

## **Resisting government labelling and engaging the community: The ‘March For Protection’ in Hong Kong**

*By Francesco Vecchio and Cosmo Beatson*

This article intends to analyse an event that revealed new avenues for Hong Kong’s civil society to counter the government’s attempt to negate asylum seekers’ individual agency and the government’s opposition towards a comprehensive asylum policy. This article outlines the context which led to the organisation of the ‘March For Protection’ on 30 October 2012. In doing so, it aims to offer a starting point to explore and debate the march’s rationale, attainments and, more generally, civil society’s relationship with state power.

Asylum seekers in Hong Kong recently grabbed the headlines with a protest march in which they demanded fairer screening and rebuffed official and public views that generally depict them as bogus claimants. In the wake of the ‘March For Protection’ (MFP) and widespread English-language press coverage highlighting the difficulties asylum seekers face in the territory (for example Chiu 2012a; SCMP Editorial 2012; Kennedy 2013; Yeung 2013), civil society and UNHCR Hong Kong’s head-of-office called forcefully for local authorities to accede to the 1951 Convention Relating to the Status of Refugees (1951 Refugee Convention) (Chiu 2012b; Read 2013) and address current procedural shortcomings (Daly 2012; Vision First 2013a).

Hong Kong is a Special Administrative Region of the People’s Republic of China. Under the ‘one country, two systems’ policy, it enjoys relatively broad administrative independence in immigration policy. While it is not our intention to delve into China/Hong Kong relations, we note that although the mainland signed the 1951 Refugee Convention and provisions for refugees were included in domestic law, Hong Kong has instead firmly resisted its extension to the territory (Loper 2010). Nonetheless, the city is a signatory to the 1984 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and a two-track asylum screening system is available to refugees. On the one hand, UNHCR performs refugee screening. On the other, the Hong Kong Government assesses claims under Article 3 of CAT, which prohibits the removal of a person to the country where s/he would face torture or other cruel treatment. In spite of its potential to minimise mistakes, this bifurcated asylum practice has been said to give rise to procedural confusion, delays and a wasteful duplication of resources. Refugees’ concurrent or sequential reliance on both mechanisms affects the understandings of asylum seeking. Additionally, public policy is shaped by Hong Kong’s memory of dramatic mainlander and Vietnamese refugee inflows in the past (Vecchio, forthcoming). The government has repeatedly asserted that were Hong Kong to accede to the 1951 Refugee Convention, the city would be flooded by waves of illegal migrants posing as asylum seekers to gain entrance and exploit local prosperity (see for example discussions in the Hong Kong Legislative Council, LG 2011).

There are indications that these, and other misconceptions, are widespread in the community. A typical statement in this direction was made by scholar Victor Fung (2012), who recently alerted the readers of *China Daily* that waves of ‘economic migrants’ would inundate the city, working illegally to support their families back home. In his reply to UNHCR’s appeal, Fung warned that were Hong Kong to accede to the 1951 Refugee Convention, the territory would be doomed to ‘sink’ into the harbour and ‘drown’. However, the reasons why such a

catastrophic scenario would inevitably unfold were not disclosed. As often happens (see Tao 2009), the rationale supporting official propaganda on the formation of the Refugee Convention/illegal migration nexus is rarely elucidated, giving us the impression that certain beliefs have become so profoundly ingrained in Hong Kong's mindset that they amount to tautological truths. While proponents offer no evidence to support the formulation of their views, any attempt to negate them is resisted no matter what evidence is presented to refute their validity.

In reality, Fung's comments are reflective of an old myth, namely, that Hong Kong should remain firm in erecting protective floodgates to control the desirable ebb and flow of people in times of neoliberal globalization. In the 1980s and 1990s, when Hong Kong changed from a manufacturing centre to a service economy, its labour needs shifted rapidly from requiring menial skills to valuing brain-power (Zhao *et al.* 2004). As a consequence, a low-skilled immigrant population was perceived as a burden, rather than an asset. As stressed by Law and Lee (2006: 235), 'the Hong Kong state has a long tradition of using economic conditions as the most important premise for policy-making, not merely in relation to immigration control, but to nearly all aspects of public policy-making'. While humanitarian values seldom occupy a significant role in Hong Kong government's policies, 'economic prosperity is regarded as the cornerstone of the state's legitimacy' (Law and Lee 2006: 235). For example, in January 1999, after the Hong Kong Court of Final Appeal declared unconstitutional the government's scheme to prevent 1.67 million mainland Chinese, related to Hong Kong residents, from acquiring the right of abode (according to Article 24 of the Basic Law, Hong Kong's mini-constitution), the government called on the Standing Committee of the National People's Congress in Beijing to reinterpret the article and restrict that right (Smart 2003). To justify this extreme measure, the authorities put forward the catastrophic scenario of a massive invasion of Chinese mainlanders flocking into tiny, over-populated Hong Kong and threatening its economic development (Ku 2001; Smart 2003). Similar fears had been raised when Vietnamese refugees landed in Hong Kong between the 1970s and 1990s. While at first their arrival did not raise particular concerns, after an increasingly fatigued international community retracted its resettlement support, the government branded those 'boat people' as illegal immigrants fleeing poverty, not persecution (Thomas 2000).

In the wake of this extraordinary experience – that is still etched seminally in the city's psyche – the government has continuously maintained a firm and intransigent policy of not granting asylum. Furthermore, the government has insisted upon its demand that the international community repay the money spent to shelter and care for the Vietnamese refugees. Thereafter, every attempt to legislate in favour of a more humane refugee policy, and the spontaneous arrival of underprivileged people, has been resisted as potentially cracking the dam and threatening Hong Kong's prosperity.<sup>13</sup> Additionally, extremely low recognition rates of torture claimants conveniently undergird the official standpoint that asylum seekers are bogus. In particular, since CAT screening commenced in 2004, a total of 11,900 claims have been lodged, and only one was substantiated in May 2008, following court intervention. This is tantamount to a recognition rate of zero per cent, which has been

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<sup>13</sup> In what sounds like a political statement, a 2011 Court judgment denied the right to work to a sample of UNHCR refugees and the single screened-in torture victim (*Ma v Director of Immigration*). The judge explicitly emphasised 'Hong Kong's small geographical size, huge population, substantial daily intake of immigrants from the Mainland, and relatively high per capita income and living standards.' With this position the court justified the adoption of 'very restrictive and tough immigration policies and practices' which would otherwise give a 'ray of hope' to illegal migrants posing as asylum seekers.

said to raise questions about the screening fairness and government willingness to protect torture victims (Vision First 2012).

On 30 October 2012, over 300 asylum seekers and their sympathisers took to the streets to protest against government policies and discourses of asylum aimed at categorising claimants as deviant economic migrants. In this demonstration, protesters marched in solidarity to demand fairer screening and to reject the government's 100 per cent rejection rate of torture claimants. Organisers argued that this is an impossible statistic, apparently maintained to support the accusation that asylum seekers are effectively economic migrants bent on abusing the system (Vision First 2012). The protesters drew a link between this homogenous categorisation and the government's attempt to hastily dismiss the 1951 Refugee Convention as a risky loophole that would inescapably endanger the city. In fact, painting every claimant with the same brush appears to conveniently exonerate the administration from implementing a comprehensive system for the contemporaneous assessment of both UNHCR refugees and CAT claimants. In the current system, claimants' credibility is undermined and a culture of suspicion has taken root in the presumption that asylum seekers are deviant abusers laying siege to Hong Kong for profit. To resist this characterisation, the MFP embodied a visible movement that finally countered such asylum policies and refugee politics. As one asylum seeker observantly stated, 'no matter what our stories are, whatever our individualities and dreams are, we are all illegal immigrants. They [government authorities] want us to be economic migrants. They make us live like this, but I'm not what they want us to be'.

The MFP was the first large, public demonstration in Hong Kong by asylum seekers who are not afforded regular immigration status. Predictably, it failed to achieve immediate policy changes, but it exposed what protesters perceive to be government malpractices. First, by objecting to bureaucratic constructs that homogenise their identities and reasons to travel to Hong Kong, asylum seekers united to make one voice of their many concerns. As protesters chanted slogans intended to push human rights into the political agenda, those previously believed to belong to reserved, fringe groups, came courageously together, and (paradoxically) transcended their individual, cultural and ethnic differences to claim their diverse individualities. As participant Beatson stressed in his closing argument during the march, 'People said we couldn't get organised. They said it was dangerous to take action... They were wrong!' Second, the MFP raised public awareness by drawing increased media attention to refugees, as evidenced by a dozen articles, letters and editorials that appeared in the English-language press in late 2012. Conversely, the Chinese media mostly did not cover the demonstration. This possibly reflected the local population's attitude as seemingly still bruised by previous refugee ordeals. However, this sudden and unexpected exposure arguably compelled UNHCR to take a firmer public stand and openly demand that the government accede to the 1951 Refugee Convention. As head-of-office Karani (2012) stated, 'When it comes to expedient but fair due process, no one can compete with Hong Kong, and were the government to implement robust refugee-status determination procedures under the Refugee Convention, the effect would be that of a deterrent, not a magnet'. Third, a realistic advocacy strategy apparently emerged among similarly-minded individuals, legislators and NGOs (see Vision First 2013b). Yet the refugee non-profits have to demonstrate a stronger disposition to prioritize the refugee cause, and breach the bedrock of the predominantly adverse Chinese public opinion.

In conclusion, the MFP denounced practices of ordinary state violence on populations whose individualities and untenured legal status normally hinder their union. In what Green and Ward (2012) have argued to be a dialectical process between engagement and resistance, the

MFP identified and opposed government policy and practices that ostensibly violate social/legal norms relating to human rights. Further, it attempted to educate Hong Kong citizens and state actors about the consequences of denying asylum seekers their due agency. Importantly, the MFP demonstrated that new avenues are available for Hong Kong civil society to openly protest and engage the government's power to render asylum seekers 'bogus'. In so doing, it affirmed the civil society's duty and right to pinpoint government cruelty and shortcomings. Thus, it elevated a potent, symbolic mirror for the government to look at itself and question its work (cf. Cook 2011). Whether such effort is to result in positive outcomes is yet to be seen. The MFP will be staged again on 27 April 2013 with the aim of achieving greater vigour and broader participation from locals and those who were discouraged in October by fears of mass arrests and detention.

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