

September 16, 1998

**SUBMISSION TO THE LEGISLATIVE COUNCIL PANEL ON
HOME AFFAIRS**

Subject: The need for Race Discrimination Legislation in Hong Kong

Introduction

The notion of being a modern and civilized society is often associated with economic wealth, good infrastructure, the rule of law, a well established social structure along with other components.

One essential component must be protection against discrimination for racial minorities within any territory. Hong Kong claims to be a “modern and civilized” society, yet remains one of very few such places that refuses to afford full protection to its minority residents.

The Hong Kong Government, being a signatory to the International Convention on the Elimination of all forms of Race Discrimination (The Convention) is bound by International Law to introduce legislation that “prohibits discrimination” against racial minorities.

The Hong Kong Government has acknowledged, through its education program, that there is a need to ensure minorities are treated with equal respect and dignity when compared with the majority. However, Such steps are effectively a “toothless tiger” if not backed up with legislation to ensure that the majority not only perceive the minorities as equal, but also treat them as such.

The need for Legislation

1) **A Legal Obligation.**

The Convention specifically calls for steps to be taken to “prohibit” discrimination. Prohibition can only be practised if the Government legislates against race discrimination. Education does not fulfil the Government’s obligation.

Although the Bill of Rights prevents the Government from practising discrimination, The Convention does not limit the signatories’ obligations to Government bodies only.

2) **The HK Government’s Survey on discrimination.**

The Government continues to cite findings of its recent survey that indicated the community does not see the need for race discrimination legislation. The Government’s findings were established by asking the majority if the minorities require protection.

There is a glaring inadequacy with the mechanism of such a survey. It would be similar to only asking men if legislation is required to protect the rights of women. Any survey must focus on the target group and not the group that are practising discrimination.

The Indian Resources Group attach selected extracts from responses received by the HK Human Rights Monitor, when they asked random members of the minority communities whether they felt discrimination existed or not (attachment 1).

3) **The current situation in Indonesia.**

The tragic and disgraceful treatment of ethnic Chinese in Indonesia has quite rightly appalled Hong Kong people. Demonstrations have taken place in Hong Kong to condemn the treatment of Chinese people in Indonesia. If the HK Government were to ask HK people whether the Chinese in Indonesia should be protected, the response would undoubtedly be positive.

Although such overt forms of violence against minorities are not evident in Hong Kong, the simple fact is that in Indonesia, Chinese people are being discriminated against because of their race and quite rightly, there are calls in Hong Kong to protect the rights of these people.

We are simply asking that Hong Kong practises what it preaches and protects the rights of minorities.

4) **The current situation in Hong Kong.**

A) The South China Morning Post's recent story on the treatment afforded to different ethnic groups on admission to bars highlighted the problem faced by many law abiding minority residents (attachment 2).

The Home Affairs Branch subsequently wrote to the bars in question and tried to "educate" the bars about the discriminatory nature of their practices. Despite this, the bars in question continue to practise racially biased policies.

B) Housing. Many minorities face regular problems in finding accommodation due to discrimination. An associate editor of the Hong Kong Standard wrote about his personal experience in the newspaper not long ago, when he was told that his prospective landlord did not want to rent his property to Indian people.

C) The Economy. The negative press in Hong Kong created by the revelation that hotels were overcharging Japanese Tourists has undoubtedly impacted the flow of tourists from Japan to Hong Kong. Although the current economic situation in Japan is weak, many Japanese have chosen to stay away from Hong Kong for fear of being over charged by local hotels and detail shops.

The perception of being discriminated against has resulted in HK

losing significant income from its leading tourist market.

Attachment 3 includes quotations from a leading member of the business community who was quoted as saying “business would prefer an all-embracing law, including race.”

D) Other forms of discrimination.

i) Attachment 4 is a copy of a letter written to the author by concerned members of the minority community about possible discrimination in education.

ii) Minorities in HK regularly face the embarrassment of being turned away by employers, landlords, taxis, buses and shop assistants.

iii) Those minorities who speak Cantonese regularly encounter verbal abuse by members of the majority population who are unaware the minority speaks the local language.

iv) On September 16 1998 a leading member of the Legislative Council stated that “we should never let the gweilo know our last card.”. We appreciate that such comments were made as a “slip of the tongue”, but wonder whether the legislator in question is aware that some “gweilos” are in fact HK people who are also interested in the well being of Hong Kong.

Comments such as the above further alienate minorities in Hong Kong and make them feel less secure in a territory that is the only home they have.

The Hong Kong Government's Position

1) The Concept of Relatively. The Chief Executive continues to cite that HK's record on discrimination is better than those of other countries.

Whereas such statements cannot be backed up with facts and would undoubtedly be questioned by members of minority groups, it is unacceptable to simply state, even if correct, that HK is better than others.

The simple fact that legislation does not exist to outlaw discrimination shows that HK is relatively worse than other developed nations in protecting the rights of minorities.

The Chief Executive has highlighted incidents of discrimination as being less severe in HK than other nations such as Britain and the USA. Even if such allegations are correct, focusing on HK's relative performance as opposed to its absolute performance is not acceptable. Any form or amount of discrimination is wrong.

2) Discrimination is not a problem. The Secretary for Home Affairs was recently quoted as saying discrimination was not a problem in Hong Kong. The Government's lack of movement on legislation stems from a belief that discrimination does not exist or is not a major problem.

The need for legislation should focus on the need to outlaw the behaviour or action in question, regardless of whether the action is seen to be a major problem or not. The Chief Executive has stated that discrimination is wrong and should not be tolerated. Given this and this alone, legislation should be enacted.

The Government's position can be likened to not outlawing particular crimes if the incidence of those crimes are negligible or reducing.

3) Education vs Legislation. The IRG fully supports the Government's position that education is vital to ensuring that minorities are perceived and treated equally. Education is a long term solution than can only be effective if backed up by legislation.

We do not simply educate members of our community that theft is wrong, we legislate to ensure that if our educational efforts fail, a mechanism is in place to punish an offender.

There is no conflict between education and legislation, in fact the two are complimentary. Legislation will provide the educational effort with much needed ammunition as legislation will encourage discussion about the issue.

The formation of the Equal Opportunities Commission has raised much debate in our society about the need to protect the rights of women. The same commission, with a structure already in place, could easily handle the issue of race discrimination and will also ensure that healthy debate takes place in HK about the issue of race discrimination.

Misconceptions about the need for Legislation

1) Affirmative action. The call for legislation is not a call for affirmative action type policies in Hong Kong. The minorities of HK have not suffered the kind of indignity as the African American community in the United States.

2) An effort to change the Basic Law. The call for legislation is not a call to change the Basic Law.

The call for legislation is a call to protect individual members of racial minority communities from being ostracised by society simply because of their race.

Conclusion

Discrimination on the basis of race, as with discrimination on the basis of gender, physical disability or sexual preference should never be tolerated by the Government in any society.

An education program is essential toward informing the majority about racial minorities. An education program can take generation to work it's way through a system, we must start with

young members of the majority community and develop their thinking over time.

Education in this regard has a fault in that it does not provide the immediate protection minorities require whilst an education program is under way.

Education without legislation cannot work. Despite the best efforts of any Government, discrimination will not cease simply by education. Those who do discriminate must know that their actions will not be accepted in both the public and private sector.

Legislation can further the education process as it will encourage discussion about race discrimination and its implications on society.

For those who have been subjected to discrimination on the grounds of their race, the consequences can be psychologically damaging and harmful to society as a whole.

There is not much worse than being insulted, embarrassed and humiliated solely based on the colour of ones skin. Can the Hong Kong Government simply hide behind the cloak of education as a way of shirking its responsibility to all Hong Kong people?

Not all Hong Kong people are Chinese.

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EXTRACTS FROM RESPONSES

Respondent 1

My previous position (xxxxx Director) was re-classified as needing a Cantonese speaker (not true, I did the job with ease for 3 years), this was the Hong Kong xxxxx. My contract was not renewed. I now run my own business.

Other cases of discrimination would include academics who feel they have lost their position because of their race. (a University)

Difficulty in getting a taxi at times.

Respondent 2

Irish expat labeled all Filipinos as greedy who “take, take, take”.

British barrister labelling all Vietnamese as liar and violent. The person tried to convince this barrister otherwise but to no avail.

Bus driver yelled at a mainlander pretending not to understand his semi-Cantonese question.

Vietnamese refugees were being fired after the employer discovered through a police check that he or she was Vietnamese even though the employee did nothing wrong.

Respondent 3

My experience of discrimination was following surgery attending a clinic for after care. I was not refused treatment but was bombarded with questions regarding my parentage. I ended up asking if this had any relevance to my examination.

I feel that for many non-Chinese in Hong Kong racial discrimination is a daily occurrence and a fact of life - sadly.

Respondent 4

I watched my Filipino friend put off for 45 minutes at the airline counter for no reason at all.

Respondent 5

Through job seeking both in company and in employment agency, if I've told that I'm an expat, then they only had a bad answer for me.

Respondent 6

June 1998. On a daily basis, vendors, especially of food charge more to Caucasians than Asians Also rents!

Respondent 7

I was surprised to find the same treatment of foreigners here in Hong Kong for many goods and services (non-institutionalized) some Chinese landlords won't rent to foreigners as well. I have experienced this recently when looking for an apartment.

Respondent 8

I experienced this in our post office if they know that their customers are Filipino, they usually shout at us We are all the same.

Respondent 9

It just happened last January 1 1996. We queued up at the bus stop going to xxxxx Park. We were the first in line, but the Chinese driver let the other Chinese on first. He said they are Chinese people so he let them in first. Maybe because only domestic helpers here in Hong Kong

I experienced discrimination in personal inter-relationship. It is not just one incident but a pattern. I live in a community of predominantly Chinese people. They subtly let me know often how stupidly act - "just like an American">

Respondent 18

I experienced discrimination in admission to facilities. British and Chinese have to pay to pay to get in to a lot of night clubs.

Respondent 19

I had a friend who had a very experience in a computer shop, being insulted by the sales assistant. I was not present but she related the incident to me, and was very upset by it.

Respondent 20

1. Home- more expensive
2. Sales- more expensive and people get angry if you disagree or don't buy and curse at you.
3. Cab- pick up Chinese first.

Respondent 21

I have a general feeling of "us" and "them". Different treatment and prices for "gweilos". In April and may I worked in xxxxx bar in Lan Kwai Fong and Wanchai, where Filipinos were paid a substantially lower wage than gweilos for the same work or more work. I hated this and left.

Respondent 22

I know about cases of racial discrimination about the domestic helpers in Hong Kong. People here downgraded us. Especially if they know that we came from the Philippines.

Respondent 23

The attitudes of government officials is very discriminatory against Africans. My friend entering Hong Kong was discriminated against by Immigration officials.

Respondent 24

I have become increasingly aware of resentment of Hong Kong people towards Mainland Chinese. I am not aware of anyone who has acted upon this resent, but it has been voiced to the frequently.

Respondent 25

I have experienced discrimination from the service life area, and do support legislation prohibiting racial discrimination in Hong Kong.

Respondent 26

The entire history of British Imperial Hong Kong is discriminatory.

Respondent 27

My boss is a Westerner, but he treats every employee is different. We have many different people like English, Canadian, Philippines, and Chinese, the less benefit is Chinese people in my office. I have no idea, but I believe that everywhere in the world, people treat some different country person different.

Respondent 28

Hong Kong born Indians cannot become Chinese citizens. The general public service industry are sometimes more friendly to white people and more hostile to Filipinos and colored races.

Respondent 29

I witnessed a case of discrimination. An Indian male not too well dressed (by Hong Kong standard) being snubbed by a salesgirl in a shop.

Respondent 30

I experienced discrimination in terms of admission to facilities and business administration. A sales (Angle) humiliated Chinese staff in front of customers. (xxxxx Fitness Centre)

Race dictates entry fee in bars

ALISON SMITH

Nightclubs are charging customers entrance fees according to their race, a *South China Morning Post* investigation has revealed.

While Caucasian male customers walk in free, four out of six bars surveyed in the Wan Chai area charge about \$150 for Chinese men and up to \$300 for Indians.

The findings, which sparked anger among Indian pressure groups and human rights activists, have renewed calls for anti-racism legislation.

Club managers said the charges were imposed to try to prevent Chinese, Indians, Nepalese and Filipinos entering bars because they "cause trouble".

However, Indian Resources Group director Ravi Gidumal said: "It's a sad reflection on

Hong Kong if our Government chooses to ignore the fact that this sort of thing is taking place.

"It's outrageous that bars servicing the needs of a very small white expatriate community would go to the extent of discriminating against the majority of Hong Kong.

"For the victim, discrimination is humiliating, and can affect a person's self-confidence.

"It's disgraceful that the Government won't take legislative action."

Human Rights Monitor spokesman Paul Harris said the group had raised the issue of racism, and the lack of legislation against it, with Chief Executive Tung Chee-hwa last year. It had another meeting set for July.

"We've been concerned for a very long time that there is no law outlawing racial discrimination in Hong Kong. There's

nothing in relation to the public sector," Mr Harris said.

"There is an obligation on the Government to provide this protection. The Government has repeatedly refused to enact legislation of this kind."

The group was compiling examples of racist treatment, largely towards Indians, to press for anti-racism laws.

"Human Rights Monitor believes there are certain people within the Government who are opposed to taking action in this area," he said.

Mr Gidumal said he had been refused entry into bars in Lan Kwai Fong in the past because of his race. He described the Government's Equal Opportunities Commission as "a toothless tiger".

Legislator-elect Christine Loh Kung-wai said the allegation of racism towards Chinese

was surprising. "When people talk about racism in Hong Kong, they talk about foreigners, mostly Indians and Africans," she said.

"But in reality it can happen to anybody.

"I find it really hard to understand why they are basically saying to the majority of people 'don't come in here'. It's not exactly a good business move."

The Home Affairs Bureau has funded 12 community projects worth \$670,000 to combat discrimination on the grounds of race or sexual orientation.

A code of practice for employers was published in April by the bureau and is binding on the Government.

Night out, and the clubs' reaction - Page 3
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Genetic mechanism to delay ageing identified

THE SUNDAY TIMES in London

Scientists have identified a genetic mechanism which can dramatically delay ageing.

The mechanism, which protects cells from environmental damage, will enable a 40 per cent increase in the average lifespan, meaning people could reach the ages of 110 to 120 while remaining healthy.

Biotechnology companies are racing to make the mechanism commercially available by pro-

ducing a synthetic "elixir of youth" which could be injected.

The breakthrough raises the prospect of wealthy people being able to pay to stay alive, while society agonises over the cost of supporting the ever-growing population of retired people.

Full details of the study, which confirms the theory that breathing creates toxic oxygen by-products, are being published next month.

These toxins, called free radicals, should be mopped up by the

activity of a gene called superoxide dismutase. As the body ages, however, the process becomes less reliable and cell damage occurs.

The new work shows that inserting an improved version of the gene into nerve cells improves their ability to protect themselves, thereby increasing their life.

Scientists from Toronto and Guelph universities in Canada examined fruit flies which live for only a few months, but similar

genes exist in humans. John Phillips, who led the research group, said it was never the intention to open the Pandora's box of eternal youth.

However, he said: "This work shows that not only are people going to live longer, but they are going to remain healthy and live longer.

"It raises a problem because there is a conflict between the personal instinct for survival and the social consequences of extending the life span."

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HONG KONG

Wan Chai bars come up with warm welcome for whites, cover charges for Indians and Chinese

High price of having 'wrong' skin colour

ALISON SMITH

How much does it cost for a night out? It depends on the colour of your skin.

The *South China Morning Post* sent three men - one Caucasian, one Indian and one Chinese - to six Wan Chai bars on Friday night.

Briton Keith Wallis, Ng Hoi-chi, a Hong Kong Chinese, and Hong Kong Indian Ronny Singh started the night at the Strawberry Cafe and Disco.

Mr Wallis was greeted with smiles and pleasantries by bouncers and was not asked to pay. "When I left, they smiled and said 'see you again,'" he said.

A few minutes later, Mr Ng entered and bouncers pointed to a sign on the counter. For men, \$150. Moments later Mr Singh entered and was told: "Wait. If you want to go in just give me \$300."

Next stop was the Neptune II Disco. Mr Wallis again was not asked to pay, while Ng was told to pay \$100.

inclusive of one drink, while Mr Singh had to pay \$200 inclusive of one drink.

At La Bamba, Mr Wallis again received a warm reception and paid nothing. Mr Ng was told the charge was \$150 for members and \$300 for non-members. Moments later, Mr Singh was stopped at the door and told non-members had to pay \$300.

He asked how much for members, and was told \$300 for the first entry and \$200 thereafter. "There are many girls inside," the bouncer said. "And you can bring girls in and they pay only \$50."

At the Big Apple Disco, Mr Wallis went in free, while Mr Ng was told to pay \$100. Mr Singh entered and was told the same.

"It was so blatant," he said. "Two Filipinos went in right before me and they didn't charge them any money."

When he asked whether he could go in to look for friends, he was told to leave his identity card at the door and was

warned by a bouncer: "Don't play tricks with me."

One manager said clubs had made a pact to inflate entry fees for people of Indian appearance due to trouble caused by Nepali and Indian gangs.

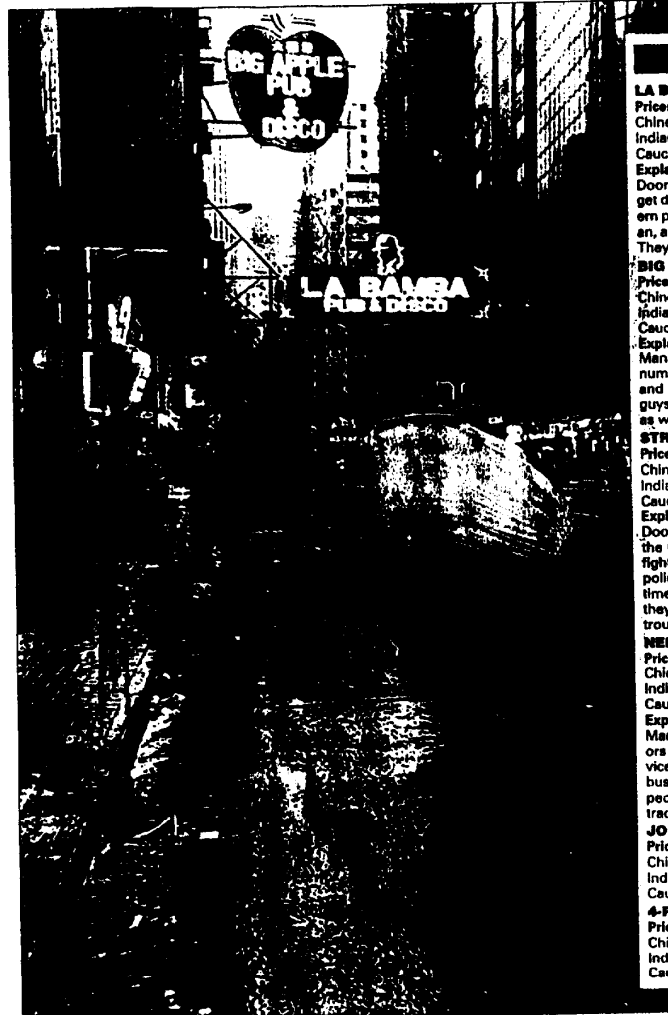
"We don't have an identity kit of gang members, so the downside is that it relies on the skill of the guy on the door to judge," the manager said.

"Sometimes you have guys who have nothing to do with these gangs, but they're Indian, and again [bouncers] would rather err on the side of safety."

After the *Post* investigation, Mr Singh said: "I've been out with friends before and the bouncers wouldn't let us into Joe Bananas."

"They say things like 'you're not wearing a collar', even though you can see other people inside are not wearing collars. I thought that was unfair and wrong, but I can't believe what happened tonight."

At Joe Bananas all three were asked to pay \$100.



Bright lights, big difference

Antony Dickson

Signs in Luard Road advertise two of the Wan Chai bars where the cost of entry varied according to race.

A NIGHT ON THE TOWN

LA BAMBA DISCO, Luard Road

Prices:
Chinese \$150
Indian \$300
Caucasian Free

Explanation:

Door manager Jonel Mackor: "Chinese people, when they get drunk, start fights, so that's why we overcharge. Western people don't need to pay but Pakistani, Nepalese, Indian, and Filipino - if they are drunk - we charge them \$300. They get drunk more easily than Westerners."

BIG APPLE DISCO, Luard Road

Prices:
Chinese \$100
Indian \$100
Caucasian Free

Explanation:

Manager Roy Mackey: "Our door policy depends on a number of factors; the day of the week, how busy we are and if it's a regular customer. It should be a set \$100 for guys and \$60 for girls and Westerners should get charged as well."

STRAWBERRY CAFE and DISCO, Hennessy Road

Prices:
Chinese \$150
Indian \$300
Caucasian Free

Explanation:

Door manager Stanley Wu Wan-hoi: "We charge because the Chinese people always make a lot of trouble, always fighting, so our boss wants to make a cover charge. It's the policy. Nepalese, Indians, Filipino - all the same. Many times they fight. The white people just drink, sometimes they shout but it's okay. The others always fight and make trouble inside so the boss doesn't like them."

NEPTUNE II DISCO, Jaffe Road

Prices:
Chinese \$100
Indian \$200
Caucasian Free

Explanation:

Manager Kenny Lee Sai-keung: "This club was for the sailors - US navy and army, and now the US and British [servicemen] seldom come. The customers are decreasing, business is hard, so we have different charges for different people. We charge non-Westerners more because it's traditional."

JOE BANANAS, Luard Road

Prices:
Chinese \$100
Indian \$100
Caucasian \$100

4-PLAY NIGHTCLUB, Hennessy Road

Prices:
Chinese \$120
Indian \$120
Caucasian \$120



Keith Wallis



Ng Hoi-chi



Ronny Singh

Laws on race may help fill the void



Jonathan Braude

Ever since former legislator Anna Wu Hung-yuk reopened the debate on racism with her campaign for anti-discrimination laws, the Government has led the campaign to stop her.

The administration did, eventually, agree to outlaw sex and disability discrimination. But it put race on the backburner, calling for change through education.

In the past week we have heard Secretary for Home Affairs David Lan Hong-tsung argue that a) the majority do not support anti-discrimination laws, b) the Bill of Rights already provides a safeguard and c) countries which do legislate have found it does not work.

We have also heard his deputy, Peter Lo Yat-fat, explain that Hong Kong does not have the "historical background" for racial discrimination laws and that the problem is not serious.

None of these arguments holds water. The opinion of the majority must be taken into account in any society that aspires to democracy. But the majority is not at risk from discrimination. It does not know the suffering it inflicts through ignorance and insensitivity. The opinions of minority groups must also count for something. It is they who need protection.

As for the lack of historical background, where has Mr Lo been living all his life? For all but one of the last 157 years, this was a British colony. Even in its most liberal final period, Britain allowed many discriminatory practices to continue.

Now that Chinese are, by and large, no longer on the receiving end, it is easy to forget that racism is just as pernicious, no matter who practises it against

large, no longer on the receiving end, it is easy to forget that racism is just as pernicious, no matter who practises it against whom. Ask any Hong Kong Indian what treatment he receives here, and how often he is insulted by people who have no idea he speaks their language.

The law is not a perfect weapon. Without the education the opponents of legislation rightly demand, laws alone will not dent attitudes to minorities. But legislation can work as a catalyst. Witness the change of heart by the business community over sex and disability legislation, once anti-discrimination laws were passed. General Chamber of Commerce chief economist Ian Perkin not only admitted the costs had been "quite marginal", he said business would prefer an all-embracing law, including race.

It is true that education is the key to changing attitudes, but who will provide it here?

Is it to come from a Government which sent a letter to bars which were charging discriminatory entrance fees, reminding them of the need for racial harmony - without once mentioning why they were targeted.

Is it to come from a Government whose Chief Executive can tell the US president that "We are all Chinese"? The statement ignored the many minority people who were born here, speak the language and have worked here all their lives. They are permanent residents, but are not eligible for SAR passports because they are not ethnically Chinese. The Basic Law bans such locals from top government posts.

The Bill of Rights will help nobody. It does not override the Basic Law and cannot counter institutionalised discrimination in government. Nor does it apply to complaints against individuals or companies. It cannot protect against discrimination in the workplace, against landlords who will not let to foreigners or against bars which charge entrance by skin colour.

The Basic Law's nationality provisions are not generous, but here to stay. Legislation is not needed to overturn the Basic Law (which is what the wilder conspiracy theorists claim is the purpose of the campaign for legislation), but to protect the individual against small-time, petty discrimination.

No adequate educational campaign is likely for years to come. In the meantime, legislation may help a little where nothing else is being done.

Dear Ravi,

Per our conversation, some details:

1. A group of parents came to see us in the Sai Babe Center last night seeking help because their children most of whom had completed Primary schooling at Portugese Community school in and had got pretty good grades had all been allocated to band 5 schools by the Education Department for Form 1. Band 5 is the worst and the good local schools won't even now consider them. They have all been sent to _____ which has I understand for the first time created 5 classes for Form 1, one reserved for Sindhis, one for Pakistanis, etc. There is a grave concern that these kids are being discriminated against, maybe because they did not do well in Chinese, which reasonably could not have been expected.
2. A parent of one of the kids called _____ who were prepared to look at the girl's grades which were good but then decided it would not consider her when the school discovered that she was assigned to band 5.
3. One of the kids who came to last night meeting was in fact a Form 5 student at _____ a top local school, and she says that she's noticed that since last year this school was not taking Indians.
4. There is a perception that there are policy reasons why these kids are being treated unfairly. If this is right, and nothing is done then undoubtedly this will continue in the future and severely affect the minorities.
5. We are not seeking special treatment, simply fair treatment so that kids are allocated schools on merit.
6. Many of these parents cannot afford to send kids to International or ESF schools. I am making inquiries about subsidies.
7. Haresh Daswani and I of the Sai Baba Center of Hong Kong would be happy to meet with your contact asap.