

**Speech delivered by Piya Muqit, Executive Director of Justice Centre Hong Kong, at the first informal thematic session of the Global Compact for Safe, Orderly and Regular Migration
Geneva
May 9 2017**

Your Excellencies, civil society colleagues, ladies and gentlemen. I would like to begin by thanking the Secretariat for inviting me to speak.

Justice Centre Hong Kong is a domestic human rights organisation working to protect the rights of refugees and forced migrants in Hong Kong through law, torture rehabilitation, policy and advocacy and research. We work with and for our clients to ensure their voices underpin all the work we do.

Louise Arbour opened yesterday's proceedings reminding us of the value and importance of existing international human rights laws and frameworks in ensuring a rights based approach is adopted in all the work we do respectively for migrants.

However we in Hong Kong operate in a context where there are piecemeal laws and piecemeal protection in place for migrants whether refugees, victims of trafficking, victims of forced labour or migrant domestic workers.

The Refugee Convention was never extended to Hong Kong when it was a British colony and China has not extended the Palermo Protocol when it ratified it in 2010. The absence of both has posed significant hurdles for migrants and left a wide protection gap

The Race Discrimination Ordinance introduced only 8 years ago does not fully comply with the recommendations of CERD as it does not prohibit discrimination on the grounds of immigration status or nationality; nor does it cover all Government functions and powers.

Hong Kong is a wealthy city. Migrants, whatever their status, are not perceived as a threat to the local community in terms of jobs, access to housing or State subsidies. Compared to its

neighbours in South-East Asia, it has a small population of people seeking protection but a large population of migrants working in shortage skill areas.

Hong Kong is also an example, unfortunately, of a region where racism and xenophobia exists in its rawest form, the "them and us" discourse. These attitudes, particularly from Government, have driven and shaped public policy even more prominently in the past 2 years.

The negative rhetoric has culminated in the Government now seriously considering mandatory immigration detention for all individuals seeking protection. There have even been calls to withdraw from the Convention against Torture including by the Chief Executive in his public policy address last year.

While Europe has experienced large numbers of refugees and victims of trafficking in recent years, Hong Kong, like its East Asian neighbours Japan and South Korea, have had very small numbers. The only crisis it has experienced is one of responsibility sharing given its position globally in economic terms.

Since 2009, only 83 individuals have been recognised as in need of protection and there are currently 9000 pending claims. This 0.6% recognition rate is one of the lowest in the developed world. There is no right to work for any migrants seeking protection in the civil or criminal courts or those recognised in need of protection.

This has created underground, exploitative labour conditions for those individuals driven to illegally working because of inadequate humanitarian assistance. The Government provides an allowance of US\$5 in the form of food vouchers to survive in a city the World Economic forum has found to be the second most expensive in the world to live in.

Unfortunately conditions ripe for exploitation are not limited to those seeking protection. There are around 350 000 migrant domestic workers in Hong Kong. They represent roughly 10% of the working population and the city, to large extent, relies on their labour to function.

Research we conducted and published in 2016 (in a report called 'Coming Clean') estimated that 50 000 of migrants working in domestic work were in forced labour with 14% of these trafficked into the situation. Exploitation is therefore systemic. But migrant domestic workers, unlike other economic migrants like myself, are prohibited from attaining permanent residence even if they have lived in Hong Kong for decades.

Social inclusion has been difficult to achieve in Hong Kong where immigration status has been one of the determining factors to integration and social inclusion. Social inclusion and integration are also greatly impacted by the language used. Justice Centre began monitoring worrying trends in the media, certain political parties and by politicians using inflammatory language when talking about migrants and ethnic minorities in public.

The Government has begun using an official label, 'non-ethnic Chinese illegal immigrant', in its many of its reports and data collection processes. Other terms now free flowing in public discourse include 'bogus refugees' 'fake refugees' and 'illegal immigrants'. From Jan 2014 until Oct 2016 there were 2422 news articles that used "fake refugees", 68% of those published in 2016.

For months the media and politicians told the public that the crime rate had increased due to migrants (particularly south Asians) committing more crime. Open Data Hong Kong obtained data from every police station in Hong Kong that showed the contrary – that crime was in fact down overall for the past decade. Yet assertions that crime was increasing and that this was the result of "migrants" or "bogus refugees" were increasing. Newspapers have also described migrants as "toxic tumours".

In one of the highest circulating Chinese language newspapers, the Oriental Daily, we found in 2014 there were 5 articles associating refugees to crime but there were 211 articles alone by October last year. This is an increase of over 1000%.

The constant exposure to racism significantly impacts public opinion. Recent research found that only 4.7% of the Hong Kong public had positive views of asylum seekers and 49.4% associated asylum seekers with criminals. The recommendation from the study was that the Government should strengthen civil education and public awareness about this group.

The starting point for any shift in this negative rhetoric has to be the tone a Government sets in respect to their own narrative of migrants in their country. But the official position from the Government of Hong Kong is that migrants who are undocumented are not considered to be part of Hong Kong society because of their immigration status.

It is on this basis that civil society working with asylum seekers cannot access Government funding nor funding from the largest donor in Hong Kong, the Jockey Club. Humanitarian services

for adults and children, including health and education support, and access to justice initiatives is increasingly difficult to fundraise for in the current hostile environment. But given its wealth, Hong Kong is not a target for international donors focussed on migrant or refugee rights.

Yesterday the delegation of China correctly reminded us that discrimination is increasing. They urged all countries to recognise the positive aspects of migration and migrants and ensure a spirit of openness and inclusiveness. They also said that laws should be strengthened and migrants themselves put at the centre to improve law and policy.

Whether documented or undocumented, migrants, forced or otherwise, continue to face racism and xenophobia in Hong Kong due to a lack of all of the above.

As civil society we stand ready to work with Governments to fight discrimination, racism and xenophobia. Together we can make a real difference in the lives of migrants.

But as the Chairwoman of CERD reminded us at the launch of the Together campaign, "nothing about us, without us."

It is all of our responsibilities that the voice of the migrant is heard in these proceedings and not lost or drowned out by racist and xenophobic language masked as public policy priorities, arguments about state sovereignty and the need for stronger border control. It is imperative to the integrity of these negotiations that this voice in at the centre of decision making in the crafting of both Global Compacts.

I hope my contribution will lead to fruitful discussions on how we can work together to do this.

PROTECTING FORCED MIGRANTS' RIGHTS

Justice Centre Hong Kong Ltd. - L1, The Sparkle, 500 Tung Chau Street, West Kowloon. 西九龍通州街500號星匯居L1

Tel + 852 3109 7359 | **Fax** + 852 3422 3019 | **Email:** info@justicecentre.org.hk | Justice Centre Hong Kong Ltd is a registered charity (IR91/9790)