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THE UNIVERSITY OF HONG KONG



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Study on the Discrimination Experience based on residency status of Asylum seeker/ Refugee in Hong Kong

Research Report

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Executive Summary

Background

1. This research project “Study on the Discrimination Experience based on Residency Status of Asylum Seeker/ Refugee (ASR) in Hong Kong” is funded by the Equal Opportunities Commission (EOC). The research objectives of the study include:
 - a. reviewing and analysing the existing literature and news reports on ASR in Hong Kong;
 - b. investigating the actual discrimination that ASRs are facing at the daily, operational and policy levels; and
 - c. evaluating the effectiveness of the Race Discrimination Ordinance (RDO), with reference to international standards of human rights in protecting ASR from discrimination, and hence providing recommendations to community advocates, policy makers and the EOC.
2. To achieve the objectives, the research team adopted a mixed method design to collect both quantitative and qualitative data from the ASRs in Hong Kong through a questionnaire survey (N=83) and in-depth interviews (N=12).

Key findings from the quantitative survey

3. About 90% of ASR participants expressed that they have experienced discrimination in Hong Kong.
4. Discrimination from seeking housing, seeking services from the private sector and on the street or in public spaces are the most perceived and influential three areas of discrimination experienced by the ASR participants in Hong Kong.
5. African ASR participants experience discrimination more often than ASR from Southern Asia and Middle East.
6. The wellbeing of ASR participants with darker skin colour is significantly worse than their counterparts of other skin colours.
7. Only about 10% ASR participants know about EOC or RDO.

Key findings from the qualitative interviews

8. Skin colour is one of the significant factors causing different discrimination experiences at the daily level, especially on the street or when receiving services, from the shopkeepers, cashiers at supermarkets, taxi drivers; while residency status is a factor causing discrimination in the operational and policy levels, particularly in administrative procedures which require residential proof.
9. At the daily level, ASR interviewees commonly experienced unfriendliness or even hostility on the street, and they have difficulties in seeking help and services. Insulting incidents happen, not often, but sometimes to some of the interviewees.
10. At the operational level, interviewees experience discrimination in seeking housing, getting medical services, education/ library, Immigration Department and judicial trial/ procedures.
11. At policy level, interviewees expressed that their discrimination was mainly from the immigration/ asylum seeking systems, a limited access to rights to social welfare and the prohibition from work.
12. Discrimination occurs due to a lack of knowledge, which intensifies stereotyping and reinforces misunderstanding towards the ASR community. It also affects ASR’s mental health; causing some of them to lack a sense of security in Hong Kong.

Conclusion

13. The RDO is unable to protect ASR from race discrimination because ASR are not entitled to most of the rights that are within the scope of RDO. Though ASR can participate in the domain of provision of goods, facilities or services, where they commonly experience discrimination, the majority had no idea how the RDO could help them, while others had no confidence in this ordinance.
14. Although Hong Kong has not ratified the 1951 Refugee Convention, Hong Kong is party to seven of nine international human rights treaties. To fulfil international standards, the RDO must widen its scope to ensure that the rights of all people residing in Hong Kong, including ASR are protected, as per the treaties Hong Kong is signatory to.

Recommendations

15. In line with international human right standards, the residency status of ASRs should not limit the protection of their human rights. The EOC, community advocates and policy makers should advocate for the improvement of policies:
 - a. The immigration and asylum seeking systems should provide fair assessment and screening procedures for ASR instead of labelling them as illegal migrants, which in itself is an act of discrimination which further reinforces discrimination against them at all levels.
 - b. The right to work, a basic economic, social and cultural human right for all people, should be protected and can alleviate the perpetuated discriminatory stereotypes and be one of the humane alternatives for the negative situation ASR face.
16. To eliminate discrimination and facilitate the development of a harmonious community, people will need to know more about ASR as humans. More resources need to be allocated for education and training about ASR's reasons for coming to Hong Kong, and the current difficulties they face in Hong Kong.

行政摘要

背景

1. 本研究項目「有關難民/尋求庇護者（ASR）在香港因居民身份而被歧視的經驗研究」獲得平等機會委員會資助。研究目標包括：
 - I. 檢視及分析有關香港難民/尋求庇護者的現有文獻及新聞報導；
 - II. 探討香港難民/尋求庇護者在日常、實際運作和政策層面上所面臨的歧視；
 - III. 評估香港現行種族歧視條例的有效性，並參考國際組織對保護難民/尋求庇護者免受歧視的人權標準，藉以向社區倡導者、政策制定者和平機會提供建議。
2. 為達致以上目標，研究小組採用混合方法進行調查，包括使用問卷調查（83位參加者）及進行深度訪談（12位參加者）。

問卷調查的主要發現

3. 約九成的難民/尋求庇護者受訪者表示他們在香港曾遭受歧視。
4. 較多的難民/尋求庇護者受訪者認為他們在尋求住屋、私營機構服務及街上或公共場合上尋求協助等這三方面遇到歧視及對他們的影響最深。
5. 來自非洲的難民/尋求庇護者受訪者較來自南亞或中東國家的參與者更常遇到歧視。
6. 深膚色的難民/尋求庇護者受訪者的精神健康狀況顯著地較其他膚色的參與者差。
7. 只有約一成的難民/尋求庇護者受訪者知悉平機會或種族歧視條例。

深度訪談的主要發現

8. 膚色是導致受訪者在日常層面上遭受歧視的主要原因之一，尤其在街上或接受服務時，受到店主、超市收銀員及的士司機的歧視對待。居住身份是導致受訪者在實際運作和政策層面上遭受歧視的因素，尤其是在需要他們出示住址證明的行政程序時。
9. 在日常生活上，受訪者在街上經常感受到不友善甚至敵意的對待；他們在尋求協助和服務時經常遇到困難。遭受侮辱的事件不是經常發生，但仍會發生在某些受訪者身上。
10. 在實際運作層面上，受訪者在尋求住屋、使用醫療、教育、圖書館服務，以及在入境處和進行司法審判/程序時均遭受歧視。
11. 在政策層面，受訪者表示他們遭受的歧視主要來自入境處/庇護申請制度、有限社會福利權和被禁止工作的政策。
12. 歧視難民/尋求庇護者源於公眾對受訪者的認知不足，這加劇了公眾對他們的定型及誤解。歧視也會影響難民/尋求庇護者的心理健康；其中一些受訪者更因此對香港缺乏安全感。

總結

13. 現行的《種族歧視條例》在保護難民/尋求庇護者免受種族歧視方面的效用不大，尤其是當他們無權參與大部分此條例所涵蓋的保障範圍。雖然他們可在購物或使用服務時遭受歧視，但大多數的受訪者都不知道《種族歧視條例》可以如何保障他們。即使部分受訪者知道條例所保障的範圍，他們仍表示對此條例缺乏信心。

14. 雖然香港未有簽署 1951 年的《難民公約》，但卻簽署了九條國際人權條約中的七條。為達到國際標準，《種族歧視條例》必須擴大其範圍，以確保所有居住在香港的人士（包括難民/尋求庇護者）的權利均符合香港所簽署條約的要求。

建議

15. 根據國際人權標準，難民/尋求庇護者的居住身份不應限制對其人權的保護。平等機會委員會、社區倡導者及政策制定者應該倡議改善政策：
 - I. 入境/尋求庇護制度應該為難民/尋求庇護者提供公平的評估和篩選程序，而不是將其標籤為「非法移民」。這標籤本身就是一種歧視行為，更進一步加強了各層面的歧視。
 - II. 工作權利是作為所有人的基本經濟、社會和文化人權之一，應得到保護。保障工作權利有助緩解公眾對難民/尋求庇護者固有的歧視，也是其中一個更人道的方式去讓他們處理在香港所面對的困境。
16. 為了消除歧視及促進社區和諧，希望公眾可以嘗試以更人性化的角度去了解難民/尋求庇護者的處境，並需要撥出更多資源用於教育和培訓，以幫助公眾了解難民/尋求庇護者來港的原因，以及他們目前在香港遇到的困難。

Chapter One - Background of Study

Background

The Racial Discrimination Ordinance (RDO) is one of the four discrimination ordinances in Hong Kong, enforced by the Equal Opportunities Commission (EOC). Under the RDO, it is unlawful to discriminate, harass or vilify a person on the ground of his/her race and “Race” is taken to mean “the race, colour, descent, national or ethnic origin of a person” (Cap. 602, s8). Despite the protections that this law should offer, the international community, namely the United Nations Committee on the Elimination of Racial Discrimination (CERD), has raised concerns regarding the scope of RDO. A consistent recommendation from the CERD over two periodic reviews was for Hong Kong to implement a refugee law with consideration of the 1951 Refugee Convention (ICERD, 2009, ICERD, 2018). Hong Kong responded stating clearly that they have no intention of ratifying the 1951 Refugee Convention and the 1967 Protocol, given the human and physical geographical position of Hong Kong (The Government of HKSAR, 2018). CERD’s concluding observations highlight that there are human rights concerns regarding the lack of protection for asylum seekers and refugees¹ (ASR). A closer look at the real experienced discrimination faced by ASR is needed for a better understanding of the violation of their human rights ASR face, additionally the recommendations and insights from ASRs are necessary to ensure a future where the rights of all are protected.

Although Hong Kong has not ratified the 1951 Refugee Convention, Hong Kong is bound by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), in which Hong Kong cannot return any individuals seeking asylum, back to their home country if they face the risk of torture as articulated under CAT. These individuals are offered temporary protection in Hong Kong, but do not have the rights under the Refugee Convention (Kjaerum, 2002). Hong Kong however is party to six additional international human rights treaties². Under these treaties, each has an independent committee that monitors and ensures each state is protecting the stated rights, providing recommendations to the State where needed (OHCHR, 2012). A number of these recommendations given by the committees to various states, have made comments concerning refugees and asylum seekers (Nicholson and Kumin, 2017). Recommendations raised by CERD (OHCHR, 2004), resulted in the UNHCR report on “The Rights of Non-citizens” (UNHCR, 2006). Given the lack of protection due to the absence of refugee law in Hong Kong, it is vital that the RDO is able to provide more comprehensive protection that takes into account non-citizens, whose rights are usually marginalised even under anti-racial discrimination laws.

Objectives of the study

Under the RDO, there is no protection from discrimination based on Hong Kong residential status. In other words, often non-citizens are in a grey area where their protection is not clear. Through exploring the stories and situations of ASR in Hong Kong, this study provides a deeper

¹ A terminological clarification on asylum seeker and refugee in this study: In Hong Kong asylum seeker are termed as non-refoulement claimants. Under the Unified Screening Mechanism (USM) developed in 2014, it is the Hong Kong Immigration Department’s job to assess the non-refoulement claimants’ case whether it could be substantiated and potentially resettled by the United Nation High Commission of Refugee (UNHCR). In this study, “asylum seeker” refers to those whose application is still in the assessment process or appeal process, while “refugee” refers to those whose cases are substantiated.

² The seven treaties that Hong Kong is subscribed to are, International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), International Covenant on Economic, Social and Cultural Rights (ICESCR), and International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Rights of the Child (CRC), and Convention on the Rights of Persons with Disabilities (CRPD) (Constitutional and Mainland Affairs Bureau, 2018a).

understanding of ASR in Hong Kong and other possible alternatives in eliminating discrimination against them. The research has focused on the following objectives:

1. Reviewing and analysing the existing literature and news report on ASR in Hong Kong;
2. Investigating the actual discrimination that ASRs are facing at the daily, operational and policy levels; and
3. Evaluating the effectiveness of the RDO, with reference to international standards of human rights in protecting ASR from discrimination, and hence providing recommendations to community advocates, policy makers and the EOC.

Literature Review

General profile of ASR in Hong Kong

Though Hong Kong has not ratified the 1951 Refugee Convention, Hong Kong is bound by the UNCAT. Before 2014, United Nation High Commission of Refugee and the Immigration Department (ImmD) handled both torture claims and non-refoulement claims. After the establishment of Unified Screening Mechanism (USM) in 2014, the ImmD is the only institution working on assessing both of their claims.

There were in total 5899 asylum seekers in the assessment process as at the year-end of 2017 when the study just started, and there are now in total 1743 asylum seekers in the assessment process.³ The majority of the non-refoulement claimant remains to be Bangladeshi, Pakistani and Indian. From the statistics provided by the ImmD, they have been speeding up the assessment process since 2014, and further speeding up in these two years.⁴ However, the recognition rate, which is 0.4%, remains one of the lowest comparing to the international rate or any other countries in East Asia (Lai & Kennedy, 2017).

According to the Hong Kong government (2018)⁵, it provides “humanitarian assistance” to prevent ASR from becoming destitute, but purposely does not intend to provide them with assistance more than necessary to meet their basic needs. The ASR in Hong Kong can receive HK\$1500 for housing subsidy, HK\$1200 food card for buying certain food in supermarket, HK\$200-300 for transportation allowance per month (ISSHK, 2018). ASR is not allowed to have paid or non-paid work in Hong Kong, with some exception to the refugees whose cases are substantiated and being able to demonstrate exceptional circumstances⁶.

The marginalised status and lack of protection of asylum seekers in Hong Kong is further fuelled by the media coverage and rhetoric. Welfare policies for ASR are more stringent compared to those provided for Hong Kong residents (Ramsden & Marsh, 2013), in order to prevent a “flood” of people coming to Hong Kong to seek asylum. These protectionist policies are thus justified making racism and discrimination “formalized into official policy and legislation”, as argued by Kjaerum about some of the policies in European countries (Kjaerum, 2002, p.525). On many levels Hong Kong is heading in a similar direction, particularly seen in the staunch position which the government holds that “Hong Kong is particularly vulnerable to the ill effects of illegal immigration” (The Government of HKSAR, 2018). NGO has reported that the protection claimants have been receiving less

³ Refer to the statistics from the Immigration Department.

⁴ Refer to the statistics from the Immigration Department.

⁵ Refer to The Hong Kong Special Administrative Region (HKSAR) Government’s Response to the List of Themes prepared by the United Nations Committee on the Elimination of Racial Discrimination in relation to the combined 14th to 17th periodic reports of the People’s Republic of China (with answer to the questions orally raised by the Committee at its hearing on the report on 10 August incorporated), Response 78 to 81.

⁶ Refer to the case *GA v Director of Immigration*.

favourable treatment and are left vulnerable to policies and conduct due in large part to their lack of legal immigration status, which include daily use of “recognized paper” to access health care, education, and even housing⁷.

Studies about ASR

In Hong Kong, the lack of a legal framework in governing local policy and action results in a minimal support for ASR. This leads to civic stratification that positions ASR at the bottom of Hong Kong’s current citizenship hierarchy (Lai and Kennedy, 2017). It is also argued that the slow pace of processing asylum applications, harsh restriction on rights to work and minimal welfare provision for ASR in Hong Kong creates vanished selves (Lau and Gheorghiu, 2018).

Ramsden and Marsh argued that the Hong Kong government policy does not meet Hong Kong’s international and domestic legal commitment to safeguard the socio-economic right of ASR in Hong Kong (2014). Yet the government favours a tight control on ASR, claiming to provide “humanitarian assistance” for not more than their basic need. This “elite-drive institutional racism” is ignored (Bates, 2007, p.126) and “refugee politics are all too easily muted as mere administrative and economic matters” (Erni, 2012, p.84). This lack of conversation on race, Erni argues, leads to the further invisibility of ASR.

Other than minimal welfare, the status of ASR puts them in a more vulnerable position, with restrictions on access to health care. Wong et al. have done a study showing that barriers to service provision imposed by the medical waiver and the relationship with case workers, affects ASR’s access to health care (2016). A study revealed a significant number of African ASRs in Hong Kong exhibiting depressive symptoms, which is significantly associated with lack of family and social support, limited healthcare access and discrimination (Wong et al., 2017).

The Education University of Hong Kong has done surveys on the understanding of Hong Kong people towards refugee issues, which shows that Hong Kong people are still largely misinformed about the situation and policy towards ASR in Hong Kong (2016; 2018). ASR have been overwhelmingly framed with negative reports as “fake refugees” and “criminals” by media, which provide justification for some legislators and the government to put forward tougher measures and control on ASR legislation (Ng et al., 2018), including establishing a detention centre and tightening the USM policy.

Knowledge and understanding about ASR among the locals in Hong Kong are insufficient and mostly misled by the media (EdUHK, 2016; 2018). There remains little research beyond the CERD report that focuses on the racial discrimination of asylum seekers and refugees. Too often given the vulnerable status of asylum seekers, where they are grateful to the host state for giving them protection, there is a fear to directly voice out any experiences of discrimination (Parker, 2017). This study will go in a greater depth and focus on the self-perceived discrimination experience of ASR. It will look at the experiences of discrimination at different levels in their lives, from discrimination at both daily life and operational levels as well as the policy level. To fill the research gap, the following research questions are proposed:

1. What are the areas and to what extent that the ASR are less favourably treated than another person based on their non-resident status?
2. How is the actual operational practice different from the right ASR is entitled?
3. How does the Race Discrimination Ordinance with reference to international human right standard help protecting AS and refugees from discrimination?

⁷ For detail, please refer to submission in Response to the Public Consultation – Discrimination Law Review of the Equal Opportunities Commission from Justice Centre (2014).

Chapter Two - Methodology

A questionnaire and a set of interview questions were developed with input from the literature and news report review, team members' experience on serving the ASR in Hong Kong and advice from experienced local NGOs working on ASR⁸. Given the diversity of ASR's nationality and the duration of stay in Hong Kong, we purposefully recruited participants from different countries, and participants who have stayed in Hong Kong for a longer time.

The quantitative research aims at examining the extent of discrimination experiences faced by the ASR community, which include discrimination in education/ school, housing, healthcare service, service from NGOs/ charities, private sector, access to public facilities, public spaces, religious institutions, police, lawyer/judicial system, Immigration Department and other government authorities. It also studies their way to deal with discrimination and their current mental well-being using the WHO-5 Well-Being Index (1998 version)⁹. Questionnaires were distributed through local groups and local NGOs who have been working with ASR for many years. There are in total 83 questionnaires collected from December 2017 till March 2018; 50% participants were male and 50% were female¹⁰.

Qualitative semi-structured in-depth interviews with twelve ASRs (7 males and 5 females)¹¹ were conducted from March to November 2018, to explore instances that they feel subjectively less favourably treated due to their nationality and status. The interviews focus on the most impactful discrimination experiences they faced during their stay in Hong Kong, the feelings and reasoning towards the experiences, the impact on their attitude towards Hong Kong people and their views on the solution to discrimination. Since ASR is quite a closed community which are not easy to reach, ASR interviewees were referred by personal network, various local NGOs and churches using snowball sampling. Each interview lasted for around 1 hour, and took place in coffee shops or NGO's offices. Most of the interviews were done in English, and only one was done in French with an interpreter.

The interviews started with introducing the team and the study, explaining about their right with an informed consent form and assuring confidentiality of interviewee's identity. The participants are highly conscious about their identity being identified, especially when it comes to their nationality and recording, as they think they might risk the possibility to be identified from the ImmD, which may affect their assessment process. Hence, anonymity of interviewees has been repeatedly emphasized throughout the interviews. The interviews were audio-recorded, which were then transcribed into texts for analysis. It is noteworthy that the interview does not aim to achieve a representative sample. However, it focuses on the diversified experiences of ASR who might experience different forms of discrimination, and attempts to discover how different factors may affect their discrimination experiences.

⁸ Please refer to Appendix II for questionnaire and Appendix III interview questions.

⁹ The WHO-5 Well-Being Index is a questionnaire that measures current mental well-being (time frame the previous two weeks) of individuals.

¹⁰ Please refer to Table 1 in Chapter three for demographic information of the survey participants.

¹¹ Please refer to Table 9 in Appendix I for profile of interviewees.

Chapter Three - Key Findings

Findings from Survey

There are in total 83 ASR participated in the survey, while 41 (49.4%) of them are female, and 42 (50.6%) of them are male. All participants are aged 18 and above. Table 1 shows the demographic information of the 83 survey participants.

Table 1: Demographic Information of Survey Participants with WHO-5

Characteristic	N (%)	WHO-5 (Average)
Total ASR participants	83	53.40
Age		
18-24 years	4 (4.8)	74
25-34 years	26 (31.3)	46.31
35-44 years	34 (41.0)	52.13
45 years or above	19 (22.9)	60.84
Gender		
Female	41 (49.4)	52
Male	42 (50.6)	54.73
Total length of stay		
0-2 years	28 (33.7)	55.71
3-5 years	31 (37.3)	48.14
6 years or above	22 (26.5)	54.67
Missing	2 (2.4)	
Skin Colour**		
Black	35 (42.2)	49.42
Brown	27 (32.5)	
White	15 (18.1)	58.13
Others	6 (7.2)	80.67
Nationality Group		
Southern Asia	25 (30.1)	52.83
Africa	36 (43.4)	52.71
Middle East	16 (19.3)	47.75
Others	6 (7.2)	74.67
Language (English)		
Yes	71 (85.5)	53.28
No	12 (14.5)	54.18
Language (Cantonese)		
Yes	3 (3.6)	52.47
No	80 (96.4)	77.33
Number of family member in HK		
None	37 (44.6)	51.54
1 or more	46 (55.4)	54.84
Educational level		
Primary School Level or Below	3 (6.0)	50.4
Secondary School Level	27 (32.5)	54.15
Some College/ Vocational School	21 (25.5)	53.71
University Degree	24 (28.9)	53.64
Postgraduate Degree or Above	4 (4.8)	38
Missing	2 (2.4)	

Note: **p<.01, two-tailed, N=83

Area of Experienced Discrimination

There are 89.2% of ASR participants indicated that they have experienced discrimination in Hong Kong, as shown in Table 2.

Table 2: Have Experience of Discrimination in Hong Kong

Responses	Number of Responses (%)
Yes	74 (89.2)
No	9 (10.8)

The survey covers twelve areas of discrimination experience. 71.1% of ASR participants reported that they have experienced discrimination when they were seeking accommodation. Among the participants who have experienced discrimination in seeking house, 42.1% of them thought that their residency status is the main reason for discrimination, among the other reasons including race (3.5%), nationality (12.3%), shade or skin colour (19.3%) and language (5.3%)¹². More than half of the ASR participants reported that they have experienced discrimination on the street or in public spaces (63.9%), seeking services from private sector (54.2%) such as shopping, buying food, going to supermarket, etc. 45.1% of them stated their shade or skin colour was the main reason of being discriminated on street or in public space, and 37% of them chose residency status as the reason when seeking service from the private sector. Almost half of the participants experienced discrimination in accessing public facilities (45.8%). 56.8% stated residency and 35.1% stated shade or colour as the main reason for facing discrimination in accessing to public facilities. 41.0% of participants faces discrimination when accessing healthcare services, of these, 52.9% stated residency as the main reason for discrimination.

Among the twelve areas of discrimination experience the survey covered, ASR participant's discrimination experience in seeking housing ranks the highest in its influence on them; discrimination experience in seeking services from private sector ranks the second, and discrimination experience on street or public space ranks the third. The other area also noteworthy are in school and education (4th), accessing to healthcare service (5th) and accessing to public facilities (6th). Table 3 shows the area of discrimination experience with ranking of its influence.

Table 3: Area of Discrimination Experience with Ranking of its Influence

Area of Experienced Discrimination	Number of Response (%)		Ranking of its influence (Average Score¹³)
	Yes	No	
In School/ Education	31 (37.3)	52 (62.7)	4 (0.520)
House Seeking	59 (71.1)	24 (28.9)	1 (1.410)
Accessing to Healthcare Service	34 (41.0)	49 (59)	5 (0.410)
Government Service Seeking	14 (16.9)	68 (81.9)	12 (0.036)
Seeking Services from Private Sector	45 (54.2)	38 (45.8)	2 (0.747)
Accessing to Public Facilities	38 (45.8)	45 (54.2)	6 (0.241)
On street or in Public Spaces	53 (63.9)	30 (36.1)	3 (0.651)
In Religious Institutions	12 (14.5)	71 (85.5)	10 (0.084)
Dealing with Police	21 (25.3)	62 (74.7)	7 (0.205)
Dealing with Lawyer and Judicial System	16 (19.3)	67 (80.7)	11 (0.060)
Dealing with Immigration Department	22 (26.5)	61 (73.5)	9 (0.120)
Dealing with Government Authorities	31 (37.3)	52 (62.7)	8 (0.181)

Note: N=83

¹² There are 14.0% of them choose more than one option, combining race, nationality, shade or colour and residency.

¹³ The average score developed for the purpose of comparison among the 12 areas. It is calculated from participant's self perception of the level of influence from that area of discrimination, participant ranks 1 indicating the most serious influence on his/ her life and score 3, ranks 2 score 2, ranks 3 score 1 and the other score 0. A higher score indicates a greater influence on participants' life.

Socio-demographic determinants of discrimination encountered

The study uses One-way Anova test to examine ASR's certain socio-demographic characteristics in association with the frequency in facing discrimination in the tested 12 areas, which include age, gender, skin colour, total length of stay in Hong Kong, nationality and languages spoken.

The study asked the participants to rate the frequency of their discrimination experience in the 12 areas of discrimination experience, in which "0" as "never", "1" as "once", "2" as "once per year", "3" as "once per month", "4" as "once per year" and "5" as "everyday". Average score is calculated for recording the frequency of ASR participants facing discrimination. A higher score means experiencing discrimination more often. Table 4 shows the descriptive data on overall mean of ASR's frequency of facing discrimination.

Table 4: Descriptive Data on ASR's Frequency of Facing Discrimination

Mean	1.00
Std. Deviation	.800
Minimum	.00
Maximum	2.92
Median	.92

Among different characteristics of ASR participants, statistically significant difference is found among nationality on their frequency in facing discrimination, in which African ASR got a significantly higher mean score overall than ASR from Southern Asia and Middle East, as well as in house seeking, seeking service from private sector, accessing to public facilities and being on street or in public space. That means, African ASR face discrimination in Hong Kong more often than ASR from Southern Asia and Middle East overall as well as the mentioned area. Table 5 shows the mean score of frequency of being discriminated and the Anova test result by participants' socio-demographic characteristic.

Table 5: Mean scores of frequency of Facing Discrimination

	In School/ Education		House Seeking		Accessing to Healthcare Service		Non- Government Service Seeking		Seeking Services from Private Sector		Accessing to Public Facilities		On Street or in Public Spaces		In Religious Institutions		Dealing with Police		Dealing with Lawyer and Judicial System		Dealing with Immigration Department		Dealing with Government Authorities		Overall		
	Mean	SD	Mean	SD	Mean	SD	Mean	SD	Mean	SD	Mean	SD	Mean	SD	Mean	SD	Mean	SD	Mean	SD	Mean	SD	Mean	SD	Mean	SD	
Overall	1.27	1.864	1.57	1.491	.96	1.453	.40	1.052	1.70	1.86	1.17	1.616	2.13	1.986	.31	.923	.57	1.238	.46	1.173	.69	1.348	.86	1.367	1.00	.800	
Age																											
18-24	.00	.000	.33	.577	.33	.577	.00	.000	1.25	2.5	.00 ^a	.000	1.25	2.5	.00	.000	.00	.000	1.25	2.5	1.25	2.500	1.25	2.500	.36	.555	
25-34	1.08	1.853	1.96	1.732	1.36	1.729	.12	.550	2.00	2.02	1.765 ^{ab}	0.79	2.68	2.116	.27	.874	.65	1.468	.32	1.145	1.04	1.620	1.16	1.463	1.23	.884	
35-44	1.37	1.947	1.44	1.44	.88	1.364	.53	1.285	1.72	1.853	.79 ^b	1.453	2.03	1.915	.35	1.012	.61	1.298	.35	1.041	.42	1.001	.58	1.062	.91	.659	
45 or above	1.63	1.892	1.47	1.219	.68	1.25	.67	1.138	1.37	1.571	1.05	1.508	1.79	1.813	.37	.955	.53	.905	.67	1.085	.58	1.170	.84	1.463	.96	.891	
Gender																											
Female	1.80 ^c	1.952	1.76	1.319	1.03	1.527	.35	1.075	2.48 ^d	1.84	1.29	1.601	2.66 ^c	1.852	.20	.679	.46	1.142	.39	1.046	.49	1.052	.83	1.202	1.15	.713	
Male	.73 ^c	1.617	1.39	1.641	.90	1.392	.45	1.041	.95 ^d	1.564	1.05	1.642	1.61 ^c	1.998	.43	1.107	.68	1.331	.53	1.301	.90	1.582	.90	1.533	.85	.867	
Total length of stay (years)																											
0-2	1.04	1.795	1.79	1.548	.82	1.362	.44	1.05	1.25	1.735	1.04	1.527	2.32	2.144	.18	.612	.50	1.232	.30 ^f	.869	.81	1.469	.48	1.014	.92	.748	
3-5	1.50	1.996	1.61	1.667	1.10	1.689	.42	1.119	2.2	2.058	1.42	1.858	2.23	2.045	.61	1.308	.61	1.358	.16 ^g	.583	.45	1.121	.94	1.526	1.11	.909	
6 or above	1.38	1.857	1.27	1.162	.90	1.261	.36	1.049	1.52	1.504	.95	1.359	1.71	1.617	.09	.426	.62	1.161	.90 ^{fg}	1.609	.57	1.121	.95	1.161	.90	.700	
Skin Colour																											
Black & Brown	1.23	1.854	1.61	1.563	1.00	1.474	.31	.958	1.98	1.91	1.46 ^h	1.718	2.44	1.919	.31	.985	.67	1.363	.49	1.273	.74	1.413	.92	1.358	1.08	.818	
White	1.80	2.111	1.33	1.447	.67	1.397	.80	1.424	0.79	1.424	.13 ^h	0.516	1.27	1.981	.40	.828	.13	.352	.29	.825	.36	.929	.57	1.505	.78	.745	
Others	.33	0.816	1.83	.753	1.33	1.506	.33	.816	1.00	1.549	.83	1.329	1.17	2.041	.17	.408	.67	1.211	.50	.837	1.00	1.549	1.00	1.265	.85	.761	
Nationality																											
Southern Asia	1.08	1.863	0.92 ⁱ	1.222	.80	1.354	.36	.81	1.58	1.742	.64 ^l	1.150	1.68 ⁿ	1.725	.32	1.145	.44	1.003	.50	.978	.38	.924	.88	1.393	.83 ^q	.721	
Africa Middle East	1.40	1.973	2.20 ^{ji}	1.677	1.21	1.616	.37	1.165	2.31 ^k	2.026	1.97 ^{lm}	1.839	3.09 ^{mop}	1.869	.22	.760	.86	1.556	.60	1.538	.94	1.626	1.00	1.515	1.36 ^{pr}	.781	
Others	1.44	1.896	1.31 ^j	1.078	.69	1.25	.44	1.209	0.63 ^k	1.204	.38 ^m	1.025	1.19 ^o	1.940	.38	.806	.19	.750	.06	.250	.31	.873	.44	.892	.62 ^r	.613	
Language (English)																											
Yes	1.21	1.856	1.59	1.429	.91	1.358	.34	.946	1.77	1.888	1.21	1.623	2.24	1.981	.23 ^q	.741	.66	1.318	.46	1.212	.74	1.401	.93	1.407	.98	.942	
No	1.27	1.863	1.58	1.507	.92	1.458	.42	1.069	1.72	1.879	1.13	1.580	2.1	1.972	.31 ^q	.936	.53	1.197	.42	1.168	.67	1.345	.82	1.365	1.01	.784	
Language (Cantonese)																											
Yes	1.33	2.309	1.33	1.155	2.00	1.000	.00	.000	1.33	1.528	2.33	2.517	3.00	2.646	.33	.577	1.67	2.082	1.33	1.155	1.33	1.528	2.00	1.000	.98	.808	
No	1.27	1.863	1.58	1.507	.92	1.458	.42	1.069	1.72	1.879	1.13	1.580	2.10	1.972	.31	.936	.53	1.197	.42	1.168	.67	1.345	.82	1.365	1.50	.417	

Note: Means with same superscript characters are significantly different from each other.

Ways to deal with discrimination

Among all the ASR participants, 67.5% of them would accept discrimination or being treated unfairly as a fact of life, and would not do anything about that. Table 6 shows their way to deal with discrimination.

Table 6: Ways to Deal with Discrimination

Responses	Number of Response (%)
Accept it as a fact of life	56 (70.0)
Try to do something about it	24 (30.0)

56.6% of them think that no one is doing anything to fix the situation so that there is less unfairness; 71.1% of them think that someone could help make the situation better. More than half of them specify government to be the one could help. Table 7 shows the perceived effort on improving discrimination situation.

Table 7: Perceived Effort on Improving Discrimination Situation

Responses	Number of Response (%)	
	Yes	No
Is anyone doing something now to fix the situation so that there is less unfairness	31 (39.7)	47 (60.3)
Can anyone help make the situation better so that it will be fairer in the future	59 (73.8)	21 (26.3)

Only 12.2% and 11.0% of participants have heard about Equal Opportunities Commission and Race Discrimination Ordinance respectively. Table 8 shows participants' knowledge about EOC and ROD.

Table 8: Participants' Knowledge about EOC and RDO

Responses	Number of Response (%)	
	Yes	No
Equal Opportunities Commission	10 (12.2)	72 (87.8)
Race Discrimination Ordinance	9 (11.0)	73 (89.0)

Mental Well-being of ASR

The study also uses WHO-5 to measure the current mental well-being (time frame the previous two weeks) of the ASR, in which it scores from the lowest 0 to the highest 100. Existing research shows that a score below 52 indicates poor well-being and is an indication for further evaluation; a score between 52 and 68 indicates acceptable well-being; score higher than 68 indicates good well-being. Though the result of this study reveals the average score for the ASR participants is 53.40, which is not regarded as poor well-being, there are several groups of participants get an average score lower than 52, which include participants aged 25-34 (46.31), total length of stay in Hong Kong for 3-5 years (48.14), from Middle East (47.45) and with postgraduate degree or above (38). However, the number of participants is not enough for drawing significant association from WHO-5 with the mentioned demographic characteristic of ASR participants statistically, except skin colour. ASR participants with darker skin colour (black and brown) got average score of 49.42, which is significantly lower than white or other skin colour ($p < .01$), which means that the wellbeing of ASR participants with darker skin colour is significantly poorer than those of other skin colours. Table 1 shows the WHO-5 score of ASR participants in different categories.

Finding from Interviews

Reasons of Being Discriminated

Most of the ASR participants are highly aware of the hostile environment in Hong Kong towards them, especially on street or in public space, and it is either based on race or skin colour. They are also aware that they are treated differently and unfairly based on their non-residency status when they come across right to welfare, housing, education and work. These are mainly at operational and policy levels. Some interviewees also mentioned language as a reason of them being discriminated.

Maybe we don't belong to them, maybe they are not happy with us being here, or something, and that make me feel that maybe I am not welcomed here. Or maybe I am discriminated because of my.... my gown¹⁴, or my country, whatever. (Mrs I, from South Asia)

Race and Colour

Survey and interviews show that skin colour as well as nationality can be one of the significant factors associated with discriminatory experiences. ASR interviewees reported that discrimination against their race or skin colour is more obvious at a daily level, especially on the street, transportation or when receiving services from the shopkeepers, cashiers of supermarket, and taxi drivers. As an African, Mr G said the colour of his skin causes a lot of issues, especially when the Chinese know little about them,

my skin is different, that a lot of... issues, from the colour of my skin... because Chinese people don't trust African people... they don't like them, because they associate African people with problems, disease, poverty, and that's the case, and basically because they don't know them.

Mrs J, another interviewee from central Africa, also pointed out that the difference in colour makes them inferior,

Other people see you, with different skin colour, they see you as inferior, and not on the same level, treat us like monkey.

There exists a lot of stereotyping in Hong Kong, Mrs J said:

In my kid's school, teacher puts some pictures on wall about countries in the world, pictures referring to the white are rich and well dressed, but referring to blacks, they are small, poor, and not well dressed... Other kids call my son monkey; I don't want this.

With regard to race, though there is no significant association from the survey showing that Indian and Pakistani faced self-perceived discrimination, through interviews some ASR of other nationality noticed there is a more severe level of discrimination against Indian and Pakistani especially when they are seeking for housing or shopping. Sometimes they would clarify their nationality when approaching people or seeking for services. Mrs H, from north eastern Africa, did the same when she went into a real estate agency and they immediately rejected her with “No, no, no, no!”,

I said, okay, okay wait, first I am not from Pakistan, I am not Indian, I am from Egypt. And then they calm down.

Mrs C learnt similar preference of landlord from real estate agencies, and one real estate agency told her the reason,

because they are cooking curry a lot, so the flat smells like curry!

She could not understand the reason why people judge others' eating habits and cultures.

Residency Status Discrimination

¹⁴ Gown here refers to a style of women cultural dress.

Apart from race discrimination, ASR commonly faces discrimination based on their residency status. Since residency status is not a physical characteristic that people can recognize from appearance, participants experience discrimination based on residency status mainly at the operational level, in administrative procedures which require residency proof, and in specific situations only ASR would come across. Some may be due to the undeveloped administrative procedures and uninformed or untrained staff, while some may just be discrimination from the policies. Discrimination based on residency status at operational and policy levels often have more serious impact on ASR's life in Hong Kong as it affects their right. Mr C, from Middle East, specifically mentioned about the importance of status in Hong Kong,

Hong Kong is a weird place, with clear hierarchy, who is higher and lower, people's question is not out of curiosity, but to know which is higher than you or lower than you; life situation is better than you or not. If it's better, then they don't need to respect you much. It's not only about asylum seeker, it's about everyone.

Residency status puts ASR to the bottom of the hierarchy in Hong Kong, so ASR is not respected by anyone in Hong Kong. Daily discrimination shows that people do not respect them, while operational and policy levels discrimination reflects that authorities and government do not seek to protect them either.

Language as an Indirect Discrimination/ Reason of Discrimination?

Similar to all non-Chinese speakers in Hong Kong, language is one of the barriers for ASR to communicate and get services from the local community. Some may say that discrimination happens to them because of language. Mrs I expressed that not knowing Chinese could be one of the reasons that people discriminate against them,

Sometimes if you go to the swimming pool, and you want to ask them a lot on facilities or something, they don't understand, even when I go to the library, I want to ask them something, they don't understand, so that kind of things is really difficult for me...if you speak English, and they will say "go away, go away" they don't talk to you...

She also shared experiences of being completely ignored when she wanted to ask some questions before buying in a shop.

when Chinese persons come to the shop, and they are so friendly and so happy with them, when you come to the shop, you see they are angry at you, they don't want to talk to you, I feel that, many shopkeepers and old people they do that... especially I am talking and they will get so angry, and said "this is the money, this is the money, give me the money"

Hong Kong is ranked as the first in the top 100 city destinations¹⁵. It is difficult to believe any tourist would face these kinds of poor service quality. From Mrs I's sharing, language barrier just seems to be an excuse for not providing service or answering inquiry when it comes together with race and colour, which could be associated with no purchasing power.

Incidents of Discrimination at Daily Level

Discrimination at daily level mainly happens on street, in public area or when ASR seeking services from private sectors.

Unfriendly or Hostile Environment

¹⁵ Euromonitor International (2017) Top 100 City Destinations Ranking, WTM London 2017 Edition. Retrieved on 14th December, 2018, at http://blueswandaily.com/wp-content/uploads/2017/11/Euromonitor-International_WTM-London-2017_Top-100-City-Destinations.pdf

Participants commonly experienced unfriendly or even hostile environment on street. They feel that people on street have expressed their discontent, or discomfort having them around, like people covering nose in lift and leaving their seat on transportation. Mrs F, from South Asia who has stayed in Hong Kong for 19 years, shared her experience of a train journey,

today morning inside train, that happened to me, because too packed already, so I hit one man a bit... I was stuck there, and he kept looking (at) me (with) a very angry face, (like saying) don't come here, don't come here...other side is all the Chinese girls, they (were) also hitting him, but he never saw them, he looked at me with angry face.

Mr E, from Western Africa, sees differences in others' responses when he walks alone comparing to walking in a group with Chinese,

when I am alone walking around, and when I am in a group, like with Chinese, it is not the same. When I am alone on the street, people try to avoid you, it is really hard to call it a discrimination at first. You will see clearly that people do not want to be around you. They don't even want to spend a minute; they will just quickly walk away.

Besides, people seem to be less tolerant with them. Mr L, from Eastern Africa, shared his experience with his son of a bus journey,

... around 12 people, not many people in the bus, my kids just learn some words, and shouting some like "trains, papa, this is blue..." a lady said to me, "gentleman, I am speaking on phone, please ask your child stop!" I said ok, I will try. I don't want any trouble, "I give you phone, watch YouTube and calm down." And she said "hey why you do it" shouting at me again, "I am doing something, want my boy calm down because of you!" She said "I am still on the phone!" what I suppose to do. I said God please help me.

Though a guy witnessing all these later came over and helped them, asking the lady to be more patient with kids, advising the lady to go elsewhere and even encouraging Mr L to call the police, Mr L said he would rather keep quiet, as it is not his home.

Insulting incidents happen, not often, but sometimes to some of the interviewees. Mrs A, from East Africa, shared her experience being learnt her first Cantonese word, "Lap Sap" (means Trash) and experienced the humiliation from a Hong Kong lady,

My daughter was one month or two months, two ladies in Central... one was very gentle, she wanted to see the baby... Then I uncovered her, and the one who was sick said, "Lap Sap" (trash), ...When I went back to the shelter, I asked the people who know Cantonese, what does it mean, "Lap Sap". I became angry, from that time I didn't go back to greet them.

It happens also when ASR who tried to buy somethings from the supermarket, some cashiers were rude to them. Mr L shared his experience with a cashier,

One time when I went to Parknshop with food card...the lady (cashier) shouted something, when I left, the guy told me, the lady said, these guys came and ate our money.

ASR also experience discrimination from those they know at a personal level, such as from fellow football players on one's same team. Mr E is very active in football, and he has been playing for different football teams, but he felt not respected by the Chinese football players, even on his own football team, there is a mind-set of superiority there,

That bad word, the way of calling Africans... they will keep using it to you. Even your own team mates, I play in a Chinese team...even though I am playing with them and we are winning together, I am scoring goal for them, they can still call me "Hei Gwai" (black ghost) even though they know my name... For them, we are not the same people.

Further, ASR do not only face discrimination from local Chinese, they are also being discriminated by their nationals and other ethnic minorities (EM), Mr D, from southern Asia, shared,

The EM say that AS are working here and causing problems. I was in the shop and heard this, but they did not know I was AS. And then I feel like very put down.

And even when they offer assistance and try to help, Mr L shared that locals push them away, and act as if they are frightened of him,

One time I saw a guy's key falling down, I took the key and wanted to return the key, I said hey man, I give you your key. When he saw me, he ran away like that, I said here your key, looked at him, he said thank you, and then ran away.

This desire to contribute and help out the community is evident among the ASR with a lot of self-initiated volunteer work. Though ASR are prohibited from volunteering, Mr B, from western Africa, and some other ASR have participated in street cleaning after the typhoon in September 2018. He shared that he wanted to show the community that they were indeed very much willing to contribute to this society. However, there were still hate messages after their social media post about their work, attacking them being illegal in Hong Kong.

Aside from hate speech, racial profiling from law enforcement officers and police is widely prevalent. A lot of ASR said that they have been stopped and checked by the police often on the street, though some of them said they understand, while others, including Mr E, said they were embarrassed, and sometimes annoyed when they were in a hurry. However, unlike the others, Mr B had experience which he was checked and questioned by the police in his own apartment,

suddenly I heard a noise at the gate knocking heavily. The Hong Kong police, they came to the 7th floor, and my apartment... they said "Hong Kong police", I opened, and they said, "Gentleman come out" and I came out. "Do you stay here?" "Yes. I stay here. Officer what's the problem?" "Can you show me your document, passport, ID?" and I gave my document to them... Then they said "we just got a call that one black person, a black man has entered this place." Then I started to get emotional, "Officer, the whole entire building, the only black man is me. So what is my offense?" And they stood and looked at me... In fact, they were so embarrassed.

He questioned the police sending people to the place immediately without asking or clarifying with the caller what the "black person" was doing. He was angry that they were wasting the government resources.

Difficulties in Seeking Help and Services

ASR have difficulties when seeking help and services. Mrs H shared her experience on streets, not being able to find directions, while people purposefully avoid her and do not offer help.

I had to look for so many people who wanted to talk to me.

Apart from seeking help on the street, some ASR interviewees expressed they sometimes could not get help in shops either, and encountered poor service quality from shopkeepers. Mrs I, shared her experience of being ignored when she was doing shopping and seeking service of public facilities,

sometimes when I try to explain to them, that I need these facilities or I need this thing, can you please find for me, and they don't want to talk to you, they try to ignore you, you are standing in the shop. That is the most painful I experienced that, they will look at you... they won't talk to you, and you have to leave that shop, being humiliated, like you are not welcomed here.

Some of the interviewees have difficulties in stopping taxis on street. While taxis would seldom stop for them, they sometimes need help from the police or friends. Mrs H expressed difficulty in stopping a taxi, and finally need to seek help from police.

Mr E also shared similar experience, but his way in stopping a taxi would be seeking help from friends with lighter skin colour,

When I want to take a taxi... driver sees me, the "for hire" sign will just go down. So many times that have happened with me and (other African friends). We ask D (friends with lighter skin colour) to flag the taxi, we will hide behind and after he stops the taxi and we will rush in, and the taxi driver will be like oh. If we stand there to stop a taxi, it would never stop, it would go.

Mr B shared his friend's experience in calling the police for help, but the police turned to the locals first once he arrived, instead of to the one who made the call.

Incidents of Discrimination at Operational Level

The impact of discrimination at the operational level affects ASR more than at the experiences at the daily level. It is mainly because ASR are entitled to certain rights, but are required to go through often undeveloped procedures or through untrained staff. This results in significant barriers to access to their rights such as housing, health care, education and a fair judicial process. With no safeguards and nowhere to complain or seek help from, these basic human rights are often not protected.

Housing Problems

Many participants in survey (71.1%) and interviewees reported their difficulties in looking for accommodation, in which they face discrimination by real estate agencies and landlords. Some may think that it is because of their race or nationality; some interpret that the property agents and the landlords do not want to deal with people with an immigration paper, which requires extra administration work in collecting the rent. Though survey results show that more participants indicated residency status as the main reason of them being discriminated in seeking house (42,1%), interviewees commonly encountered rejection even before entering the property agency. Mrs H shared her experience with real estate agencies,

when I look for a lot of agencies, when I enter, "Oh, NO NO NO NO NO!"

Mrs I used to be rejected by the real estate agency before entering into the agencies, she thought that it was because of her clothes or the nationality of Pakistan,

we want to change our house last month, and we went to all over to many agencies, when they see you wearing these clothes, when they see you are Pakistani, they won't give you house, from outside the door, they said NO! NO! NO! no house! I tried to come in from that door, they won't allow to come inside also.

Mrs J shared similar experience in looking for house being rejected outside the door,

Our experience with housing agency is also bad... Some agencies said if even they are willing to help, the landlord won't agree.

Some agencies would reject them directly; some agency could raise the price immediately without giving explanation so as to make that out of their budget. Mrs J shared that,

when we found one is \$4500, we thought is just fine. But after the lady from the agency talked to another Chinese lady, and immediately changed the price to \$6000, which we couldn't afford.

Mr E shared similar experience in looking for a house, and further explained with his change of residency status. When he married a girl from Hong Kong, who could communicate in Cantonese, and language would not be a problem, he shared,

I thought it would be easier, as my wife is from Hong Kong, if there is any worry about me not being a local person, they could refer to her, make things easier. But then I am still a problem to

many other agencies, who clearly tell me that the landlord does not want an African... even though they know my wife is from Hong Kong and she is a Chinese.

and when he got a dependant visa,

As an asylum seeker, some agency even though they don't want African, they will use the reason of you being asylum seeker to push you away, saying that you cannot pay so they can't take it.

But now that I have HKID and I look for a house, they will state clearly, we don't want African.

Then it hurts me a lot, because it is a clear answer showing that they don't want me.

Mr E, being an African, felt hurt and sad being “undesired” and “not trusted”, he felt strongly from the landlords that this is not a place for him to be. Mrs J also realized that the agencies or the landlords tend to discriminate against Pakistani and Indian more than the other nationals, but their residency status is still one of the concerns for the agencies and landlords.

Mr B, from west Africa and has been staying in Hong Kong for 15 years, had long experience in helping the ASR in Hong Kong with their difficulties. He told that most of them have problem in looking for a house, and he felt sad that the problem is being African. He further explained about the reasons of the real estate agency rejecting them,

If you are black or Indian or Pakistan, also no. One side is the “Hang Gai Zi” (immigration paper), two (another) will be the race.

Mrs I added language barrier, and she concluded that,

English language, nationality and asylum seeker, and immigration paper, and all these things, they don't give us house.

Right to Health/ Access to Medical Services

Some interviewees expressed their difficulties in getting medical services, especially getting a waiver from Social Welfare Department for an operation. Mrs H understands both Hong Kong people and ASR need to wait long in the public hospital system for medical services, but she was a bit angry that,

in the end, they give you only Paracetamol, whatever you have, give you Paracetamol.

The main complaint she shared is arranging operation. She said the hospital did not arrange an operation for her husband even when the doctor diagnosed and told him he needed one,

My husband needs to receive an operation, he had appointment in the hospital, "okay, do you have ID?" "No, I have immigration paper" "Oh, who will pay for the operation?" "social welfare." He didn't give him any chance to talk, "okay okay, you can go now, and then I will call you back if I make the date for the operation or, give you another appointment" and they gave him another appointment. How come! doctor said he needs an operation, how come he gave him another appointment after four months! it's not only me, I have another friend is like that.

Some other participants in the survey wrote similar experiences, saying that he needs an operation which the doctor in the hospital agreed before the hospital knew that they are ASR, but did not arrange any operation thereafter. They expressed worry and frustration about their own or family's health in Hong Kong.

Right to Education/ Library

ASR who are aged below 18 when they arrived Hong Kong could receive free education until completion of secondary school, however, they sometimes receive unfair treatment from the school or face discrimination from classmate or teacher. Some interviewees expressed that their children in school experienced discrimination from their teachers, classmates and others' parents. Mrs F shared her son's experience of being bullied in school,

My son always got bully at school, my husband and I fought against the school last year, last year starting... When he went to play football, the kids beat him, then one kid said he's tall long leg giraffe, beat him, beat him... then kids going to beat him, on the road, in the school bus, football team... he came home, he started crying, closed the door. We asked what happened, you beat someone? he said no, I didn't beat someone, they beat me...

However, she said that the teacher heard about the bully but ignored it. She also said that the school did not take any action in handling the bullying even the father complained, instead, her son has not been allowed to play in the football team since,

So this happens to Chinese kids, you will ignore? no, right? they will take action. So what the teacher said (to the kid being bullied), okay, you dismissed, you cannot play football.

Other than being treated unfairly in school, Mr L also shared his experience in getting student financial assistance when he was studying in secondary school, which made his study difficult,

A lot of asylum seekers/ refugees have kids, Student financial assistance (subsidizes) for books, transportation, uniform from government for AS students, but money come 3 to 4 months after the school started.

Luckily his teachers at that time lent him books. And with his experience, he now helps a lot of his ASR friends to buy books from second hand book stores. Mr L shared similar issues with getting the documents for schools to apply for waiver or subsidies. However, the system of assistance has not improved, and some participants shared that they are still having difficult time when school starts.

For ASR aged above 18, they could not receive any education provided by the government. Some of them did not know English at all when they arrived, they had to rely on the English or Cantonese classes supported or provided by few NGOs, or self-learning. However, some interviewees expressed difficulties in borrowing books from library; some of them were managed to get a guarantee for a library card but it depends on library and regulations of some libraries. Mrs I said she has a guarantee, but has still been fighting for a library card to borrow books,

I need a library card, they won't issue a library card because of my paper, they said there's no expiry date on the immigration papers... I went to three or four libraries to ask them for it.

ASR is not allowed to join the courses offered by Leisure and Cultural Service Department; Mrs I told that the low cost swimming course provided by the department clearly stated that only Hong Kong residents are allowed to join.

Immigration Department (ImmD)

From the day an AS wants to make their claims, ImmD is one of the governmental departments they have to communicate with the most. Since the establishment of USM system in 2014, the ImmD becomes the only institution to assess the AS's case and get them report and sign regularly. Some interviewees thought that Immigration officers was generally "angry" with all the ASRs when they do their signing or other required procedures; some did observe that these officers are angrier with some nationals, especially of people who cannot understand English.

Mrs I thinks that Immigration Officers are taught to be angry with all of them,

they are taught to be angry, they treat everyone (ASR) the same, if you are Pakistani, you are black, you are asylum seeker, as far as you are asylum seeker, they treat you like that.

Mr G, from eastern Africa, who has helped some NGOs in a lot of ASR cases, has shared some of his views on Immigration officers having different attitudes towards different nationalities,

there is a lot of dumb hypotheses, so if you come from these countries, they are lenient, they are soft; but if you come from those countries, you see they are harsh, they are more aggressive. But

if you come from... Nigeria, Oh My God! they know this is a trouble, they put people into categories, this is from my experience, dealing with people who are from those countries.

Mrs I told that the Immigration officer will become angry when the ASR could not understand English, she shared an experience of her helping with the interpretation,

...they angry at them, because some of them don't understand English either, so when the immigration officers try to explain something, and they don't understand... Once, I have a guy, I tried translating for him. The Immigration officer, was like shouting at him, he doesn't really understand the immigration officer was saying. I tried to help the man, and explain to him what the immigration officer said. So the Immigration officers are a bit rude.

Other than different attitudes, the signing time¹⁶ for people going to ImmD are also different based on nationality, Mr G questioned the system,

different nationalities have different signing times, it is based on nationality, there are people who sign two weeks, there are people who sign four, people who do six, people who do more.

Mr B shared his view of the ImmD knowing little about ASR's right, and mentioned about the lost case of ImmD in 2008 for keep detaining AS long,

Most of the systems are discriminatory against asylum seekers. 80-90% of it... The system is not reaching asylum seeker fairly, there is a lot of discrimination. That is why in 2008, they went to the Court of Final Appeal, Immigration lost twice. Why did they have to compensate asylum seekers in detention centres, paying them for unlawful detention, if they know the right.

Right to Fair Judicial Trial/ Procedure

Based on Mrs I's sharing of her experience with her duty lawyer, discrimination happens as well, where the duty lawyer did not work the best for her as a client. Her duty lawyer did not understand much about her country and the reason of fear back in her country, and was not so eager to help.

I remember when our case was rejected... and he was like "I do understand what the Immigration was doing, I believe that the rejection is good, the rejection is right, I understand that they are right" "are you with the Immigration, or are you with us?" "The Immigration is more correct than you." how really (he can) help us, if he does not want to help us...

Mr B, experienced in helping in NGOs, also shared about his view on the immigration system and different screening mechanisms with a duty lawyer and translator,

When you go there, discrimination. During the interview, the duty lawyer has no right to speak, so what is the point of a duty lawyer. This is typical discrimination. The duty lawyer will help you prepare your case, but at interview, they will keep quiet.

Mrs I also mentioned her experience in the appeal board with the judge,

the judge, was like quiet... through his face, didn't feel like he really wants to work with us, he was like just sitting down doing nothing, and just listening, listening, and listening, because sometimes you need to ask question I think the judge should know the situation, but he doesn't do anything, just sit down and do nothing.

Since the court appeal board is also not opened to public, there is hardly any check and balance from the public on the quality of the judging procedures. Mr C also mentioned that everyone including ASR in Hong Kong should be entitled to a fair judicial trial. As his case was in appeal process, he and his lawyer, a pro bono lawyer, complained that the decision to reject his appeal application was not justified, arguing there was no check and balance on those decisions.

¹⁶ ASR who hold Recognizance, Form No. 8 is required to report to the ImmD regularly, but the reporting time varies among different nationalities.

Policy Level Discrimination

Policy level discrimination against ASR are from the government of Hong Kong, which mainly relates to ASR's right to social welfare and right to work. Last but not least, the Immigration and related policies also impose great discrimination on ASR and reinforce discrimination at other levels.

Right to Social Welfare

In Hong Kong, the government promises to provide minimal "humanitarian assistance" for ASR which includes \$1500 and \$750 housing allowance for adult and child respectively, \$1200 food allowance on food card, and \$300 allowance for electricity, gas, and water bill¹⁷, which is in total approximately \$3000. The purpose of providing this "humanitarian assistance" for ASR is to prevent them from becoming destitute, and not intended to provide them with assistance more than necessary to meet their basic needs. However, it is not only far from meeting their basic need, it never goes close to the poverty line in Hong Kong, which is \$4000 for one person, \$9800 for two-person family and \$15000 for three-person family in 2017.¹⁸ Mr K, from southern Asia, said he did not experience any discrimination personally from the others, and the discrimination is mainly at policy level,

Because the subsidy is not possible to cover daily expenses, the government forces them to work illegally!

Different from any other people in Hong Kong who are also under the poverty line, ASR in Hong Kong are prohibited from working, hence are either trapped in poverty by law, or earning their own living illegally.

Right to Work

ASR are prohibited from working in Hong Kong, except some individual cases of refugee approved by the Immigration Department. Mr B shares that the ongoing argument is,

They said refugees are using the taxpayers' money.

In some sense, it is valid to describe this as ASR's situation in Hong Kong. However, it is only part of the picture. Not enjoying the right to work is one of the biggest concerns of the ASR in Hong Kong, not to mention that the minimal assistance from the government is far from reaching the basic needs of surviving in Hong Kong. It creates the image of them stealing money and welfare of Hong Kong without any contribution, and hence intensifies discrimination against them. Other than a paid job, Mr C added,

the law says I am not good enough to even volunteer and help people.

Though AS is not allowed to do volunteer work, there are a number of participants, including Mr B, Mr E and Mr L, shared that they joined self-initiated groups to help clean up the streets after typhoon in 2018 September. They show a high level of commitment and motivation to contribute to the community in different ways.

Mr C further commented the Hong Kong's system of accepting people's cases. The long decision process, and prohibiting them from any form of work, claiming to provide minimal welfare to them but demonizing them with different accusations,

It looks pretty outside, but not inside, they want me to be nothing, they want me to go out. If I could go back, I will go.

¹⁷ The amount is referenced from the International Social Service (ISS) (Hong Kong Branch) as at on 17th December, 2018, at <http://www.isshk.org/en-us/services/index/NRC>.

¹⁸ Source from Census and Statistic Department, General Household Survey, as at on 17th December, 2018, at <https://www.censtatd.gov.hk/hkstat/sub/so461.jsp>

Therefore, it is unfair to accuse them of stealing money and resources from Hong Kong, since it is not their intention of not working. After all, it is the long-waiting system which traps them here, prohibiting them in any way from contributing to the society or their own living.

Immigration/ Asylum Seeking System

The asylum seeker system in Hong Kong requires a person to become illegal, their visa expires and they overstay, or they enter as illegal migrants, before they can apply for non-refoulement.

According to a document about humanitarian assistance prepared by the Social Welfare Department (2015),

Foreigners who smuggled themselves into Hong Kong, and visitors who overstayed their limit of stay allowed by the Immigration Department (ImmD) or who were refused entry by ImmD upon arrival at Hong Kong (collectively “illegal immigrants” below) are subject to be removed from Hong Kong in accordance with the Immigration Ordinance (Cap. 115).

All ASR are considered as illegal immigrants officially by the government, regardless of their non-refoulement claim result. The label of “illegal immigrants” creates and reinforces negative image and misunderstanding towards ASR. This definition affects policy, justifying the minimal support provided for them, as well as their lack of rights. Mr C tried to explain the cycle of both the system and people reinforcing each other in dehumanizing ASR,

The system starts something and pushes to people, there are some stuffs in people that are pushed to system... push asylum seekers as a group of illegal immigrants, you call them illegal, criminal group, so you don't deal with individual, you put this criminal thing against citizens. You make couples of groups, divide from citizens, good citizens, taxpayers, deserve work, retirement, right to movement, these groups are threat to you. When people see that, they allow the system to do all these.

Learning from the outstanding number of non-refoulement claims, the ImmD speeded up their USM screening process in the past year. However, Mr G said it did not help anything at all, and indeed the Hong Kong screening system does not intend to help ASR, but just to send them away,

“we interview you, we look at your case, but your case does not make sense”, they just want to show you that you go through a process, but the process itself is not genuine, no, it's not genuine, the process itself, is just to show you that we did ABCD, and you are not qualified.

Mr C also shared a similar view on the USM system,

they are not looking at your case, but looking for how they can just kick this person out. It is not a screening system, just a unified rejection system, trying to deport them as soon as possible, they cherry-pick sentences in newspaper to give the opposite meaning.

All these make sense when the government policy and law do not value them as a person, but see them as illegal immigrants, as stated in the Social Welfare Department document (2015),

To safeguard immigration control and for public interest, they (“illegal immigrants”) should be removed as soon as practicable.

The only reason preventing the government from sending ASR away, is the pursuance of the United Nations Convention Against Torture which applies to Hong Kong since 1992 and multiple court rulings since 2004, yet their actions show little indication that the government practices humanitarian principles and values.

Causes and Effects of Discrimination

Lack of Knowledge and Stereotyping

There are certainly language barriers between the ASR and local community, but the lack of knowledge and understanding among Hong Kong people towards this group of people is the main reason for discrimination. This causes the public to associate ASR with negative stereotypes. Mrs H thought that,

many people they don't know what asylum seekers are, what refugees are, they always think that you just come and steal their money or steal this and steal that.

Mr B pointed out from what he has experienced in Hong Kong,

I used to use that word (discrimination), and racist, but now I use the word ignorant, instead of discrimination. It's technically the person being ignorant.

There has been too many misleading and single-sided reports and accusations about the ASR and African community which over generalize this group of people, Mr G saw hatred in Hong Kong people's eyes towards African, and he learnt the reasons from his Chinese friends,

they will say they (African) are drug dealers, they are going to steal from you, they are aggressive, impolite.

Mr G further explained about his experience as an African in Hong Kong comparing with other countries like Vietnam,

Hong Kong, they discriminate you, but when you go to other places, like Vietnam, they are more curious! they are curious, who is this person, where is he from, what does he do, you know, they are curious. But here is not curiosity, here is hatred. Actually, most of them they will tell you you are illegal... before they know them.

In Hong Kong, Mr G said that, the first question Chinese people would ask them is how he came to Hong Kong, instead of the reason, in which he found it weird. The immigration policy in Hong Kong demonstrates how they put the others into categories, like illegal immigrants. Mrs J told that it is mainly their parents' teaching the kids to discriminate,

My boy went to school, when he sits in some seats, the kids next to him go away. They cover their noses, and I think they learn at home from their parents.

The others participants also shared a similar view on the importance of education in eliminating discrimination. Spending years advocating for integration, Mr E realized and acknowledged the current little education, like awareness program or outreach program, for the young people, but also foresaw that it may take another 20 to 25 years for the situation to change totally. He further explained the importance in engaging the middle age people in order to see change in the near future,

those people who make some of us more upset, are not the young people. They are the people who are the educators, they are the people who have children, people who are in control, who can make a decision, who can tell the younger one, this is right, this is wrong, don't do this and don't do that. But those people are actually the one who don't like us much...

Therefore, he suggested more resources to be allocated for the older generation, so that it could also impact the younger generation.

Mrs H shared the same view about parents and expressed the importance of education, especially about ASR's reason to leave their countries and come to Hong Kong,

I think this issue should be taught in many of our people in Hong Kong, who are asylum seeker, and what are the reasons they have to come here, they are not here to steal your money, they are not here to give you any problem, we are facing problem in our country.

She told that her family was well established back in her country, and the reasons of them coming to Hong Kong, which is to keep themselves safe instead of getting anything, is important to be addressed. She emphasized and wanted Hong Kong people to know that,

I would never leave my country, I love it, I was born there, the soil which I was grown, I still miss it, my husband misses our country a lot.

Reinforcing Misunderstanding

According to most interviewees, discrimination on street is generally not a big problem comparing to some of their other problems, including the appeal progress, possibility of being deported anytime, not being able to access to healthcare services or fair trial etc. However, those discrimination experiences discourage them from communicating and befriending with local community, and some may develop unfriendly attitude towards local people, and hence causing further misunderstanding, discrimination and hate speech towards each other. Mrs J shared that,

I like spending time with people, different people, but here, I usually stay distance from them. I am afraid those will put myself in trouble.

Mr G said he could become aggressive sometimes when people are rude, he gave example,

I can distant them, be aggressive, if like... in a bus, we are squeezed, you know they will always try not to touch you, because you are black, so if somebody pushes you accidentally, you know you will become very aggressive... it's like a counter reaction!

Mental Health Issues

All kinds of discrimination have negative impacts on ASR's mental health, as supported by other studies. Attention needs to be put more on the impacts made on ASR children who may not know the whole situation but keep facing discrimination and unfair treatment. Mrs H told about her daughter's sharing after promoting to secondary school with most of the students are Chinese,

She said to me, "they are annoying me..." I don't know what they did to her. but she said to me, um... "Okay, Hong Kong is a nice place, and a safe place, but I will be happier if we go to another place. Because we are refugees, and the people here don't like refugees".

Mrs F thought that his son's condition in school is getting more serious, and she agreed with the school to arrange some counselling sessions for him,

teacher said sometimes in school, he is made very angry... of course, because people (who bullied him) make him angry, but he is not an angry person at home, very calm, helpful.

Lacking Sense of Security

The discrimination in Hong Kong worries ASR a lot, Mr E worried his own safety when he could not seek help from people around,

if I am having trouble on the streets right now and I am down, I don't have the confidence of humankind behind, around me to help to do something, to save me, to help me get back up. I don't have that confidence, and I think that is something serious in HK.

He further explained his worry that,

It hurts... everyday we are trying to do things and showing local people we want to be part of this society, but at the same time when you see people behaving like this to you, not giving you the respect you deserve, then it makes me worried. Maybe tomorrow might be better, but I am still not sure because of how these people will educate their children.

Chapter Four - Implications and Discussion

I came out of prison, but instead of really coming out of prison, here in Hong Kong, just the wall is longer, prison itself didn't disappear. (Mr C, from Middle East)

Key findings from the surveys and interviews conducted reveal that ASR face multi-level discrimination, at the operational and policy levels as well as face incidents of racial discrimination at the daily level. Their discrimination is based on two main reasons. First, their skin colour and race, second, their residency status. The RDO exists to protect against discrimination, harassment and vilification. Racial harassment as defined under the RDO is the “engaging in unwelcome conduct that offends, humiliates or intimidates another person, or conduct that creates a hostile or intimidating environment for that other person” (ICERD, 2017). And this is unlawful. Yet from the interviews and surveys of ASR, it is apparent that hostility, offensive words, and humiliation are prevalent in the lives of ASR residing in Hong Kong.

With reference to international human rights standards, this report considers the capacity of the RDO to protect the human rights of all peoples residing in Hong Kong, which first examines the RDO with reference to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), one of the international human rights treaties that many states, including Hong Kong are a party to. The second, and more complicated is the issue of residency status, particularly as Hong Kong has not ratified the 1951 Refugee Convention, thus limiting the rights of ASR. Therefore, insights will be obtained from international human right treaties. These are basic human rights that Hong Kong is a signatory to, and non-citizens are also included in the interpretation of these rights.

RDO's Ineffectiveness in Protecting ASR from Discrimination

The recommendations and concerns from the CERD highlighting the international human rights standards, align with our findings from the survey and interviews which reveal a gap in the human rights protection of ASR. From the research findings, discrimination based on race and residency status is commonly encountered by ASR in Hong Kong at the daily, operational and policy levels. The Race Discrimination Ordinance (RDO), however, does not cover residency status based discrimination. Besides, the RDO can protect people from race discrimination only under the area of education, employment, disposal or management of premises, eligibility to vote for and to stand for election to public bodies, offering of a pupillage or tenancy in a barrister's chambers and participation in clubs, in which most of the ASR is not entitled to enjoy and participate. However in the domain of provision of goods, facilities or services that ASR can participate, there are common experience of discrimination, which they have no idea how the RDO could help them. Mr E said,

if you discriminate people at work based on something, I think that person can sue the employer and that can be effective. But in the daily life, in the society, it doesn't work.

He has concerns over the independency of EOC which may affect its right to launch discrimination complaints against the government,

if immigration officer doesn't treat me well and I complain to EOC, EOC basically cannot do much about it, because it goes back to fighting against the government, where they are getting their funding from. So if possible, have an independent and free entity, not funded by the government, then they can put more pressure on the government to push for a discrimination ordinance to improve and get better.

The Human Rights Committee (ICCPR, 2013) and CERD (2018) also shared the same concern. A report under the International Convention on Elimination of All Forms of Racial Discrimination (ICERD) commenting on HKSAR, contains a section that specifically looks at “racial discrimination against people deprived of their liberty” (Hong Kong Human Rights Commission & Society for Community Organization, 2009). The report strongly recommends that independent monitoring must be put in place to prevent racial discrimination by law enforcement agencies and personnel, as this is currently not covered by the RDO. In their most recent observations, they noted that the Commission had received a "C rating by the Global Alliance of National Human Rights Institutions [as it], is not fully independent and accessible to victims” (ICERD, 2018, p.2). Though EOC is not a National Human Rights Institution (NHRI), it is only a statutory body in Hong Kong coping with and working on human right related issues, and therefore being evaluated as the NHRI of Hong Kong with international standard. The local community has been calling for a NHRI¹⁹ (Hong Kong Human Right Monitor, 2006), there is a necessity that EOC to be levelled with the standard of other National Human Rights Institutions. This institution should be in keeping with the Paris Principles, where it has autonomy from the government and independence guaranteed by the constitution and be given the adequate powers of investigation (National Human Rights Institution, n.d), i.e. to handle cases of racial discrimination related to government activities.

The majority of our interviewees shared that although they experienced racial discrimination and harassment, they did not use any complaint mechanisms, revealing their lack of confidence in the fairness of the process. Some interviewees who had knowledge about the existence of EOC and a complaint mechanism, cited that too much evidence would have to be secured to prove an incident of racial harassment took place. The CERD recommends that at the administrative and civil levels in particular, law-enforcement officials, government officials and civil servants must be trained to handle the complaint mechanisms and know the anti-discrimination laws (ICERD, 2018).

Unlike other discrimination ordinances, the RDO does not cover area related to government departments in regards to their function and exercise of power. This greatly affects the effectiveness of RDO in eliminating discrimination, especially on the afore-mentioned policy level, which includes the right to social welfare, right to work and immigration in the asylum seeking system. When ASR are regarded as an immigration problem, an attitude very much promoted at the government level and permeated into media, there is an excuse to deny protection (Nicholson and Kumin, 2017). The EOC has made 73 recommendations to the government in reviewing the anti-discrimination ordinances in Hong Kong (EOC, 2016). The recommendations include amending RDO “by providing that it is unlawful for the Government to discriminate in performing its functions or exercising its powers” (p.45), the government, however, did not adopt it and took only 9 out of the 73 recommendations (Constitutional and Mainland Affairs Bureau, 2018b). Taking reference from the UK, the Equality Act 2010 has even created the Public Sector Equality Duty (the Equality Duty) which came into force in April 2011. This helps imposing duty on the public sector, including the public authorities to 1) eliminate unlawful discrimination, harassment and victimisation; 2) advance equality of opportunity between different groups; and 3) foster good relations between different

¹⁹ There have been calls from the Hong Kong community to establish a Human Rights Commission in Hong Kong since 1990. However, the HK Government rejected the need to establish a general human rights institution by continuously pointing to the independent judiciary, the legal aid system, the vigilant media, and various specialist institutions, including the Ombudsman, the Privacy Commission, and the Equal Opportunities Commission.

groups; this provided ground for groups and advocates to develop tools²⁰ and studies²¹ on promoting equality agenda with migrants and refugee.

Under the international human rights treaty on the elimination of racial discrimination, indirect discrimination, such as language, immigration status and nationality should be included (ICERD, 2017). As our findings indicate language is a significant barrier and creates levels of discriminatory experiences and immigration status most certainly creates heightened discrimination, the RDO should incorporate these.

International Human Rights Treaties

Hong Kong has not ratified the 1951 UN Refugee Convention. Yet there exist human rights treaties that Hong Kong are party to. Of the nine UN human rights treaties, Hong Kong is party to seven, as afore-mentioned.²² Under the United Nations Human Rights Treaty System, it is understood that while each treaty is independent, they are to be interpreted as a whole. In the case of Hong Kong, it must take into account all seven of those human rights treaties. This is seen under the ICERD, where within its articles, it ensures that human rights such as civil and political rights and economic, social and cultural rights are protected (OHCHR, 2012). In the CERD General Recommendation No. 30 on Discrimination Against Non Citizens (OHCHR, 2002), it clarifies that those universal human rights under ICESCR and ICCPR should not be undermined. The other two treaties, the CAT and CRC, then state out protections and principles already established in ICERD, ICESCR, and ICCPR, but do so in greater detail, thus binding the state to a greater degree of responsibility to protect rights.

According to a UNHCR's handbook on refugee protection, these treaties have provided protection, particularly for ASR in states not party to the 1951 Convention. It has provided the platform for ASR to lodge complaints to these independent treaty committees if the states in which they reside and are claiming asylum in, are not fulfilling their responsibilities within their treaties. Additionally, as the independent committees of each treaty make recommendations, there generally will have a comment on the treaty as related to asylum seekers and refugees (Nicholson and Kumin, 2017), therefore emphasising that these human rights are also applicable to ASR. These concerns from the CERD have recommended Hong Kong to introduce a refugee law in line with the 1951 Convention in order to meet international human right standards, however Hong Kong has no intention to do so (The Government of HKSAR, 2018).

Recognising the marginal position of non citizens, the CERD General Recommendation No. 30 on Discrimination Against Non Citizen (OHCHR, 2002) and the UNHCR Rights of Non-citizens (UNHCR, 2006) offer additional insight on the interpretation of these international human rights. These include recommendations that “non-citizens are not subject to racial or ethnic profiling or

²⁰ For detail, please refer to “Refugees, migrants and the Equality Act 2010. A briefing for public authorities” (Barbara Cohen, 2011) and “Refugees, migrants and the Equality Act 2010. A briefing for refugee and migrant community organisations” (Refugees in Effective and Active Partnership, 2011), which provide public authorities and NGOs who work for migrants and refugee community with clear information about the rights of refugees and migrants that will help authorities to meet the needs of these individuals.

²¹ For detail, please refer to “Who’s Still Missing? Refugees, migrants and the equality agenda” (Phil McCarvill, 2011), which explores the lessons learnt from the previous Race Equality Duty and considers how public authorities can effectively use the Public Sector Equality Duty to incorporate refugee and migrant communities into their work.

²² These are, the Convention on the Rights of the Child (CRC), Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), International Covenant on Economic, Social and Cultural Rights (ICESCR), and International Covenant on Civil and Political Rights (ICCPR) (Constitutional and Mainland Affairs Bureau, 2018a).

stereotyping” (OHCHR, 2002, p.2), an issue our findings report, where police will approach particularly people with darker skin or Africans asking for their ID. To protect against hate speech and racial violence, under article four of the ICERD, the document further comments on the “stigmatiz[ing], stereotyp[ing]... especially by politicians, officials, educators and the media” (OHCHR, 2002, p.3). This also was prevalent and a significant source of worry as expressed in the interviews of ASR residing in Hong Kong.

Looking more closely at three of the treaties, ICCPR, ICERD and ICESCR which Hong Kong is party to these, and these must broadly apply to everyone, “without discrimination between citizens and aliens”²³ (UNHCR, 2006, p.8, quoting the Human Rights Committee 1986). Under civil and political rights, all persons, including non-citizens must have equal protection before the law. While within the economic, social and cultural rights, all should have the right to health, education, housing and a minimum standard of living and social security (UNHCR, 2006). The Committee on Economic, Social and Cultural Rights (CESCR) has raised concerns that Hong Kong does not grant access to legal employment, vocational training and adequate housing for ASR (Economic and Social Council, 2014). While Hong Kong does not have a refugee law as it has not ratified the 1951 Convention and therefore does not entitle ASR to the same treatment as to citizens particularly in regards to public relief and assistance, legal assistance, these actually should be protected under the human rights treaties that Hong Kong is party to (Nicholson and Kumin, 2017).

Importance of Being Self-sustained

The UNHCR Rights of Non-citizens (UNHCR, 2006), further states that, in line with the European Commission against Racism and Intolerance, ASR should not be in a destitute state while they await for their decision regarding their claim²⁴. As stated earlier in this report, this fuels a stereotypical image of ASR resulting in greater hostility and prejudice towards them. This Commission, for the case of Turkey, argued for asylum-seekers to be granted the right to work (UNHCR, 2006). Similar to the previous point, ASR have long been accused for stealing resources from Hong Kong without any contribution, and serves as one of the reasons ASR being discriminated. The current illegality of ASR working in Hong Kong, is one that has come under criticism by various human right treaty bodies, including the CESCR in their second periodic report (Economic and Social Council, 2014).

From the research findings and other different studies, the humanitarian assistance provided by the Hong Kong government is far from reaching the basic need to survive in Hong Kong. Avoiding any magnet effect on the sustainability of the assistance programme and on their immigration control is a great concern of the government in providing not more than necessary to meet ASR’s basic need. However, studies have shown that ASR have made “informal” economic contribution to Hong Kong by taking on jobs that local people refuses to do (Vecchio, 2015; 2016), especially there is only a small population of ASR in Hong Kong which is very unlikely to affect the ethnic composition of Hong Kong or threaten the employment opportunities of the locals (Lai and Kennedy, 2017).

The number of ASR that European countries have been receiving is far more than that of Hong Kong, but still they are concerned about ASR’s self-sufficiency. The European Union Directive 2013/33 lays down standards for the reception of asylum seekers that they should be granted access to labour market upon nine months waiting for their decision on their asylum in member states,

²³ Particular political rights such as the right to vote and hold office and freedom of movement are two rights which ICCPR allows for a distinction to be made between citizens and non-citizens (UNHCR, 2006).

²⁴ This was regarding Austria.

member states shall decide the condition of granting²⁵, which aims to promote the self-sufficiency of applicants.

This is an issue that is even more important for ASR who have been residing in Hong Kong for a long time, some well over a decade. Sufficient legal assistance and the length of time for determination of claim was a concern raised by the Human Rights Committee in the case of Australia (UNHCR, 2006). This is also seen in Hong Kong, where some of our interviewees have waited for a decision on their case for over a decade, and have expressed the lack of role their duty lawyer plays in their case. Another concern was the citizenship status on long-term residents, who were deprived from employment and social benefits and therefore in violation of anti-discrimination principles, and also their right to family life when expelled (OHCHR, 2002).

This makes it increasingly clear that employment, social welfare, are all rights that are fundamental for all humans. Although the report focused mainly on Western and European countries, with reference to European Commission against Racism and Intolerance reports (UNHCR, 2006), these are issues that fall within the scope of the human rights treaties Hong Kong is signatory to. Hong Kong must also take measures to address these issues raised in the findings if it is party to the seven UN human rights treaties and seeks to meet those international standards. These recommendations from CERD however only touch on the surface, as these treaties are the responsibility of the state to carry out at the national level. Hence, as outlined in the Human Rights treaty system, it is necessary for civil societies and NGOs and even bodies such as the EOC to play a role to ensure that the protection of rights for all is implemented (OHCHR, 2012).

²⁵ For detail, please refer to EU Directive 2013/33, Article 15 Employment session.

Chapter Five - Conclusion and Recommendations

Conclusion

Holding an extremely low status in Hong Kong, discrimination against ASR is widespread and permeates at all levels, where they experience hostility and indifferent attitudes on the street, public transports, stores, schools, hospitals and Immigration Department. This affects their relationships with local people and also impacts their health and wellbeing. Discrimination against ASR however, is often justified citing protectionist policies. Yet this is a violation of international human rights. Currently, as a local legislation, the RDO is far from meeting international human right standards to protect ASR from being discriminated by the general public, service providers, public authorities and different government policies. Looking internationally, in Europe policies have become more restrictive and have led to questionable violations of human rights, with the CERD voicing their concerns (Kjaerum, 2002). In Hong Kong, it is hoped that the EOC will take on this similar role to stand up for the protection of the human rights of the most marginalised, and push the government to widen the scope of RDO so that, in keeping to the agreement to the seven international human right treaties, ASR's rights will be protected.

Recommendations

Based on the research findings, we have the following recommendations to the EOC, policy makers as well as the community advocates,

1. In order to eliminate discrimination at the daily, operational and policy levels against ASRs in Hong Kong, it requires change in the RDO's scope and coverage. In line with international human right standards, the residency status of ASRs should not determine the extent of the protection of their human rights. Advocates should strive for the improvement of policies so that there is greater transparency in the ASR's screening system, which allows check and balance to avoid different levels discrimination within the system. Instead of worrying about the resources distribution, there have been more humane systems in other developed countries which also host a huge number of ASR, and the Hong Kong government should learn from them.
 - a. The immigration and asylum seeking systems should provide fair assessment and screening procedures for ASR instead of labelling them as illegal migrants, which in itself is an act of discrimination, further reinforces discrimination against them at all levels.
 - b. The right to work, a basic economic, social and cultural human right for all people, should be protected and can alleviate the perpetuated discriminatory stereotypes and be one of the humane alternatives to the negative situations ASR face.
2. The fact that Hong Kong people's lack of knowledge about ASR community also contributes to serious discrimination against them. To facilitate the development of a harmonious community, people will need to know more about them as humans, instead of being misled by overgeneralised negative narrative of them generating from single or few crimes reported by the media, politicians as well as labels from government policies. More resources and attention need to be allocated and paid for public education, organizational education and training for everyone providing services, beyond cultural exchange and education, but education about the reasons of the ASRs coming to HK, the welfare system they are having and difficulties they are facing in Hong Kong and enhancing a closer interaction between the locals and ASR etc. to promote respect and understanding among the community.

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Appendix I

Table 9: Profile of Interviewee

	Name	Place of birth	Duration in Hong Kong	Age Group	Residency status
1	Mrs A	Eastern Africa	3 years	18-24 years	Asylum seeker
2	Mr B	Western Africa	15 years	35-44 years	Asylum seeker
3	Mr C	Middle East	6 years	35-44 years	Asylum seeker, appeal in process
4	Mr D	Southern Asia	12 years	25-34 years	Asylum seeker
5	Mr E	Western Africa	6 years	25-34 years	Dependent Visa
6	Mrs F	Southern Asia	19 years	35-44 years	Asylum seeker
7	Mr G	Eastern Africa	4 years	35-44 years	Dependent Visa
8	Mrs H	North Eastern Africa	8 years	25-34 years	Refugee
9	Mrs I	Southern Asia	4 years	25-34 years	Asylum seeker, appeal in process
10	Mrs J	Central Africa	1 year	18-24 years	Unknown
11	Mr K	Southern Asia	8 years	65 years or over	Refugee
12	Mr L	Eastern Africa	8 years	18-24 years	Refugee

Appendix II

Survey on the Discrimination Experience based on Residency Status of

Asylum seekers/Refugees in Hong Kong

You are invited to participate in a research study conducted by Michelle Ng from The University of Hong Kong. The purpose of the study is to investigate the discrimination experiences encountered by asylum seekers (AS)/refugees in their everyday lives in Hong Kong.

You will be invited to fill out the survey questionnaire to give your opinion on your experience in Hong Kong. It will take about 30-45 minutes to complete, and you can choose to stop at any time without negative consequences.

All information collected will remain strictly confidential and anonymous. Individual details from the survey will not be disclosed or identifiable to the public. Aggregate data will be presented for research purposes only. No commercial use of the data will be allowed. The data containing personal identifiers (e.g. nationality, etc.) will be kept for 6 months after publication of the first paper, and personal identifiers will be removed for long term retention of the research data.

If you have any questions about the research, please feel free to contact Ms. Michelle Ng at 92484657 or michnsy@hku.hk. If you have questions about your rights as a research participant, please contact the Human Research Ethics Committee, HKU (2241-5267).

Please circle your answers

Part 1

1. Age	a) 18-24 years b) 25-34 years c) 35-44 years	d) 45-54 years e) 55-64 years f) 65 years or over
2. Gender	a) Female	b) Male
3. Total length of stay in HK since you last entered HK	a) less than 1 year b) 1-2 years c) 3-5 years	d) 6-10 years e) over 10 years
4. Total years holding recognizance document	a) less than 1 year b) 1-2 years c) 3-5 years	d) 6-10 years e) over 10 years
5. Skin Colour	a) Black b) White c) Yellow	d) Brown e) Others: Please specify _____
6. Nationality (Can choose more than one)	a) Indian b) Pakistani c) Bangladeshi d) Vietnamese e) Indonesian	f) Filipino g) Nepalese h) Sri Lankan i) Gambian j) Others: please write your country _____
7. Total number of family members in Hong Kong (excluding yourself) (Can choose more than one)	Number: _____ a) Parent(s) b) Child/ Children	c) Sibling(s) d) Spouse e) Others: please specify _____
8. Current Marital Status	a) Single b) Widow c) Divorced d) Married before coming to HK	e) Married after arriving to HK with someone with a HKID f) Married after arriving to HK with someone who does not have HKID g) Others: please specify _____
9. Languages you can speak fluently (Can choose more than one)	a) English b) Cantonese c) Mandarin d) French h) Arabic	e) Spanish f) Punjabi g) Urdu h) Vietnamese i) Others: please write which language _____

10. Education Level (highest level completed)	a) Primary school level or below b) Secondary school level i) Some college/ vocational school	c) University degree j) Postgraduate degree or above
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Part 2- Discrimination

1. Have you ever experienced discrimination, been prevented from doing something, or been hassled or made to feel inferior in any of the following situation since seeking asylum in Hong Kong?			
a) At school or when seeking educational services?	Yes/ No	If yes, how often did this happen? a) Once b) Once per year c) Once per month d) Once per week e) Everyday	If yes, what do you think is the main reason for this experience? (Choose only one) a) Residency (no HKID Card) b) Your race c) Your nationality d) Your shade or skin colour e) Your religion or beliefs f) Other reasons. (Please specify: _____)
b) When seeking housing?	Yes/ No	If yes, how often did this happen? a) Once b) Once per year c) Once per month d) Once per week e) Everyday	If yes, what do you think is the main reason for this experience? (Choose only one) a) Residency (no HKID Card) b) Your race c) Your nationality d) Your shade or skin colour e) Your religion or beliefs f) Others (Please specify: _____)
c) When seeking medical or healthcare services in government clinics/ hospitals?	Yes/ No	If yes, how often did this happen? a) Once b) Once per year c) Once per month d) Once per week e) Everyday	If yes, what do you think is the main reason for this experience? (Choose only one) a) Residency (no HKID Card) b) Your race c) Your nationality d) Your shade or skin colour e) Your religion or beliefs f) Others (Please specify: _____)
d) When seeking services from non-governmental organizations or charities? (e.g. Christian Action, Free to Run, Justice Centre, VCSL, Caritas, Salvation Army etc. and they connect you to dentists or eye check ups)	Yes/ No	If yes, how often did this happen? a) Once b) Once per year c) Once per month d) Once per week e) Everyday	If yes, what do you think is the main reason for this experience? (Choose only one) a) Residency (no HKID Card) b) Your race c) Your nationality d) Your shade or skin colour e) Your religion or beliefs f) Others (Please specify: _____)
e) When receiving other services (e.g. food, shopping, Park N Shop, at the bank, etc.)?	Yes/ No	If yes, how often did this happen? a) Once b) Once per year c) Once per month d) Once per week e) Everyday	If yes, what do you think is the main reason for this experience? (Choose only one) a) Residency (no HKID Card) b) Your race c) Your nationality d) Your shade or skin colour e) Your religion or beliefs f) Others (Please specify: _____)
f) When getting access to public facilities (e.g. gym, swimming pool, library, playground, etc.)?	Yes/ No	If yes, how often did this happen? a) Once b) Once per year	If yes, what do you think is the main reason for this experience? (Choose only one) a) Residency (no HKID Card) b) Your race

		c) Once per month d) Once per week e) Everyday	c) Your nationality d) Your shade or skin colour e) Your religion or beliefs f) Others (Please specify: _____)
g) When walking on the street or being in other public spaces (e.g. taking transportation, strolling in the parks, walking home etc.)?	Yes/ No	If yes, how often did this happen? a) Once b) Once per year c) Once per month d) Once per week e) Everyday	If yes, what do you think is the main reason for this experience? (Choose only one) a) Residency (no HKID Card) b) Your race c) Your nationality d) Your shade or skin colour e) Your religion or beliefs f) Others (Please specify: _____)
h) At religious institutions? (e.g. church, mosque, temple etc.)	Yes/ No	If yes, how often did this happen? a) Once b) Once per year c) Once per month d) Once per week e) Everyday	If yes, what do you think is the main reason for this experience? (Choose only one) a) Residency (no HKID Card) b) Your race c) Your nationality d) Your shade or skin colour e) Your religion or beliefs f) Others (Please specify: _____)
i) When dealing with the Police?	Yes/ No	If yes, how often did this happen? a) Once b) Once per year c) Once per month d) Once per week e) Everyday	If yes, what do you think is the main reason for this experience? (Choose only one) a) Residency (no HKID Card) b) Your race c) Your nationality d) Your shade or skin colour e) Your religion or beliefs f) Others (Please specify: _____)
j) When dealing with lawyers and the judicial system? (e.g. legal aid, duty lawyer and USM etc.)	Yes/ No	If yes, how often did this happen? a) Once b) Once per year c) Once per month d) Once per week e) Everyday	If yes, what do you think is the main reason for this experience? (Choose only one) a) Residency (no HKID Card) b) Your race c) Your nationality d) Your shade or skin colour e) Your religion or beliefs f) Others (Please specify: _____)
k) When dealing with the Immigration Department? (e.g. when you need to go sign each month, when immigration calls you etc.)	Yes/ No	If yes, how often did this happen? a) Once b) Once per year c) Once per month d) Once per week e) Everyday	If yes, what do you think is the main reason for this experience? (Choose only one) a) Residency (no HKID Card) b) Your race c) Your nationality d) Your shade or skin colour e) Your religion or beliefs f) Others (Please specify: _____)
l) When dealing with other government authorities? (e.g. Social Welfare Department, ISS etc.)	Yes/ No	If yes, how often did this happen? a) Once b) Once per year c) Once per month d) Once per week e) Everyday	If yes, what do you think is the main reason for this experience? (Choose only one) a) Residency (no HKID Card) b) Your race c) Your nationality d) Your shade or skin colour e) Your religion or beliefs f) Others (Please specify: _____)

2. Please number 1 to 3 which three discrimination experiences you had which impact your life most.	
	a) At school or when seeking educational services
	b) When seeking housing
	c) When seeking medical or healthcare services in government clinics/ hospitals
	d) When seeking services from non-governmental organizations or charities? (e.g. Christian Action, Free to Run, Justice Centre, VCSL, Caritas, Salvation Army etc.)
	e) When receiving other services (e.g. food, shopping, Park N Shop, at the bank, etc.)?
	f) When getting access to public facilities (e.g. gym, swimming pool, library, playgrounds, etc.)
	g) When walking on the street or being in other public spaces (e.g. taking transportation, strolling in the parks, walking home etc.)?
	h) At religious institutions (e.g. church, mosque, temple etc.)
	i) When dealing with the Police (e.g. when they stop you on the street for ID)
	j) When dealing with lawyers and the judicial system? (e.g. legal aid, duty lawyer and USM etc.)
	k) When dealing with the Immigration Department? (e.g. when you need to go sign each month, when immigration calls you etc.)
	l) When dealing with other government authorities? (e.g. Social Welfare Department, ISS etc.)

3. Please describe briefly your experience numbered 1, 2 and 3 above.
1 (Most important).

2. _____

3. _____

Part 3

1. If you feel you have been discriminated and treated unfairly what do you usually do?	a) Accept it as a fact of life b) Try to do something about it
2. Is anyone doing something now to fix the situation so that there is less unfairness?	a) Yes, please specify _____ _____ _____ _____
3. Can anyone help make the situation better so that it will be fairer in the future?	a) No b) Yes, please specify _____ _____ _____ _____
4. If you have been discriminated or treated unfairly, do you usually	a) Talk to other people about it (Circle: Family/ Friends/ Case worker/ Religious leader/ Others (please specify) : _____) b) Keep it to yourself
5. Have you heard of the Equal Opportunities Commission in Hong Kong and their services?	a) Yes b) No
6. Have you heard of the Race Discrimination Ordinance in Hong Kong?	a) Yes b) No

Part 4

Please circle the number in the box for each of the six statements that is closest to how you have been feeling **over the last two weeks**.

Circle 5 if All the time. Circle 0 if At no time.

Over the last two weeks	All of the time ← → At no time					
	5	4	3	2	1	0
1. I have felt cheerful and happy.	5	4	3	2	1	0
2. I have felt calm and relaxed (e.g. not worried or anxious).	5	4	3	2	1	0
3. I have felt active and full of energy.	5	4	3	2	1	0
4. I wake up feeling fresh and rested, and feel I slept well.	5	4	3	2	1	0
5. My daily life is filled with things that I am interested in.	5	4	3	2	1	0
6. I felt “stressed” because of <u>discriminating</u> experiences and being treated unfairly.	5	4	3	2	1	0

Appendix III

Interview Questions

In this interview, we have a set of questions we would like to go through – about your life in Hong Kong, discrimination experience if any, and suggestions to improve. It is not a questionnaire, so we are not just looking for yes/no answers. We'd like your full views on these issues – so feel free to speak at length.

Assurance of confidentiality.

Demographic information

1. Could you tell a bit about yourself?

Probe: How old are you? Where is your place of birth? How long have you been stayed in Hong Kong?

General life in HK

2. What is the first adjective pop up in your mind about your life in Hong Kong? Could you elaborate on the reasons choosing the word?
3. What is the first adjective pop up in your mind about your interaction with people in Hong Kong? Could you elaborate on the reasons choosing the word?

Discrimination

4. What does discrimination mean to you? It's fine if you don't have an opinion.
5. From your experience in Hong Kong, is there any discrimination from the others that make you most angry or sad?
6. Any discrimination experiences keep worry you?
Probe: any discrimination being very persistent and keep frustrating you?
7. What are the impacts of the experiences?
Probe: What are the change to your attitude, perspective of Hong Kong people, or even way of life?
8. What do you think is the reason being discriminated? Or can you think of any reason why you were treated this way/discriminated?
9. How do you face/overcome these discriminating experiences?

Ways to improve

10. Do you think if there is any policy/ law/ rules in Hong Kong that protect you from discrimination?
11. Do you know any individuals, groups or organizations who are paying effort on changing the situation? Who are they and what are they doing?
12. In what way do you think the situation could improve? Or are there any ways this situation can be changed?
13. What do you know about the Equal Opportunities Commission in Hong Kong? And Race Discrimination Ordinance?

That concludes our questions. Do you have other issues which you would like to raise? Perhaps things you feel are important which we have not asked about?

Thanks.