think I was a domestic worker sometimes. One property agent even asked me if I was a sex worker ... it’s kind of assumed immediately that you’re a domestic worker, and if you have the money to live by yourself, that means you must be doing something else aside from domestic work.”<sup>98</sup>
5. An Asian American woman, who is often mistaken for a Filipina, confronted a Chinese woman who cut in front of her in a bus queue. The Chinese woman responded angrily: “This is why Hong Kong people hate you Filipinas”.

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<sup>98</sup> Polly Evans, HK Magazine, 25 May 2001.