

Meeting the Challenges of the Ethnic Minorities, Refugees and Asylum Seekers in Hong Kong

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Background.

Hong Kong is home for 6,994,500 people¹. While 95 percent of them are Chinese speaking (predominantly Han Chinese) the rest comprise of people from South Asia, South East Asia and Europe². Of this total, 223,200 are migrant workers who work as Foreign Domestic Helpers (FDH) in Hong Kong³.

According to the 2001 population census, conducted by the Census and Statistic Department, Hong Kong's principal ethnic minorities (EM) are:

ETHNICITY	TOTAL NUMBER	NUMBER EXCL. FDH
Filipino	142,556	16,251
Indonesians	50,494	4,800
British	18,909	18,901
Indians	18,543	17,351
Thais	14,342	9,357
Japanese	14,180	14,172
Nepalese	12,564	12,012
Pakistanis	11,017	11,009

However, these figures do not reflect the real situation in Hong Kong as they do not include refugees, people who have overstayed their visas and stateless persons. We believe that the actual number of ethnic minorities in Hong Kong is much higher, as reflected in Figure 1 below.⁴:

Ethnic minorities in Hong Kong work in various different areas. While some of them work as foreign domestic helpers (FDH) (mainly Filipina, Indonesian, Indian, Nepalese, Sri Lankan and Thai) some of them also work in the trade industry as merchandisers, shop owners, etc. However it has also been reported that many South Asians work in low skilled or elementary occupations such as construction workers and security guards⁵.

¹ Census and Statistic Department, Hong Kong population by 2005, as published at Census and Statistic Department website, http://www.censtatd.gov.hk/hong_kong_statistics/statistics_by_subject/index.jsp visited on 2.1.2006.

² Legislating Against Racial Discrimination, A Consultation Paper by Home Affairs Bureau, September 2004.

³ Foreign Domestic Helpers (FDHs) Population in Hong Kong statistic by the Immigration Department of Hong Kong.

⁴ The comparison data is obtained from the "Legislating Against Racial Discrimination A Consultation Paper by Home Affairs Bureau (foot note no. 2) and Hong Kong Immigration Department Statistic.

⁵ Research report on the employment situation of South Asia people in Hong Kong, Department of Applied Social Studies, City University of Hong Kong (2003).

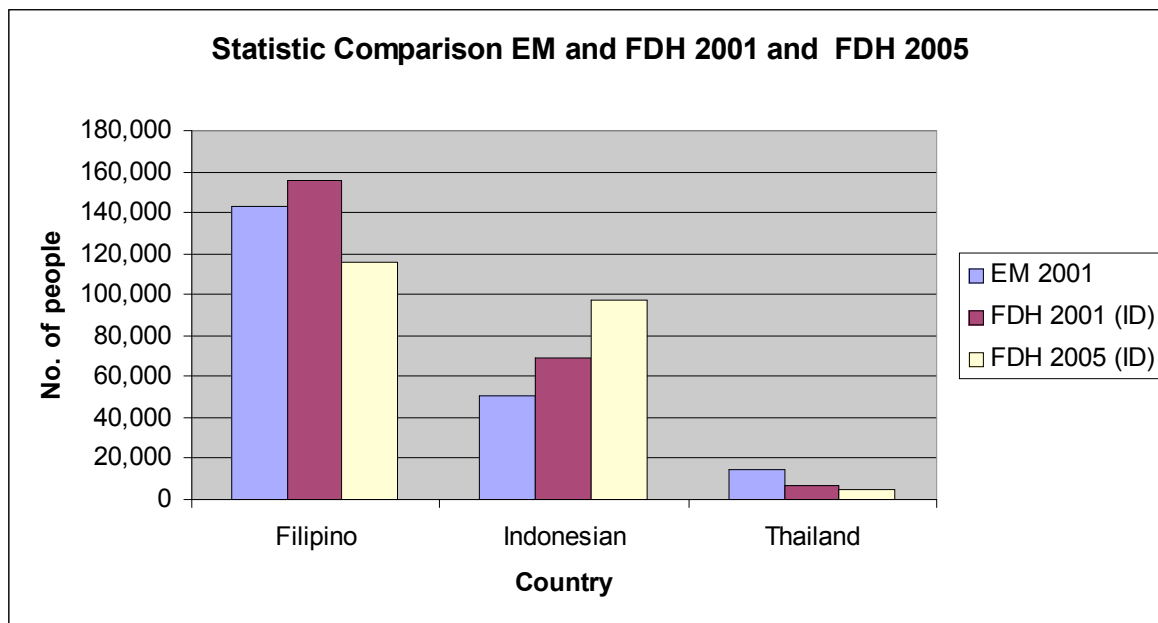


Figure 1. Comparison of Ethnic Minorities (EM) and Foreign Domestic Workers (FDH) for 2001 and 2005 in Hong Kong.

Hong Kong is one of the most expensive cities in the world, due to the high cost of housing⁶. While FDH live with their employers, many ethnic minorities struggle to live in Hong Kong. This is due not only to financial problems but also because of discrimination, which happens in employment, education, accommodation and in the provision of goods and services.

Specific problems faced by FDH in Hong Kong include the issuing of work permits by the Immigration Department which has strict guidelines and requirements. Furthermore, they often do not enjoy the same rights as other ethnic minorities in Hong Kong, such as being allowed to apply for permanent residency after 7 years living in HK.

Refugees find it is extremely difficult to stay in Hong Kong, as the territory is not a signatory to the United Nations 1951 Convention Relating the Status of Refugees (UN 1951 Refugees Convention). The Hong Kong government therefore does not have any responsibility or obligation towards asylum seekers or refugees except to adhere to the non-refoulement principle. Refugees and asylum seekers are not permitted to work and only approximately 20% of all asylum seekers receive limited assistance in kind. Therefore, meeting basic needs is a daily struggle for many asylum seekers and refugees.

In this paper, we will discuss the specific problems which ethnic minorities, FDH and asylum seekers/refugees face in Hong Kong and the steps that Christian Action, as a local non-government organization, takes to address these problems.

Ethnic Minorities in Hong Kong

The Opium War in 1839-1842 gave the British Government the right to occupy Hong Kong until 1st July 1997. During this period, many ethnic minorities came to Hong Kong such as the Gurkhas from Nepal and traders from India. Indonesian Chinese came to Hong Kong after the riots that took place in Indonesia in 1966. In 1969, foreign domestic workers scheme was introduced in

⁶ Suara Merdeka, "Hong Kong Tops Perks List for Asia Pacific Expatriates", as published in <http://www.suaramerdeka.com/harian/0302/09/eng7.htm> visited on 10.1.2006.

Hong Kong. The objective of this policy is to facilitate expatriates who would like to come to Hong Kong for employment and settlement to bring their domestic workers.⁷ When the Hong Kong economy became more prosperous in the 70s, the Government extended this policy to local families to free women's time to meet the growing demand for labour. It was around this time large numbers of FDH started to enter Hong Kong for work.

While many of the ethnic minorities (EM) are quite successful in Hong Kong, some face a lot of difficulties. **This is mainly due to the language barrier.** Hong Kong has two official languages, English or Cantonese. A lot of EM in Hong Kong do not speak English or Cantonese. The second generation of EM mainly speaks English but not all of them speak Cantonese. With 95 percent of the population speaking Cantonese, the ability to speak in Cantonese as well as English is definitely an advantage.

However many parents **are reluctant to put their children into mainstream schools** which use Cantonese as the medium of teaching. Parents of EM children are worried that they may not be able to help their children with homework or exams because all subjects are taught in Cantonese in Chinese medium schools (CMI). Furthermore, most schools are not equipped to help EM students unless they are non-mainstream schools. The parents are afraid that the academic results of their children will be low due to a lack of support. Such worries are valid as Hong Kong implements a "band" system at secondary level, which mean that children may not be able to go to the better secondary schools (bands one and two).

However, there are **some other issues that EM parents have towards the Hong Kong education system and English Medium Schools (EMI).** Many parents believe that: (1) they have a very limited choice of schools; (2) there is a shortage of opportunities to learn Cantonese and written Chinese to compete effectively in the job market and uncertainty about possible advantages and disadvantages to attending CMI versus EMI schools; (3) relatively low quality of available educational institutions; (4) difficulties in obtaining information about the education system and school placement; and lack of interaction with Chinese students within the school⁸.

The inability to speak and write Cantonese puts EM **at a disadvantage when they are trying to secure employment** as they have to compete with local applicants who can speak and write Chinese as well as English. As a result, many EM find it difficult to get a job or they can only work in low skilled job or get lower paid employment. This puts them at a financial disadvantage.

The language barrier also adversely affects **EM ability to access public assistance** such as social and medical services. We have found that some of our clients who seek medical treatment and undergo operations do not really understand why they have had to have an operation or in some cases do not even know what is wrong with them. Some of them do not understand that they have a chronic illness and therefore prefer to return to their country of origin (e.g. Indonesia or Nepal) to seek treatment despite the fact that medical standards and level of assistance are much higher in Hong Kong than in their own countries.

Language barriers also prevent the EM from **integrating properly** into Hong Kong society. Unfortunately, some local people show lack of commitment in integration issues. In a study of EM in Hong Kong's education system, some students complained that there is segregation between EM

⁷ An Examination on the Policy of Foreign Domestic Workers in Hong Kong. Dissertation by Law Man Yiu as partial fulfillment of the requirement of the Degree of Master of Public Administration, Department of Politics and Public Administration, Faculty of Social Sciences, University of Hong Kong 1999.

⁸ Race and Equality: A study of Ethnic Minorities in Hong Kong's Education System. A research project by the Centre for Comparative and Public Law and Unison Hong Kong – for Ethnic equality. Project Report and Analysis by Kelley Loper. Centre for Comparative and Public Law, Faculty of Law of Hong Kong University, Occasional Paper No. 12, February 2004.

students and Chinese students and those EM students are not allowed into the Chinese section⁹. In the same study, one respondent also claimed that EM are discriminated in Hong Kong, based on experience obtained when he tried to secure a school for his children and his nieces in Hong Kong. The school administrator had told him that there were no places in the school when he found that the respondent was an ethnic minority¹⁰.

Discrimination occurs in all areas including employment, accommodation, the provision of goods and service, hospitals, the education system, public transport and immigration policy¹¹. In 1969, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) was extended to Hong Kong by the British government and in 1991 the Chinese government notified the UN that the convention would continue to apply to Hong Kong Special Administrative Region after the handover. However up to now there is no domestic legislation against racial discrimination. The Bill of Rights (BORO), which was enacted in 1991, only prohibits discrimination by the government and public authorities.

In 2003, the Hong Kong government announced its intention to enact a bill against Racial Discrimination. The bill has now tabled at the Legislative Council. However there many exemptions in the bill such as languages in school, vocational training, employment agency, goods and services, clubs, etc. Government actions are also excluded from the bill. A lot of members of civic society in Hong Kong are unhappy with the bill. Therefore it will take a long time before the bill will get passed by the Legislative Council¹². In the meantime, many EM complain of discrimination, for example having difficulty in renting accommodation because of their race. In the article by Mary Ann Benitez from South China Morning Post 2001, an Indian couple was told by a property estate agent that the landlord had stipulated “no dogs, no cats and no Indians”¹³.

In the provision of foods and services, Gren Manual wrote that bars in Wan Chai operated a sliding scale based on the skin color, where Caucasians do not have to pay an entry fee, Chinese had to pay a small fee and Indians had to pay a higher fee. The darker skinned a person was, the higher the entry fee¹⁴.

Discrimination also happened in the employment sector. During the Ethnic Minority Forum, which was facilitated by the Home Affairs Bureau, many members expressed their concern in this area. For example, one of the members complained that a Pakistani lady was required to undergo a Chinese reading test when she applied for a cleaning lady position.

EM also have difficulty in accessing **higher education**. Many EM cannot afford to pay university fees. In addition to this, even if they can afford the fee, EM students are required to pass Chinese language test (HKCEE) which is standard practice for university entrance in HK. Many EM students fail this test as they do not have the same proficiency level of Cantonese compared to local students. Furthermore, training bodies run under government statutory bodies such as the Labour Department, the Employee Retraining Bodies and the Vocational Training Council initially only offered training in Cantonese. It is only recently that the Labour Department offered a program called Youth Pre-employment Training Program (YPTP), a special training program for EM youth aged 15

⁹ Ibid page 14.

¹⁰ Ibid. page 14 and 15.

¹¹ Combating Racial Discrimination in Hong Kong –Case studies identifying and examining the characteristic and affects of direct and indirect discrimination by Vandana Rajwani. As published at www.hkhrm.org.hk/0905seminar/vandana_paper.pdf visited on 13.1.06.

¹² Joining Hands for Social Harmonay with Respect, Affection, Care & Equality-An Introduction to the Race Discrimination Bill published by Home Affairs Bureau at http://www.hab.gov.hk/en/policy_responsibilities/the_rights_of_the_individuals/equal_racebill.htm.

¹³ As stated on the paper of Vandana Rajwani (footnote no, 9).

¹⁴ Gren Manuel, “Bars Still Put Price on Skin Color” South China Morning Post, July 26, 1998. Also cited on the paper of Vandana Rajwani (footnote no.9).

to 19, which are conducted in English with the aim to enhance the employability and competitiveness of EM youth.

Drug abuse is also a common problem in the EM community, particularly in the Nepalese Community. Even though there is no specific research on this subject, Sharmila Gurung MD, a Christian Action member of staff of Nepalese origin, active in promoting health awareness amongst the Nepalese community in the Yau Tsim Mong area, believes that the numbers are quite alarming¹⁵.

During the Ethnic Minorities Forum, which was hosted by Home Affairs Bureau on 13/1/2006, Mr. Malik, the President of Pakistani Muslim Union in Hong Kong expressed concern regarding the policy of ID regarding visa requirements for family members as he felt that the Immigration Department now imposed increased restrictions. Other members also expressed a concern about this practice.

Another big problem faced by EM is the absence of a central interpreting service. Interpretation services are only available in the judiciary and in government hospitals. And even so the request for an interpreter must be made in advance. Therefore, in emergency cases, many hospitals are unable to provide interpreters so the patient is effectively left in the dark about their medical condition. Even where interpreter services are made available, hospitals do not automatically provide this service. Therefore if the patient does not know that such a service is available and does not request an interpreter, the hospital will not provide one.

In the judiciary, the court will provide an interpreter upon request, as will the police and the Immigration Department. As a result, it is quite common for EM to wait a long time before an interview if they want to file a report with the police.

Furthermore, even though interpreters are available in these two bodies, there is no standard imposed on them. Hong Kong does not have special training for interpreters other than for English and Chinese, therefore the standard varies from one interpreter to another in the absence of any quality control on the interpreters.

Specific Problems Faced by Foreign Domestic Helpers

FDH are allowed to enter and work in Hong Kong under specific Immigration Department rules. Even though the government has set up a minimum wage for FDH and they are protected by law, they are also subject to certain immigration rules which are discriminatory. These include:

The 2-week rule

FDH are allowed to enter and work in Hong Kong with a 2-year contract. Normally the Immigration Department will grant a one-year visa which is extended. Such a contract can be terminated by either party upon serving a one-month notice of termination to the other party. Upon the termination of the contract, the FDH's visa automatically expires after 14 days, despite the previous visa allowing them a full year. Therefore the FDH must put their visa extension application within these 14 days if they wish to continue to remain in HK or to apply to change employer in Hong Kong.

This is different to other migrant workers. Other migrant workers who come to Hong Kong under a one year employment visa are allowed to stay in Hong Kong until their visa expires even though their employer has notified the Immigration Department of the termination of contract.

¹⁵ We had a case where a Nepalese boy died at the age of 3 and there was a suspicion that his parents unintentionally drug him to death. However the police refused to reveal the outcome of investigation.

Do not have the right to automatically apply to change employer in Hong Kong.

Unlike other migrant workers, FDH are not allowed to change employer unless they satisfy one of the exceptions laid down by the Immigration Department such as:

- Their employer decides to move to another country;
- Their employer has financial difficulties which means they can no longer afford to employ a domestic helper;
- Their employer dies;
- Or if the helper has been ill treated by their employer.

For the last exception, the FDH must substantiate their claim by submitting the court verdict (if they claim they were physically assaulted by their employer) or the settlement agreement from the Labour Department or Labour Tribunal if they claimed that they have not been properly compensated by their employer during the period of their employment.

Furthermore, during the period of investigation or the court proceedings the FDH is not allowed to take any employment. However, the employer is allowed to hire a new helper even though they have a case against them. If the FDH cannot substantiate the claim that they have been subjected to ill treatment by their employer, then the Immigration Department will require them to return to their home country and make them wait there for a decision regarding their new employment. Such a procedure is not desirable for FDH especially for FDH from Indonesia as this means they have to go through an employment agency in Indonesia, which normally charges them the equivalent of 7 months salary as an agency fee.

FDH are not considered as ordinary Hong Kong residents

While the Basic Law (mini constitution of Hong Kong) stipulates that anyone who resides ordinarily in Hong Kong for 7 consecutive years is allowed to apply for Right of Abode in Hong Kong, the Immigration Department policy prohibits FDH from being able to benefit from this policy. This means that the FDH cannot apply for “right of abode” in Hong Kong regardless of their length of stay and they cannot vote. They also cannot sponsor their family members to come to Hong Kong.

Underpayment/non payment of wages

The Hong Kong government set up a minimum wage for FDH in Hong Kong. At the moment it is HK\$3400 (equal to US\$436) per month. However, many FDH in practice receive less than that. The ‘market rate’ for an Indonesian domestic helpers is in the range of \$1600 to \$2500 (US\$205 – US\$ 321.33) per month, Sri Lankans receive a salary of around \$2000 (US\$257) per month and Indians may receive as little as \$500 (US \$64.26) per month. Many of them also do not receive their salary in the first 2 to 7 months, as their salary is paid to the agent towards the agency fees. There are also cases where Indian domestic helpers did not receive their salary at all except for some pocket money, as their employer promises them a lump sum upon completion of their contract. However in most cases, Indian FDH do not receive their money unless they lodge a claim with the Labour Department.

Excessive agency fee

Many FDH come to Hong Kong using an employment agency. Some Sri Lankans, Filipina, Nepalese and Indians, can secure their job through a friend who works as a FDH in Hong Kong. However, for Indonesian domestic helpers it is a requirement that they use an employment agency to come to Hong Kong and therefore cannot arrange employment on their own.

The Hong Kong government has imposed a maximum agency fee which can be charged to the employee. Under the law, an employment agency cannot charge more than 10% of the first month

salary upon successful placement which is equal to \$332 (US\$42.67) in the case of FDH¹⁶. However, Filipina agencies charge as much as HK\$6000 (US\$771.20) and Sri Lankan agencies normally charge 2 months salary (US\$853.47). Indonesian agencies charge HK \$21,000 (US\$2699.22) for newcomers.

Long working hours (no statutory maximum)

While the government set up a minimum wage for FDH, it did not set maximum working hours for FDH. As the FDH are required to live-in, this makes their position vulnerable for over-work as they are often required to be on stand by practically 24 hours a day. Most FDH work from 7 am to 10 pm (15 hrs) but we have had cases where FDH are required to work as much as 17 or 18 hours a day.

No rest day/statutory holidays

Hong Kong's Employment Ordinance Cap 57, stipulates that every employee is entitled to have a rest day on every 7th working day. The Ordinance also stipulates that every employee has the right to enjoy 12 days of statutory holidays per year. However, many FDH do not enjoy these benefits, particularly Indonesians, Sri Lankans and Indians.

Most Indonesians do not receive their weekly rest day for the first seven months of their employment and from thereafter they are allowed two rest days per month but no statutory holidays. Most Sri Lankans received two-rest day per months but no statutory holidays and some Indians receive no rest days at all.

Most Filipina helpers receive their weekly rest day and statutory holidays but some complain that their employers failed to compensate them when they are required to work during their rest day/holidays.

Physical and sexual abuse

Many FDH also experience physical and sexual abuse by their employers. The physical abuse ranges from being pinched to being slapped, kicked and beaten. One of our Indonesian clients was slapped and punched by her employer which resulted in her spending 16 days in hospital to reconstruct her ear. The case was brought to the court but the employer only received 2 months community work and a fine of \$2000¹⁷.

Some FDH are also the victims of sexual abuse which ranges from inappropriate suggestive language, being touched, to being told to perform massage, oral sex or even being raped.

Not properly compensated upon the termination of contract

This is also a common problem faced by FDH. Employment Ordinance Cap 57 Section 25, requires all employers to settle any payment due to the employee within 7 days of the termination of the contract, this includes payment of wages, one month wages in lieu of notice, outstanding annual leave and air ticket to go back home, traveling allowance and any other compensation when applicable. However many employers do not do so, particularly for one months wages in lieu of notice, long service payment and or severance payment and especially if they have underpaid their helper. The FDH is then forced to lodge a claim with the Labour Department and then continue to the Labour Tribunal (for claims more than \$8000) or Minor Employment Adjudication Board (for claims less than \$8000). However most of them settle their cases for much less than their entitlement as they are unable to afford to stay in Hong Kong until the conclusion of a case without any work.

¹⁶ Employment Ordinance Cap 57, sub leg. A. Employment Agency.

¹⁷ HK SAR V. Leung, Hau-shing Estella, Western Magistracy Court, Case no. WSC 15598/2000, DMW case no. 310/00.

Falsely accused of theft

Another problem faced by FDH is being falsely accused of theft. Some employers will do this in order to avoid paying one month's wages in lieu of notice to their helper. One of our Sri Lankan clients was wrongly accused of stealing a pair of slippers on the termination date, which was on 10/1/2002. She filed an appeal against her conviction and her conviction was set aside by Deputy High Court Judge McMahon (HCMA 722/2002). She also lodged a civil action in District Court, case no. DCCJ 2488/2003 and she was awarded more than HK\$400,000 as compensation¹⁸.

Several research projects have been undertaken regarding the employment situation of Indonesian domestic helpers in Hong Kong: (1) Indonesian Domestic Worker Baseline Survey, undertaken by Indonesian Migrant Workers Union, KOTKIHO and AMC in 2004 which found that 42% of 1017 respondents were underpaid and 48 % of them only received 2 rest days per month¹⁹. (2) Hong Kong – Indonesian survey which was conducted in 2005, found that 67% of the 180 respondents were underpaid and most of them only received 2 rest days per month²⁰. (3) Asian Migrant Centre Baseline Survey in 2001, found 31.4% of their respondent experienced verbal abuse, 25.2% experienced physical violence such as slapping, kicking, beating and 10.1% reported sexual abuse range from suggestive language to rape²¹.

Problems Faced by Asylum Seekers and Refugees in Hong Kong.

According to the United Nations High Commission for Refugees, by the end of May 2005, there were 725 people seeking refugee status in Hong Kong under UN 1951 Refugee Convention. While 70% of them came from South Asia, 29% came from Africa such as Ghana, Somalia, Ethiopia, Congo, Togo, etc, and 1% came from East Asia and the Asia-Pacific. The majority of them were men. Only 23% of them were women and 5% of them were children.

Hong Kong is not a signatory of the UN 1951 Refugee Convention. Despite China being a signatory, this is not extended to Hong Kong. Furthermore, Hong Kong has no domestic legislation to determine refugee status therefore the responsibility falls on the United Nations High Commissioner of Refugees (UNHCR).

Many people in Hong Kong also seek asylum under the Convention Against Torture or other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). At the moment, the Hong Kong government is dealing with 500 applications under CAT, with one application rejected so far²². However, even though the Hong Kong government screens asylum applications under CAT, there is very little support in place to assist the applicant.

Since mid 2006, the Hong Kong government provides only limited assistance in kind (accommodation, food and clothing) to asylum seekers including CAT applicant. However, this assistance is only given to asylum seekers who are registered with the Immigration Department. As Hong Kong is not a signatory of UN 1951 Convention, the government does not have any obligation to issue a stay permit for the asylum seekers while their case is undergoing the determination process by UNHCR. This situation makes the asylum seekers very vulnerable in Hong Kong as the government considers them illegal immigrants. In order to get the government assistance, the asylum

¹⁸ DMW case no. 17./02

¹⁹ Underpayment, Systematic Extortion of Indonesian Migrant Workers in Hong Kong, An In-Depth Study of Indonesian Labour Migration in Hong Kong – August 2005, published by Asian Migrant Centre (AMC), 2005.

²⁰ Ibid no.11

²¹ Ibid no. 12

²² Internal Briefing Documents on Refugees and Asylum Seeker, Raquel Amador, Christian Action, Refugees Advice Unit, November 2005.

seekers must surrender themselves to the Immigration Department, subjecting themselves to investigation for breaching their conditions of stay. Most of them are prosecuted and received prison sentence. Worried about spending time in prison, many of asylum seekers decide not to surrender to the Immigration Department and as a result they do not receive any government assistance. This creates many hardships for asylum seeker.

As illegal immigrants, asylum seekers are always at risk of being detained by the Hong Kong authorities. One of our pregnant clients was detained by the Immigration Department for one night as the hospital personnel alerted the Immigration Department when she went to the emergency ward due to severe pain in her abdomen²³. Refugees and asylum seekers' children who reach 16 years of age, cannot access education in Hong Kong as the territory only provides for 9 years of free education. This prevents any adults from engaging in any educational activities that would contribute to their personal development.

Asylum seekers in Hong Kong can only access limited medical services which are mainly provided by NGO's in Hong Kong. As such, serious medical issues of asylum seekers are left unattended. They can approach the Social Welfare Department for assistance, however there is a long application process for this and it which can take up to 3 months before they receive assistance.

In addition to this, the whole procedure of refugee determination status can easily take more than two years. During this period, no assistance is given to the asylum seekers unless UNHCR considers them to be vulnerable cases. This leaves the majority of asylum seekers without any form of assistance. They have to survive by their own means, subjecting themselves to immense mental stress due to the uncertainty of their status.

Another problem is language as only a few asylum seekers speak English as their first language. This makes it quite difficult for us as an NGO to address their individual problems.

As stated above, some asylum seekers also make an application under CAT. For the CAT applicant, Hong Kong government will issue a "Recognizance Paper". With this paper, the CAT applicant can move freely around Hong Kong. Unfortunately this process also takes a long time. One of our clients who applied under this Convention has been in Hong Kong for almost 3 years and their judicial review case is still pending in the High Court and during this period, our client has depended on assistance given by NGO's like Christian Action and some of the churches as there is very little assistance available to the CAT applicants.

Apart from willing lawyers who will work pro bono, applicants to the UNHCR or under the CAT application procedure have no access to independent legal representation as there are no government legal aid provisions. This can make it difficult for asylum seekers to adequately present their cases.

Due to the above conditions, we found many of our clients to suffer from depression. It is only recently that an NGO has agreed to provide counseling services specifically for the asylum seekers and refugees.

Many asylum seekers who do not receive assistance from UNHCR are forced to become street sleepers. Some of the Nepalese, Pakistani and Sri Lankan asylum seekers who have support from their own community in Hong Kong are in a better position. However, most of the asylum seekers from African countries have to survive by their own means.

We also found that some of our clients suffer health problems due to poor dietary conditions and harsh living conditions in Hong Kong. Even though some NGOs including Christian Action

²³ Pregnant Asylum Seeker Arrested on Ward, article by Ravina Shamdasani, South China Morning Post, September 20, 2005.

provide meals for asylum seekers, the quantity and quality may not always meet basic nutritional requirements. Furthermore, the stress of waiting in Hong Kong without any support, worries about family back home, also contributes to a deterioration in refugee mental health, which in turn may influence physical well-being.

Government initiatives towards the Ethnic Minorities

Since 1996/1997, the Hong Kong Government started to put more serious attention towards the ethnic minorities, by conducting a survey to determine their needs in Hong Kong. From 1997 onwards, the Home Affairs Bureau (HAB) launched “Equal Opportunities (Race) Funding Scheme” for various community-based projects, including publications for ethnic minorities’ adults and children, as well as advertising campaigns.

In June 2002, the HAB also established a “Committee on the Promotion of Racial Harmony” and the “Race Relations Unit” to improve the services to ethnic minorities groups. The Committee advises the HAB on activities for the promotion of racial harmony. The Unit conducts promotional activities in schools and maintains a hotline for complaints and enquiries about racial discrimination.

HAB also launched a Community Development Project targeting the Nepalese and Pakistani communities, a scholarship program in schools which accept EM children and an after-school program where EM students can get help with their homework. HAB also offered a low fee Cantonese and English language program for the EM.

On the other hand, Education and Manpower Bureau launched 6 months induction program for EM Primary One students. The Health, Welfare and Food Bureau launched a Community Inclusion and Investment Fund which financed community program in school, aiming to promote integration of EM students and parents with local students and parents.

The Hong Kong Government has also finished their Anti Racial Discrimination Bill and the bill is now tabled at the Legislative Council. Despite the dissatisfaction amongst community groups with the bill, the government is hoping that the bill can be passed during summer 2008.

Government Initiatives towards FDH

The Economic and Labour Bureau of Hong Kong have taken up an initiative to establish a policy direction concerning FDH. This includes setting up a task force, consisting of the Immigration Department, the Labour Department and the Police Department in stepping up the prosecution of employment agencies who overcharge the helpers and employers who underpay their FDH.

The government also launched an educational campaign aimed at employers, warning them against underpaying their helpers or forcing them to work illegally in shops, offices or in their relative’s houses. This was carried out through TV advertisements and posters in public places. The government also produces other materials such as booklets, leaflets and VCD’s, promoting the rights of FDH.

In addition, the government conducts meetings with NGO’s normally every 6 months. During these meetings the government will brief NGO’s on any new initiatives or action taken to improve the condition of FDH in Hong Kong, such as conducting regular dialogue with sending countries and successful prosecution. NGO’s update the government about any obstacles they face when dealing with FDH problems.

Despite these actions, some NGOs think that the government’s actions are inadequate, as the system presently in place still places burdens upon the helper instead of the employer. For instance, the policy prohibits the helper from taking up new employment when she has a case pending in court,

while the employers are allowed to employ another helper straight away even though there is a case against them.

Government Initiatives on Asylum Seekers and Refugees

Since September 2005, refugees' and asylum seekers' children who are registered with the Immigration Department are allowed to attend school in Hong Kong to enjoy 9 free years of education. In addition to the above, the Social Welfare Department has also become more responsive in assisting asylum seekers by providing limited assistance.

On the other hand, in June 2005, Hong Kong imposed a visa fee restriction to several countries such as Nepal²⁴, Cote d'Ivoire, Democratic Republic of Congo, Ethiopia and Somalia²⁵, Sri Lanka²⁶ and Republic of Congo²⁷.

Christian Action

Christian Action was established in 1954 by Rev. Karl Stump to help the White Refugees (the Russian Refugees), previously known as "Christian Aid to Refugees". In 1984, it became Christian Action to encompass a wider spectrum of work for those in need. Our mission is to serve the poor and disadvantaged with particular emphasis upon displaced persons irrespective of their race, sex, religion and nationality. The Christian Action program is divided into 3 major programs conducted by three departments, the Training Service Department, Social Service Department, and Humanitarian Services Department.

In the Training Service Department, we provide training and placement services for the unemployed, youth, self-help enhancement seekers, and education programs for parents and children. We were one of the first NGO's to work with the Employees Retraining Board offering retraining programs under the Employees Retraining Scheme, and we are now one of the largest training bodies in HK. We trained over 13,000 people last year.

The Social Service Department at Christian Action aims to help the newly arrival from China, Comprehensive Social Service Assistance (CSSA) recipients and the ethnic minorities. The services for the ethnic minorities are delivered through 2 services points of Integrated Services for the Ethnic Minorities. The first one is located in Sau Mau Ping and the second one is in Jordan. Under this Department, we are conducting a Community Development Program, a project which was initiated by the HAB to help the Nepalese and Pakistani communities. The objectives of the EM program under these services are as follows:

- Provide career counseling and training services;
- Provide interpretation and escort services to hospital and social welfare dept;
- Provide housing and welfare consultations;

²⁴ Visa Requirement on Nepalese National, Immigration Department Press Release, 3 June 2005, as published in the Immigration Department Website <http://www.immd.gov.hk/ehhtml/20050606.htm> visited on 15.1.06.

²⁵ Nationals of Cote d'Ivoire, Democratic Republic of Congo, Ethiopia and Somalia require visas for Hong Kong, Immigration Department Press Release on 4 July 2005, as published in the Immigration Department Website <http://www.immd.gov.hk/ehhtml/papr20050704.htm> visited on 15.1.06.

²⁶ Nationals of Sri Lanka require visas to Hong Kong, Immigration Department Press Release on 11 August 2005, as published in the Immigration Department website <http://www.immd.gov.hk/ehhtml/20050811.htm> visited on 15.1.06.

²⁷ HK Visa required for Nationals of Republic of Congo, Immigration Department Press Release on 4 January 2006, as published in the Immigration Department website <http://www.immd.gov.hk/ehhtml/20060104.htm> visited on 15.1.06.

- Promote cultural understanding between local and EM residents by arranging cross cultural activity.

We are also one of the few NGO's awarded by the Community Inclusion Investment Fund to operate an after school care program, promoting EM integration into society.

The Humanitarian Services Department program is divided into two, the China program and the Hong Kong program. In China we operate a children's home in Xining, we build houses in Zeku (Tibetan Plateau), a clinic and two schools. The Hong Kong program is further divided into the Domestic Helpers and Migrant Workers Programs and Chung King Mansion Service Centre. The latter is dedicated to help the refugees and asylum seekers and the ethnic minorities.

Domestic Helpers and Migrant Workers Program

The Domestic Helpers and Migrant Workers Program provides paralegal services for domestic helpers and migrant workers to ensure that they understand their legal rights and obligations in Hong Kong and use those rights to defend themselves against exploitation, mistreatment, abuse and unfairness. The bulk of our work is labour-related, assisting foreign domestic helpers with their labour cases against their former employers. However, we also aim to empower workers more generally and help those migrants who have been assaulted, raped, accused of a crime, have immigration problems, have been injured at work or have in some manner been unjustly treated.

In 2006, we handled 14,832 consultations dealing with mainly labour/immigration related problems. The majority of cases dealt with underpayment, insufficient rest days and other entitlements. We secured a total sum of HK\$4,662 as well as 56 air tickets as settlement for our clients.

We have around 1000 new clients every year and 80 percent of our clients are Indonesian. In June 2002, we started to operate two shelters to provide the FDH a safe heaven while they are waiting for their cases to be concluded. The shelters have the capacity to accommodate 24 women.

We also run a service center where we provide FDH with vocational, educational and social activities. We run a variety of courses for the shelter residents so that they have something meaningful to do while they are waiting for their cases to finalize, which normally takes one month to one year. Last year we ran 639 activities and attended 4,779 clients, with language and computer classes as their favorite courses. We are also one of the three agencies who run the English and Cantonese Courses sponsored by the HAB.

We conduct regular paralegal training for the FDH and migrant organizations in Hong Kong to provide them with knowledge of their rights and obligations as FDH in Hong Kong and how they can get redress if their rights are violated. In addition to this we also write regularly in two newspapers on employment issues. One newspaper is targeted towards the Indonesian FDH and the other towards Filipinas.

In addition to offering paralegal advice to migrant workers, DMW also aims to address the underlying root causes of the problems facing migrants. We collaborate with other concerned local groups and networks with a view to bringing justice to the migrants and also ensure regular dialogue with consulates, especially the Indonesian Consulate, to promote better protection for their nationals. We also maintain the dialogue with Hong Kong government through the Economic and Labour Bureau to give them input on the current scams or difficulties faced by FDH in Hong Kong.

Chung King Mansion Service Centre

Chungking Mansions Service Centre was opened in January 2004 in response to the great hardship faced by asylum seekers and refugees in HK. Due to their desperate situation, we focus on

meeting basic needs. We provide a service centre in Hong Kong where asylum seekers, refugees and ethnic minority residents can feel valued, relaxed and at home. We provide basic humanitarian assistance to our clients, such as free daily meals, shelter, clothes and non-emergency medical care. During 2006, over 16,000 meals were distributed to clients. On 1123 occasions, our clients have sought medical help from our in-house clinic. Over 100 clients each week benefit from our free internet access. Our centre is also open for drop-in counselling and support.

Our activities:

General:

Breakfast and evening meal.

Free non emergency medical consultation by our volunteer doctor, twice a week.

Free internet access.

Free counseling.

Language classes such as English, Cantonese and French.

Recreational activities such as guitar lesson, football, drum etc.

Workshop in various topics such as reproductive system, HIV, Human Rights, Hong Kong social assistance, etc.

Computer training.

Children Activities:

Language class.

Homework assistance.

Music and art classes

Shelter for asylum seekers families:

In October 2005, we opened a shelter for vulnerable families with children. Families applying for protection under CAT are not allowed to earn an income and are not provided with any social security assistance. These families struggle to fend for themselves and their children. Our shelter is currently housing 30 people, including children.

Other assistance:

We try to secure donations from other sources to improve the living conditions of our refugee clients. This includes securing donations from donors who are willing to finance winter accommodation for male refugees who are sleeping in the street. We also help asylum seekers and refugee children to join school and secure sponsors to finance the children's schooling by way of paying for their transportation, lunch box and extra curricular fees. We distribute donations from private donors who would like to be anonymous. We have become the referring agency to the Hong Kong Red Cross for their tracing services; we have also become one of the main distribution points of Red Cross relief material.

Facilitating the Refugees Concern Group:

The refugee concern group consists of NGO's, churches and lawyers who are concerned about the welfare of the refugees. Every three months, the group will meet and discuss issues and possible actions to overcome problems our clients face. Members of the group update each other on their programs to avoid replication and provide escort services to hospitals for Nepalese, Indian and Pakistani EM women.

Paralegal Assistance by Refugees Advice Unit

In October 2005, we also set up a Refugees Advice Unit which has the objective to provide legal assistance to our asylum seeker clients. We have 7 lawyers and 4 caseworkers who volunteer for the project. Some have taken on cases and others are ready to begin. All will work with the support and supervision of our refugee adviser.

Way Forward

For the Ethnic Minorities

As part of the Chungking Mansions Service Centre, we are working to promote the integration of the ethnic minorities and the concept of multiculturalism in Hong Kong. We provide homework assistance for EM children and encourage EM parents to place their children in the local mainstream school. We arrange cross-cultural activities such as picnics, language lessons, art and craft, which involve EM and local residents. We visit schools with our EM clients to introduce local school children to EM community. We organize a weekly Woman's Tea Club for EM women to get together and to discuss the difficulties of living in Hong Kong to get mutual support.

We work closely with the Training Service Department of Christian Action to develop vocational training programs suitable for the EM. Working with the Integrated Service for the Ethnic Minorities, we promote services available for the EM.

At a higher level, we work within the Ethnic Minorities Forum to influence the government on their policy towards EM. This includes giving our input on the draft Anti Racial Discrimination policy, lobbying the government to provide better facilities in Chinese Medium Schools so that they are well equipped to cater for the needs of EM children and other government projects, which are targeted towards the EM community. Furthermore, we are lobbying the Department of Health to provide better interpretation services in the hospitals for EM.

Way Forward for the Foreign Domestic Helpers

One of the main problems faced by FDH is the non-payment of wages or underpayment. We therefore work together with the Task Force by referring clients who are willing to be prosecution witnesses for the Labour Department.

We will continue work together with consulates. We regularly update consulates on the issues faced by FDH particularly in relation to problems originating in the sending country or the sending country policies so that the consulate can try to remedy the situation.

We are also in the process of setting up vocational and skills training programs for FDH, which we hope will be useful in their home countries. We hope this can reduce their need to leave their homes and work in Hong Kong in order to improve their family's living standard.

We plan to launch a "train the trainer" program for FDH organizations so that they can handle simple casework. We believe that this training will empower the FDH as individuals as well as a group so that they can do something meaningful for each other.

Refugees and Asylum Seekers

One of the biggest problems faced by the refugees and asylum seekers is that Hong Kong is not a signatory of UN 1951 Convention and therefore there is no social support available to them. As Christian Action is a welfare agency, we are now developing our Refugees Concern Group and its members to take an active role in lobbying the government to remedy this. In the meantime, we are also developing our Refugees Advice Unit to enable us to provide legal assistance to asylum seekers and refugees. We hope to do this by recruiting and training more volunteer lawyers and paralegal volunteers in International Refugees Law.

We are trying to persuade various government departments such as the Social Welfare Department, Labour Department, Education and Manpower Department and Health Department to provide more comprehensive assistance for refugees and asylum seekers. We hope to secure support

from institutes of higher education so that our clients can continue their education through a distance learning program. In addition, we are in the process of establishing a psychosocial counseling program, which will provide assistance to asylum seekers and refugees who suffer from post traumatic stress disorders.

Finally, we strive with continuous effort to secure public support by publishing articles about asylum seekers and refugees through various media. Our ultimate goal is to change the government's stand in dealing with the refugees and to promote a wider understanding of the refugee issues in Hong Kong among the general public.