

A new population policy challenge
towards the cross border birth issue in Hong Kong

Nancy Ling Sze LEUNG
Graduate School of International Relations
Ritsumeikan University
gr010071@ed.ritsumei.ac.jp

Paper presented at XXVII IUSSP International Population Conference
Session 254:
Population and development in East Asia
Friday, 30 August 2013, Busan, Republic of Korea

Abstract

Following the handover, Hong Kong started to have birthright citizenship to Chinese citizens which induced mainland Chinese citizen couples to cross the border to give birth in Hong Kong. From 2003, the young population in Hong Kong was much smaller than the total number of births. This was not because infant mortality increased sharply; it was because most of the children born by mainland Chinese citizen couples were not settling in Hong Kong after their birth. The gap between the number of births and actual young population directly affected the population and economic development in the future. Since Hong Kong had a very low total fertility rate more young population was needed to maintain the active of the society. Although there were a large number of mainland Chinese citizen couples born children who had granted the right of abode in Hong Kong, they did not help the economic development if they did not reside in Hong Kong. Thus, there was a necessary to rethink the population policy of Hong Kong and this paper aimed to discuss the population policy in Hong Kong towards the issue of mainland Chinese citizen couples' cross border birth.

I. Introduction

Population is not just a group of individuals; the size, growth, composition and distribution affect the social and economic development directly from local region up to country. The purpose of population policy is to adjust the above influencing parameter for the development of a stable society and economy. May(2012) has defined population policies as ‘the actions taken explicitly or implicitly by public authorities in order to prevent, delay, or address imbalances between demographic changes, on the one hand, and social, economic, and political goals, on the other’ (May, 2012, p. 42). Population policies usually focus on fertility, mortality and migration which are the main components of demographic growth. Population policies vary from countries and how public authorities view the population situation. Countries which fertility is under sub replacement level usually face population ageing and population decline may occur if there is no positive social increase. To maintain a stable population, especially a stable working population, these countries usually establish pronatalist policies or immigration policies to attract highly educated immigrants. In contrast, countries which fertility is higher than sub replacement level usually establish population policies aimed at control population growth by reducing fertility rates.

Hong Kong Special Administrative Region of People’s Republic of China, simply Hong Kong SAR or Hong Kong, transferred from a colony of United Kingdom to a special administrative region of China from 1 July 1997. With a population of 7 million on 2012, ranked 2nd of the highest world life expectancy at birth (82.4years in 2012 revision of *World Population Prospects*), low fertility (1.29 children per woman in 2012) and high elderly population rate (13.7% in mid-2012) [Hong Kong Special Administrative Region Government, 2013]. Facing lowest low fertility and a high proportion of elderly population, Hong Kong government did not pay much attention to population development until 2002. One of the reasons why Hong Kong government did not pay attention to the fertility decline and population ageing is there is a mass immigration from mainland China through family reunification immigration policy, simply called ‘One-way Permit Policy¹’. With this immigration policy, Hong Kong

¹ One-way Permit Policy is a family unification immigration policy which is an agreement between Central Chinese government and British government for mainland Chinese to leave the mainland

receives 150 immigrants from mainland China every day and about 54750 people in a year since 1995. The majorities of the migrant population are the spouse or children of Hong Kong people². Although over half of these immigrants were at their working age (25-54), their education level were usually lower than Hong Kong people. This made them hard to enter the working force. Facing an increasing ageing population, Hong Kong government developed 2 new immigration policies called 'Capital Investment Entrant Scheme' in 2003 and 'Quality Migrant Admission Scheme' in 2006, aimed to attract new capital and highly skilled labors. Since these 2 population policies are conditionality, the number of successful applicants is not many.

At the time when the Task Force on Population Policy³, chaired by the Chief Secretary for Administration published the result on 26 February 2003, the government did not show any motivation in introducing pronatalist policy because giving birth is an individual choice and not many counties which practice pronatalist policies have a positive effect in rising fertility. Rather the report suggested all children irrespective of number should grant the same level of tax deduction. Without any aggressive policy to increase the fertility, the total fertility rate (TFR) increased gradually from 0.9 (2003) to 1.29 (2012) and the total live births increased from 46965 to 84629 (Jan – Nov). However, among the live births, there were babies born by mainland Chinese couples who could grant the right of abode of Hong Kong but were not counted in the TFR. This unusual situation was caused by the birthright citizenship specific to Chinese citizens. The phenomenon of mainland Chinese couples crossing the border to give birth in Hong Kong (simply as cross border issue) started on a full scale in 2003, the same year that the Central Chinese government loosened the application procedures for mainland Chinese to visit Hong Kong in individual purpose. The main reason why mainland Chinese couples went to Hong Kong to give birth was the citizenship of Hong Kong, a completely different status from mainland Chinese under 'One Country Two Systems'⁴.

permanently and to settle in Hong Kong SAR or Macau SAR. At the same time, it is also an agreement between Beijing and Guangdong about restricting the outflow of people.

² Hong Kong People in this article means people who hold right of abode of Hong Kong SAR.

³ Task Force on Population Policy was a working party of government which built to study the population issues in Hong Kong SAR. This task force was built on September 2002 and published the result on February 2003.

⁴ One Country Two System is a constitutional principle formulated by Deng Ziaoping for the reunification of China during the early 1980s. Under 'One Country Two Systems', Hong Kong SAR and Macau SAR could enjoys a high degree of autonomy and different legal systems from mainland China

The cross border birth issue generated some population issues between Hong Kong and mainland China. First, the cross border birth issue affects population projection. Since babies born in Hong Kong by mainland Chinese couples automatically grant Hong Kong citizenship⁵, their existence are counted into Hong Kong's live birth when they do not reside in Hong Kong, they would have no contribution to Hong Kong population development. The reason why those babies were leaving Hong Kong is babies' parents could not grant a Hong Kong citizenship or a right to stay in Hong Kong under favor of their children. Therefore, most of the parents would bring their new born babies back to their place of residence. It is difficult or impossible for those babies to reside in Hong Kong by themselves or move to Hong Kong before they could independent from parents. Then, if those babies are not settling in Hong Kong in the future, their existence would have no further influence to the population growth. On the other hand, as those babies are Hong Kong citizens, they do not need to register in their parents' official family registry. Mainland Chinese couples could take advantages of the difference in regulations between Hong Kong and mainland China, having more children without breaking 'One Child Policy'. As a result, the young population in mainland China would be more than the actual births. Moreover, the mobility of these children is unpredictable as they are not restricted by the family registry, they could move between Hong Kong and mainland China. These make both Hong Kong and Central Chinese government found hard to understand the population condition and to develop further population related policies towards low fertility and ageing. Second, cross border birth issue generate problems in public education, medical and social welfare. The supply and demand of these public services always related to the population development. However, the demand of these public services was being a challenge to understand as

which based on English Common law. Hong Kong SAR and Macau SAR also has their own police forces, currencies, customs policies, immigration policies, national sports teams, official languages, postal systems, academic and educational systems, right of abode and certain degrees of international representation that are different or independent from mainland China.

⁵ Although Hong Kong was not a country or a nation, the right of abode that Hong Kong permanent residents hold was something very similar to citizenship. Ku & Pun had mentioned that 'Hong Kong, the government is repositioning itself nationally and globally; society is undergoing fundamental socio-economic and demographic changes internally: civil society is making divergent claims on issues ranging from livelihood, welfare and employment, to civil liberties, human rights, gender equality, and sexual rights. These have given rise to changing and contested meanings of citizenship' (Ku & Pun, 2006, p. 3). In this paper, the permanent resident status of Hong Kong resident would be written as 'Hong Kong Citizenship'.

the action of those mainland Chinese born babies were unpredictable. It is because those babies are Hong Kong citizens; they are only entitled to receive all public services in Hong Kong. Without an official family registry, they could not enjoy any public services in mainland China. Thus, some of those babies may travel back to Hong Kong to for education, medical treatment or even for social security and affect local needs.

Considering Hong Kong is facing lowest low fertility and population ageing, those babies born by mainland Chinese couples may help to relieve pressure. As stated before, the parents of those babies could not grant a right to stay in Hong Kong under favor of their children. This makes those babies more difficult to settle in Hong Kong earlier and adjust to life in Hong Kong culture. Loosen the migration policy may help to solve this problem and make the population development more predictable, but it may bring additional pressure to the dense population and generate other social problems.

Although Hong Kong government had banned expectant mainland Chinese mothers (from 7 months pregnant) to visit Hong Kong and use any of the obstetrician and gynecologist services from 2013 in order to avoid them giving birth in Hong Kong, until November 2012 there were 212583 mainland Chinese couples born babies born in Hong Kong, about 22% of the total live births since 1998. Lowest low fertility and population ageing are momentous issues for Hong Kong government to address; meanwhile with the cross border birth issue, there is a necessary for Hong Kong government to rethink the population policy.

This paper is organized as follows. First, this paper provides a brief description of Hong Kong population development and population policies before and after the handover. Second, it moves on to the background information on cross border birth issue and discusses how the cross border birth issue affects population development. Finally, this paper concludes the population policy challenges towards the cross border birth issue in Hong Kong.

II. A brief history of Hong Kong and the population development

Under the Treaty of Nanking (1842) and the Convention of Peking (1860) signed between the United Kingdom of Great Britain and Ireland and the Qing Dynasty of

China, the Qing government ceded Hong Kong Island (1842) and the Kowloon peninsula (1860) to Britain. Later in 1898, under the Second Convention of Peking, the New Territories (the south of Shenzhen River) was lent to Britain for 99 years. These 3 main regions became the territory of British Hong Kong and later the territory of Hong Kong SAR (Map 1).

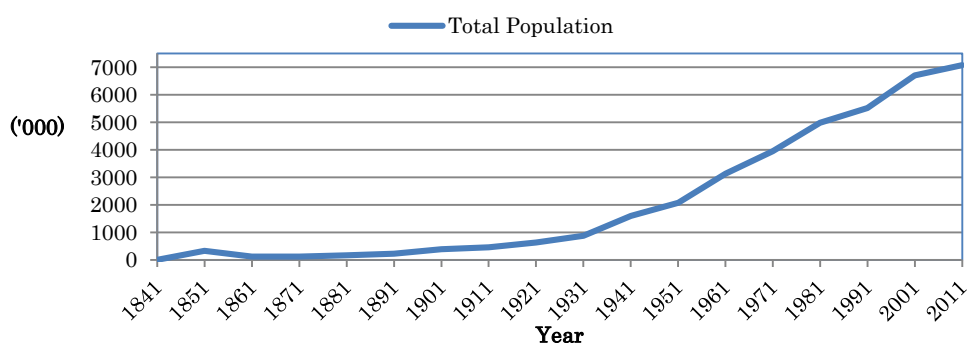
Map 1. The Territory of Hong Kong



Source: Wikipedia

During the colonial period, the population of Hong Kong increased rapidly from the beginning of 7450 people (1841) to 6217556 people (1996) (Graph 1).

Graph 1. The trend of population growth in Hong Kong (1841-2011)



Source: Year 1841, *The Treaty Ports of China and Japan* (1867 : 17),
 Year 1851-1891, *Historical and Statistical Abstract of the Colony of Hong Kong*
 (1911 : Appendix 1-6),
 Year 1861, 1901-200, *International Historical Statistics* (2007 : 10),
 Year 2011, *Hong Kong Annual Digest of Statistics* (2012 : 4)

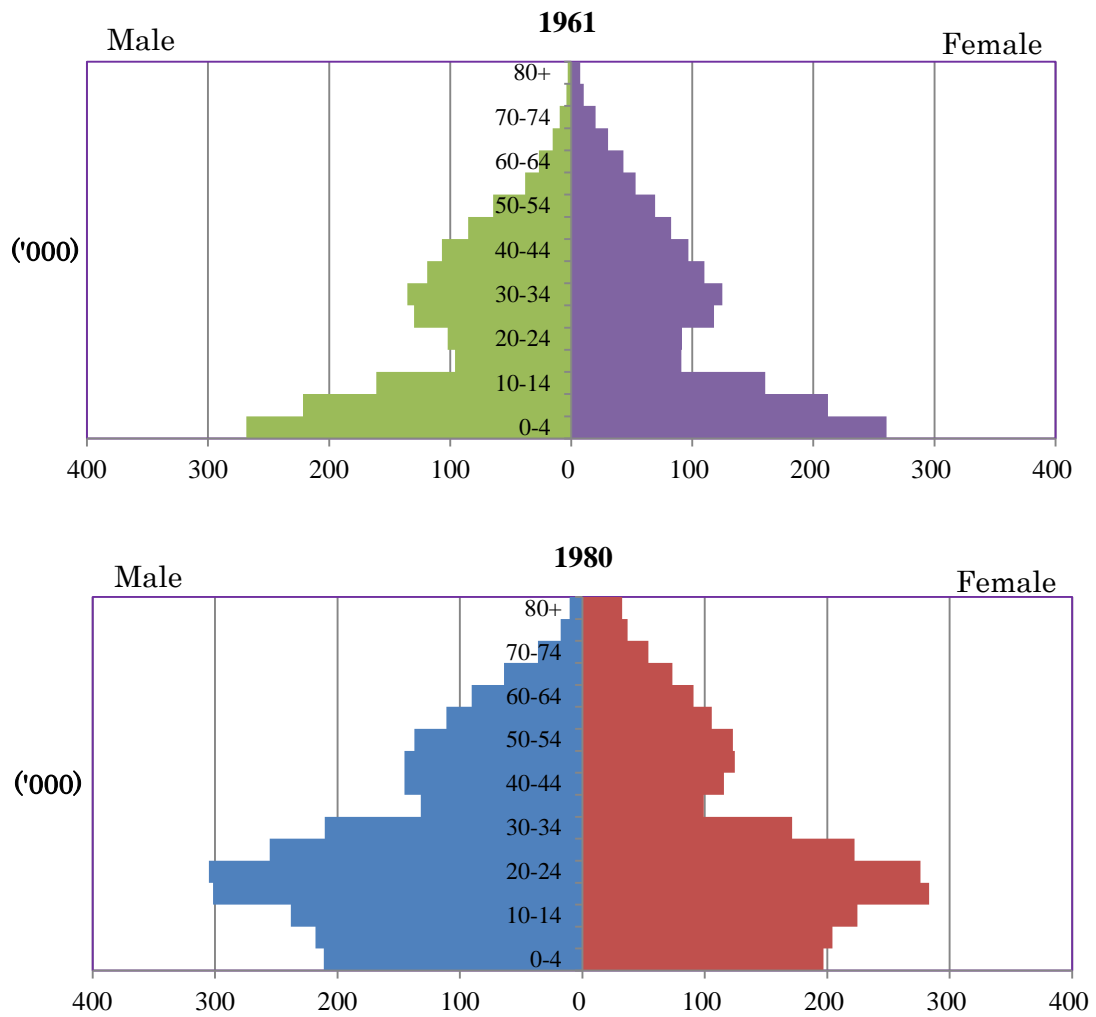
The rapid increase was due to various massive inpouring of refugees from mainland China, especially during the war time period. For example, during the Sino-Japanese war (1937-1945), there were 100000 refugees in 1937, 500000 refugees in 1938 and 150000 refugees in 1939 escaped from mainland China to Hong Kong (Information Service Department of the Hong Kong SAR Government, 2011, p. 436). According to Air Raid Wardens, before Japanese occupied Hong Kong as a colony in December 1941, the population in Hong Kong was 1640000 people (Fan, 1974, p. 2). However, during the Japanese occupation, under a forced repatriation program, most of the Chinese who lived in Hong Kong were forced to move back to mainland China. After the Japanese surrender, the population in Hong Kong was only 600000. Yet, after the Second World War, China dissolved into civil war immediately and there were almost 100000 refugees escaping from mainland China to Hong Kong every month. Until the end of Chinese Civil war, the population of Hong Kong increased to 1860000 (Endacott, 1982, p. 197). Besides, the failure of Five-year Plans of People's Republic of China started in 1953 and the Great Leap Forward⁶ promoted between 1958 and 1961 led to another flood of refugees from mainland China. From September 1949 to March 1961, there were 827222 refugees from mainland China to Hong Kong (Barnett, 1961, p. Appendix XXIV).

⁶ Great Leap Forward was an economic and social campaign by the Communist Party of China which aimed to transform the country into a communist society through rapid industrialization and collectivization.

The reasons why mainland Chinese refugees could enter Hong Kong easily were first, the colonial government did not start immigration control until April 1949. Second, even there was immigration control; the colonial government formulated a 'Touch Base Policy' in 1962 which allowed illegal immigrants who could reach the urban area and met their relatives to register for a Hong Kong identity card⁷. Third, Hong Kong was under industrialization, which had a great demand of workers. Refugees from mainland China were usually at their working age, which increased the supply of cheap labor. Thus, the colonial government had an open attitude toward receiving refugees from mainland China. This greatly increased the population of Hong Kong, especially the young population. Although these refugees from mainland China were called refugees, most of them found a shelter in Hong Kong and did not return to mainland China. Graph 2 showed the population pyramids of 1961 and 1980, the year before the 'Touch Base Policy' started and at the year when it ended. With the 'Touch Base Policy', both male and female population increased sharply, especially between age 20 and 40. The children population (aged 0-9) showed a sharp decrease in 1980 because the colonial government started promoting family planning and birth control through Hong Kong Family Planning Association. Notably during the period 1965-1968, the spread of using IUD and birth control pill had a strong effect to fertility decline (Freedman, Namboothiri, Adoaiya, & Chan, 1970, p. 12).

⁷ Hong Kong identity card is an official identity document which issued by the Immigration Department of Hong Kong. The identity card was started from 1949 as a compulsory identity documents and from November 1973, the card stated the resident statues of the holder, permanent resident or non-permanent resident. From 24 October 1980, holding an identity card in public area was compulsory.

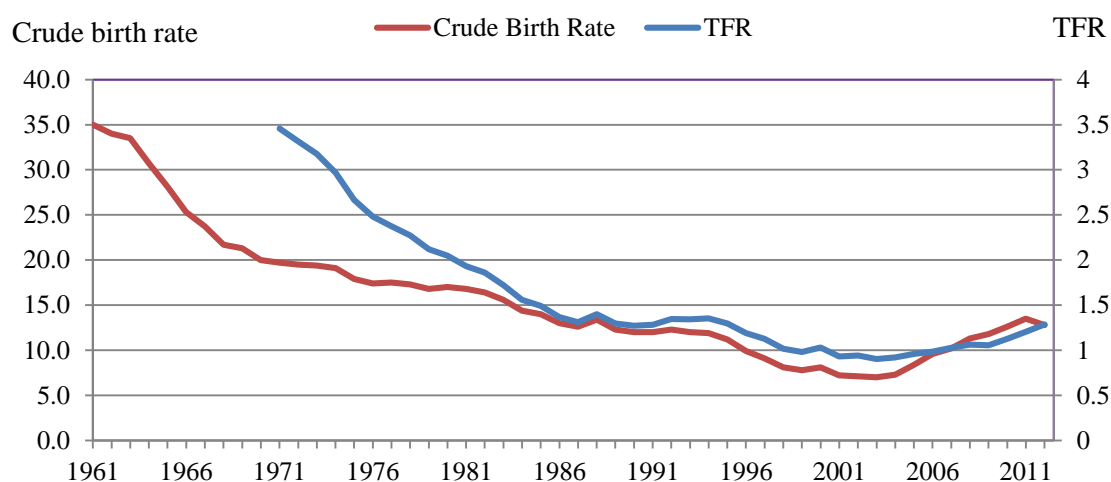
Graph 2. The Population Pyramids of 1961 and 1980



Source: Hong Kong Census and Statistic Department (2013)

The promotion of family planning and birth control achieved great success, the TFR decline sharply from 3.5 to 2.0 in 10 years (Graph 3). Although there was no adequate data to the TFR in the 1960s, based on the trend of crude birth rate, it could draw an inference that the TFR would be higher than 3.5 in the 1960s.

Graph 3. The trend of Crude birth rate and TFR in Hong Kong, 1961-2012



Source: Hong Kong Census and Statistics Department (2013)

The TFR of Hong Kong continued to decline and only subjected to sub replacement fertility in 1980. The TFR of Hong Kong further declined to the lowest low fertility level 1.3 in 1989 and reached its lowest 0.9 in 2003. Although it showed a recovery trend from 2009, the TFR was still lower than 1.3 until 2012.

Facing the lowest low fertility for more than 20 years, both colonial government and the Hong Kong government did not show a great interest in fertility decline. It was because first, there was still a positive population growth; second, there was a stable amount of migrants moved from mainland China to Hong Kong every year. According to the Hong Kong Census and Statistics Department, the average annual growth rate of population between 1981 and 2011 was shown as Table 1.

Table 1 Population and average annual growth rate, 1981 – 2011

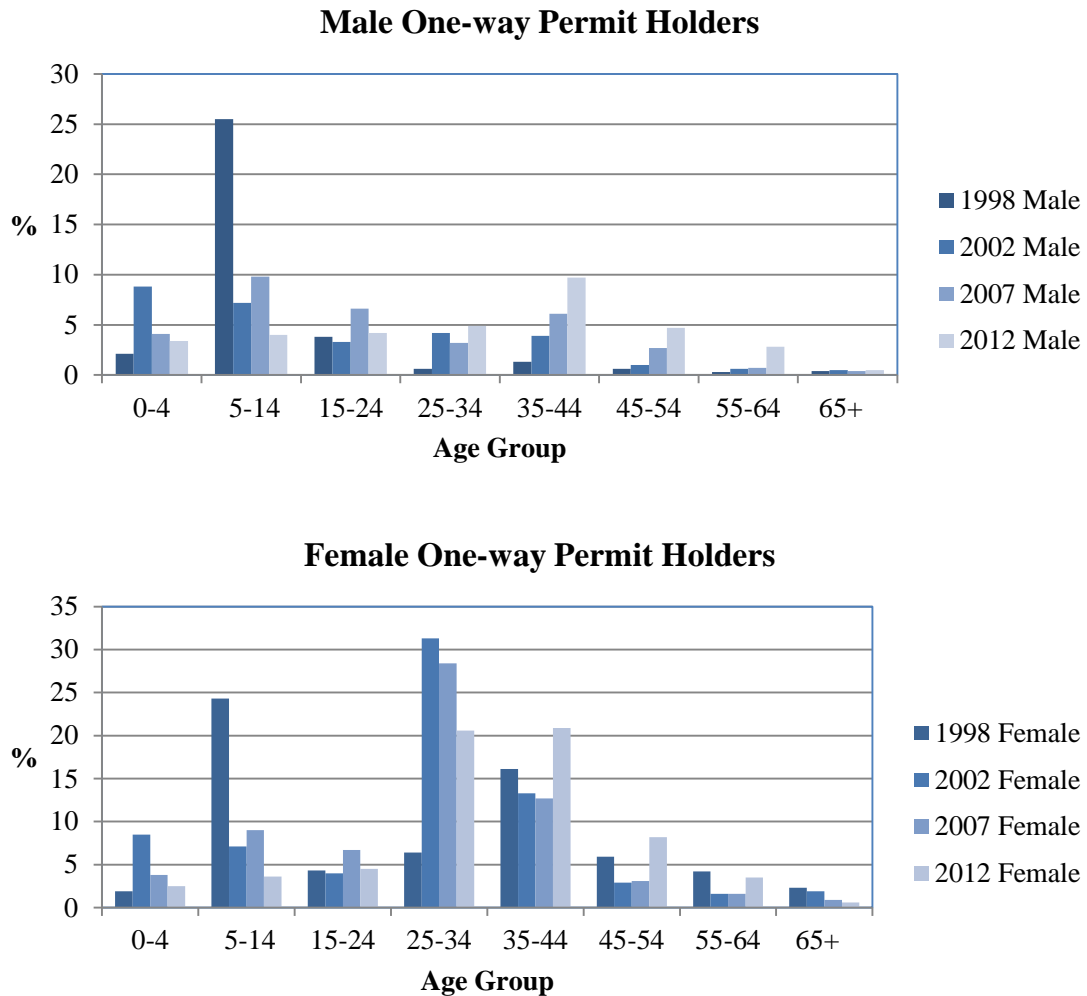
	1981	1986	1991	1996	2001	2006	2011
Population	5109812	5495488	5674114	6412937	6708389	6864346	7071576
Net Increase	706822	385676	178626	543442	295452	155957	207230
Average annual growth rate over the past 5 years (%)	3.3	1.5	0.6	1.8	0.9	0.4	0.6

Source: 2011 Population Census Office, Hong Kong Census and Statistics Department (2012)

Although the TFR had decreased into a very low level, there was still positive net increase from immigration. Since 1983 Central Chinese government and the British government achieved an agreement for mainland Chinese to leave the mainland permanently and to take Hong Kong as their permanent residence. This agreement called ‘One-way Permit’ and was specifically made for family unification. Applicant could apply their spouse, legitimate children who were unmarried and below 18 year age or parents who were aged 60 or above and had to depend on the applicant for living. ‘One-way Permit’ was based on a quota system; the permits were issued by the Ministry of Public Security under the sole authority of the mainland Chinese government. Starting from 1983, the quota for every day was 75 people; the quota had been modified for several times. The latest version was modified in 1998, the quota increased to 150 people per day and all spouses have a sub quota if they bring a child aged 13 or below (Bacon-Shone, Lam, & Yip, 2008, p. 5). From 1998, there were almost 54750 migrants moved from mainland China to Hong Kong. Graph 4 showed the age and sex structure of One-way Permit holders from 1998 to 2012⁸.

⁸ The Immigration Department of Hong Kong set up a data collection mechanism to collect data on the demographic and social characteristics of One-way Permit holders in Lo Wu control point (immigration control point between Hong Kong and mainland China) since 1998. Therefore, data about one-way permit holders were only available from 1998.

Graph 4. Age and sex structure of One-way Permit holders, 1998 – 2012

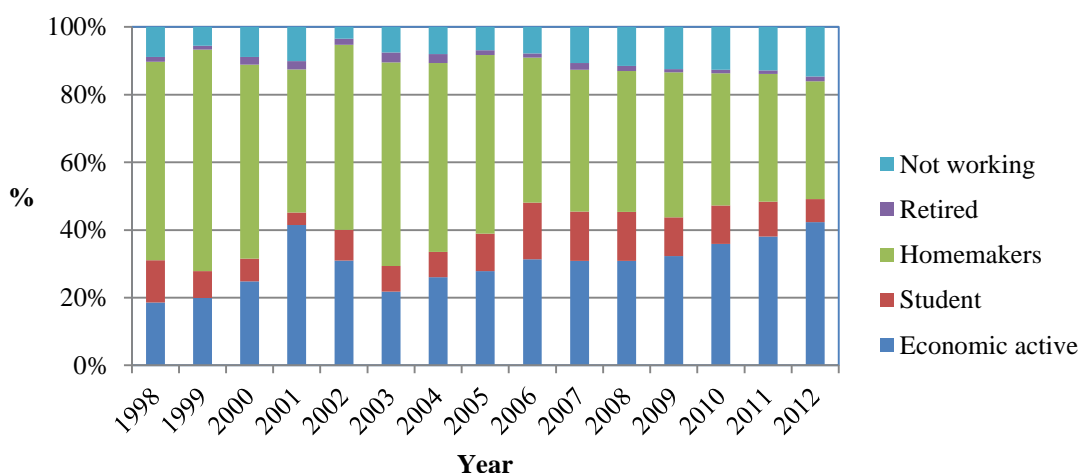


Source: Hong Affairs Department and Immigration Department Statistics on New Arrivals from the Mainland (2003), (2008), (2013)

In 1998, most of the One-way Permit holders were children at the age between 5 and 14 (49.8% of the total immigrants). Since most of the migrants were at their school age, it could mean that One-way Permit holders could adapt the Hong Kong culture easier as most of them would be educated in Hong Kong from primary education. Besides, it could predict that they would have certain education level before they enter the labor force. Thus, even the fertility rate was low in the late 1990s; One-way Permit holders could help to replace certain loss from the low fertility. However, the structure of One-way Permit holders had a great shift from 2002, which most of the migrants were women at the age between 25 and 44(44.6%), at the same time the number of children

(5-14) migrations reduced to 14.3%. This trend continued until 2012 and the share of children (5-14) decreased to 7.6%. One of the reasons why the share of children had decreased sharply was after handover, most of the cross-border families⁹ chose to give birth in Hong Kong. It was because according to the Hong Kong Basic Law Article 24 children who were born in Hong Kong by permanent Hong Kong residents could grant Hong Kong citizenship immediately. Since most of the One-way Permit holders were female, the wives of Hong Kong men, their workforce participation could have an effect to the labor market. If most of the migrants could enter the workforce, the labor shortage caused by low fertility could be relieved. Contrarily, the migrants did not help to reduce labor shortage but just increased the population. Graph 5 showed the working conditions of One-way Permit holders from 1998 to 2012. Until 2010, most of the migrants were homemakers which contributed less to the workforce. From 2010, the share of migrants who had economic active was larger than homemakers. It might be a result of an increased in male migrants aged 25 – 44. Even though the share of economic active migrates had an increasing trend, over 50% of the One-way Permit holders were not contributing to economic activities.

Graph 6. Economic activities of One-way Permit Holders, 1998 - 2012



Source; Home Affairs Department and Immigration Department Statistics on New Arrivals from the Mainland (2003), (2008), (2013)

⁹ Cross-border family is the family built by Hong Kong man and mainland Chinese woman. It also called cross-boundary family after the handover as Hong Kong is a part of China and the term ‘border’ is generally used for the boundary between countries.

The reason why the One-way Permit holders had a low participation in economic activity was the education levels of most mainland Chinese women were not as high as the local Hong Kong women, especially English language skill. According to the Home Affairs Department and Immigration Department Statistics on New Arrivals from the Mainland in 2012, the highest share of education level of the One-way Permit holders was secondary 71.5%, and those who hold post-secondary/university level was 14.3%. In the same year, the overall education level of Hong Kong for secondary education was 51.7% and post-secondary/university education was 27.5%. And for women who had post-secondary/university education was 25.2% of the total female population aged 15 or above.

To sum up, before or after the handover, population growth in Hong Kong was mainly affected by mainland Chinese migrants. During the period when Hong Kong was under industrialization, most of the mainland Chinese migrants, even with low education level could easily find a job and find a shelter in Hong Kong. However, following the change in industry structure and the implementation of One-way Permit scheme, the characteristics of mainland Chinese migrants began to change. The share of children decreased sharply while the share of aged 25-44 female migrants increased distinctly. Hong Kong had faced a long-last lowest low fertility and a rapid ageing of the population, a large inflow of working age migrants was expected to recover the loss of labor from the low fertility. However, until 2012, less than half of the One-way Permit holders entered the workforce and the inflow of One-way Permit holders was just increased the population. Thus, Hong Kong government started notice the issue and found the 'Task Force on Population Policy' to study the population issue in 2002.

III. The cross border birth issue and the population development

While Hong Kong government started to study the population issue in 2002, the number of mainland Chinese couples born babies was in an increasing trend. Compare to the number in 2001, babies born by mainland Chinese couples had increased almost a double in 2002. The reason why there were babies born by mainland Chinese couples was due to a judgment towards the case 'Director of Immigration v. Chong Fung Yuen' made by the Court of Final Appeal of Hong Kong in 2001 about the right of abode

issue. The case ‘Director of Immigration v. Chong Fung Yuen’ was about the right of Chong Fung Yuen to grant the right of abode of Hong Kong by his birth in Hong Kong. Chong Fung Yuen was born in Hong Kong by mainland Chinese citizen parents during their stay under family visit permit (a visa for mainland Chinese to visit their relatives who lived in Hong Kong) in 1999. According to Hong Kong Basic Law Article 24 (1), ‘The permanent residents of the Hong Kong Special Administrative Region shall be: Chinese citizens born in Hong Kong before or after the establishment of Hong Kong Special Administrative Region’. The term ‘Chinese citizens’ written in Hong Kong Basic Law Article 24(1) was the argument, should it referred to those Chinese citizens with the right of abode of Hong Kong or it referred to all Chinese citizens (Chinese nationals). This cause had dragged on for almost 3 years and Court of Final Appeal of Hong Kong announced the final judgment on 20 July 2001 that ‘Chinese citizens’ was one category; it did not concern affairs which are the responsibility of the Central government or the relationship between the Central Authorities and Hong Kong [The Director of Immigration v. Chong Fung Yuen, 2001]. After this judgment, children born in Hong Kong by any Chinese citizens would grant the right of abode of Hong Kong immediately. At the same time, it introduced the boom of mainland Chinese couples to cross the border and give birth in Hong Kong.

At the time when the Hong Kong government announced the report of population policy in 2003, in the title of ‘Fertility and Mortality’, the report explained the fertility situation and decline as below:

‘declining fertility rate to a combination of observable socio-economic phenomena including higher educational attains, late marriages, higher proportion of never-married persons, and increasing female participation in the labor force’,

‘improved the financial capacity to rear children, the modern urban life style, high pressure of work’ and

‘Hong Kong has been “exporting” marriages and births to the Mainland ... more Hong Kong men now marry across the boundary, leading to more births attributable to Hong Kong people across the boundary. This also tends to lower the fertility rate in Hong Kong, as such births in the Mainland are not counted into Hong Kong’s fertility rate’ (The Task Force on Population Policy, 2003, pp. 9-10).

There was no attention paid to the birth of mainland Chinese couples and had a

concept that Hong Kong had been exporting births to mainland China. However, when referring to Graph 4, the numbers of babies or children under age 14 applying One-way Permit had decreased sharply from 2002. And the babies born by cross-border family in Hong Kong had increased gradually after the handover (Table 2). Yet, the number of babies born by mainland Chinese couples increased sharply from 2002 and until 2011 the share of mainland Chinese couples born babies had increased to 37.5% of the total live births in Hong Kong.

Table 2. The number of babies born in Hong Kong by the classification of their mothers' status, 1996-2012

Year	TFR	Total Number of live births	Babies born by HK residents parents	Babies born by mainlander Chinese citizen mothers			
				Father is Hong Kong residents	Father is mainland residents	Others*	subtotal
1996	1.191	63291	56797 (89.7)	N/A	N/A	N/A	6494 (10.3)**
1997	1.127	53250	53420 (90.2)	N/A	N/A	N/A	5830 (9.8)**
1998	1.017	52977	46768 (88.5)	5651 (10.7)	458 (0.9)	N/A	6109 (11.5)
1999	0.982	51281	44101 (86.0)	6621 (12.9)	559 (1.1)	N/A	7180 (14.0)
2000	1.035	54134	45961 (84.9)	7464 (13.8)	709 (1.3)	N.A.	8173 (16.2)
2001	0.932	48219	40409 (83.8)	7190 (14.9)	620 (1.3)	N.A.	7810 (16.2)
2002	0.939	48209	39703 (82.4)	7256 (15.1)	1250 (2.6)	N.A.	8506 (17.6)
2003	0.901	46965	36837 (78.4)	7962 (17.0)	2070 (4.4)	96 (0.2)	10128 (21.6)
2004	0.927	49796	36587 (73.5)	8896 (17.9)	4102 (8.2)	211 (0.4)	13209 (26.5)
2005	0.959	57098	37560 (65.8)	9879 (17.3)	9273 (16.2)	386 (0.7)	19538 (34.2)
2006	0.984	65626	39494 (60.2)	9438 (14.4)	16044 (24.4)	650 (1.0)	26132 (39.8)
2007	1.028	70394	42820 (60.8)	7989 (11.3)	18816 (26.7)	769 (1.1)	27574 (39.2)
2008	1.064	78752	45187(57.4)	7228 (9.2)	25269 (32.1)	1068 (1.4)	33565 (42.6)
2009	1.055	82095	44842 (54.6)	6213 (7.6)	29766 (36.3)	1247 (1.5)	37253 (45.4)
2010	1.127	88495	47847 (54.1)	6169 (7.0)	32653 (36.9)	1826 (2.1)	40648 (45.9)
2011	1.204	95418	51436 (53.9)	6110 (6.4)	35736 (37.5)	2136 (2.2)	43982 (46.1)
2012	1.285	84629	53508(63.2)	4252(5.0)	25174(29.7)	1695(2.0)	31121(36.8)

Note:

1. The data for 2012 was only available from January to November.
2. Number in () are the % of that group to the total live births.
3. * Others: mainlander mother did not provide the baby's father information during the birth registration.
4. ** Total number of live births by mainland Chinese citizens without characterized.

Source: Hong Kong Census and Statistics Department (2012)

The main reason why mainland Chinese couples would like to cross the border to give birth in Hong Kong was the birthright citizenship. Although Hong Kong had returned to mainland China in July 1997, under the 'One Country Two Systems', a different citizenship was generated between mainland China and Hong Kong. First, there was no necessary for Hong Kong citizen to be a Chinese national. The citizenship of Hong Kong was based on the length of stay (more than 7 years of continuous period of stay in Hong Kong) and once the citizenship was granted it would not be remove. Second, Hong Kong citizens enjoyed and followed the fundamental rights and duties guaranteed by the Hong Kong Basic Law. Policies carried in mainland China and the laws of mainland China were not applicable in Hong Kong; at the same time, policies formulated in Hong Kong and the Hong Kong Basic Law were only applicable in Hong Kong. For example, 'One-child Policy' and family registry system were not practicing in Hong Kong. Furthermore, Hong Kong had the right to issue her own Hong Kong SAR passport (for those Hong Kong citizens who were Chinese nationals) which visa-free arrangements between other countries were independent from mainland China. A Hong Kong SAR passport allowed holder visa-free travel to 149 countries/regions; but a People's Republic of China passport only had visa-free travel to 52 countries/regions. Therefore, in terms of international movement, Hong Kong citizens would be more convenience and mainland Chinese citizens. Besides, in terms of internal movement, Hong Kong citizens who were Chinese nationals could apply a 'Home Return Permit', officially called 'Mainland Travel permit for Hong Kong and Macau Residents' which was issued by the Public Security Bureau of Guangdong province through China Travel Service. This permit allowed Hong Kong Permanent Residents multiple visit mainland China within the valid period (usually 10 years for adult and 5 years for children). However, if holders would like to stay overnight for a short trip they had to register with the local police within 24 hours (urban area) or 72 hours (countryside). For those who intended to reside in mainland China had to obtain permission from the local prefecture policy and to obtain a special long-term residence permit (Zhang & Chen, 2002, pp. 148-153). By contrast, mainland Chinese citizen had to apply a 'Exit-entry Permit for Travelling to and from Hong Kong and Macao', simply 'Two-way Permit' issued by Bureau of exit and Entry Administration of Chinese Ministry of Public Security of mainland China to travel to Hong Kong. This permit had various limitations, such as the

limitation of stay in Hong Kong varied from the purpose of travel. Usually, the length of stay in Hong Kong was 7 days and the permit only valid for one time travel.

On 8 May 2007, an online article called 'Reasons why mainland mothers give birth in Hong Kong' published by The University of Hong Kong Journalism and Media Studies Center said the three main reasons for mainland Chinese mothers to give birth in Hong Kong were first, enjoy the right of abode; second, better living standard of Hong Kong; third, escape from the one-child policy (Hung, 2007). On 19 August 2010 *The Economist* posted an article saying the benefits of mainland Chinese couples to give birth in Hong Kong. There were first, one-child policy did not apply in Hong Kong; second, maternal treatment was better in Hong Kong; third, welfare system in rapidly capitalist Hong Kong was more generous; and fourth, 12 years free education and almost free medical care (The Economist, 2010). Certainly, there were a lot of benefits for mainland Chinese couples to give birth in Hong Kong, therefore, in 2003, when mainland Chinese government loosen the application procedures and started issuing individual travel permit, the number of babies born by mainland Chinese couples increased sharply. Under the great pressure of mainland Chinese couples crossing the border to give birth, Hong Kong government started to impose restrictions on mainland Chinese expectant mothers to enter Hong Kong and increased the non-Hong Kong citizens' delivery and birth-related hospitalization in public hospital from February 2007. The cost of using public hospital for delivery increased from 9000 HKD to 39000 HKD, but according to the National Bureau of Statistics of China, the average annual salary of mainland Chinese in rural area was 4140 CNY (5244 HKD) and 13786 CNY (17461 HKD)¹⁰ in urban area in 2007 (National Bureau of Statistics of China, 2008). In other words, the delivery fee in Hong Kong was almost 2.2 years' salary to a city dweller or 7.4 years' salary to a rural inhabitant. Yet, the number of mainland Chinese couples born babies did not decrease; rather it increased more rapidly from 2007.

Although these mainland Chinese born babies were not counted into the total fertility rate of Hong Kong, they did have influence to the future population development. First, they all hold the citizenship of Hong Kong which they could reside in Hong Kong or leave Hong Kong anytime. Since their parents could not grant a right to stay in Hong

¹⁰ Exchange rate was based on 12 August 2013, 1CNY = 1.26655 HKD)

Kong, it was reasonable to predict that most of these babies would reside in mainland China with their parents after birth. To examine this prediction the total number of babies born in the past 5 years and 0-4 population was compared. It was because with a fixed infant mortality rate and without a mass children population outflow, the sum of babies born in the past 5 years should be a bit more than the real population. According to the Food and Health Bureau of Hong Kong, the infant mortality rate was listed in Table 3.

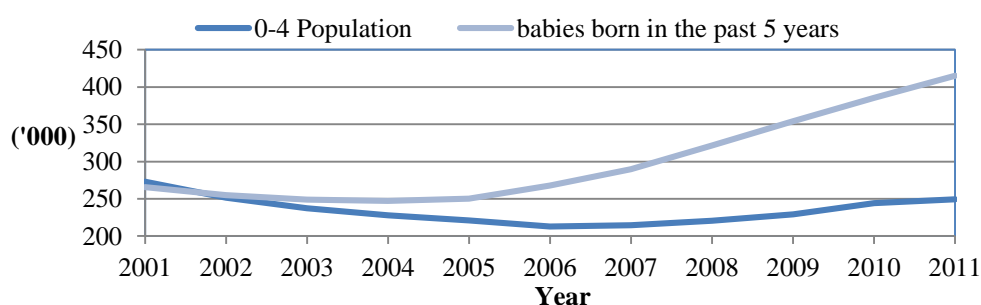
Table 3. Infant mortality rate of Hong Kong, 2001-2011

Year	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Infant mortality rate	2.6	2.3	2.3	2.7	2.3	1.8	1.8	1.8	1.7	1.7	1.3

Source: Food and Health Bureau of Hong Kong (2013)

As the infant mortality rate of Hong Kong was very stable and at a low level, the babies born in the past 5 years should be just a bit more than the real population. However, in Graph 7 it showed that the 0-4 population in Hong Kong was much lower than the total birth in the past 5 years. This clarified the prediction was correct. Most of the mainland Chinese couples born babies were not residing in Hong Kong after birth.

Graph 7. Relation between 0-4 population and the babies born in the past 5 years in Hong Kong



Note: Computed from data from Hong Kong Census and Statistic Department (2012)

Until November 2012, there were 212583 children who were born by mainland Chinese couples and granted the citizenship of Hong Kong. With the citizenship, they

could return to Hong Kong for free medical services or compulsory education which did not request their residency in Hong Kong. Although it was difficult to predict when or those children would move back to Hong Kong or would they move back to Hong Kong to reside, it was clear that some children were coming back to Hong Kong for free education and affected the demand of kindergarten and primary education in Hong Kong. In general, Hong Kong government would adjust the class size based on the population of the school aged children every year before the new school year of primary and secondary schools. Before cross border birth issue, there were already some cross-border students. Most of these children were either from cross-border families or from families (both parents were Hong Kong citizens) who moved to Shenzhen because of workplace. However, from the school year 2007/2008, the number of cross-border student increased sharply in kindergarten education. The population for that school aged children should be born in 2004 or early 2005¹¹, at the time when cross border birth issue started to attract general attention. Although kindergarten education was not included in compulsory education, Hong Kong government started a 'Pre-primary Education Voucher Scheme' (Pre-primary was equal to kindergarten education) in 2007 which provided fee subsidy for parents to meet towards school fees for kindergarten education. Under the 'Pre-primary Education Voucher Scheme', it attracted more mainland Chinese couples to send their Hong Kong born children to study in Hong Kong. And the number of cross-border students in kindergarten education continued to increase to 5708 in the school year 2011/2012 (Table 4). Besides, from 2006, the Education Department of Shenzhen introduced a strict policy to control temporary Shenzhen resident's children to receive compulsory education provided by the government. As Hong Kong born children did not have a family registration in mainland China and they were treated as 'foreigners', from 2006 Hong Kong born children could only enroll in private school. This pushed more mainland Chinese couples to send their children back to Hong Kong for the free education. Thus, the number of primary school cross-border students increased sharply from 2010. And the number of cross-border students would be expected to increase further because from 2008, over 30% of the total

¹¹ The school semester in Hong Kong started from September. Children who were born in January were allowed to enter kindergarten before they turned into 3 years old.

live births in Hong Kong was born by mainland Chinese couples.

Table 4. Number of cross-border students, 2004/2005 – 2011/2012

School Year	Kindergarten	Primary	Secondary	Total
2004/2005	733	2589	481	3083
2005/2006	962	2998	538	4498
2006/2007	797	2878	799	4474
2007/2008	1456	3466	937	5859
2008/2009	1780	3910	1078	6768
2009/2010	2681	4090	1267	8038
2010/2011	3786	4575	1538	9899
2011/2012	5708	5276	1881	12865

Source: Information Services Department (2011) (2013)

Cross-border student was seen as an important issue in Hong Kong as they increased the demand of school in the northern district and forced the local Hong Kong students to enroll in schools which were in different district. This pushed local Hong Kong students to spend more time on commuting. Furthermore, cross border students from mainland Chinese couples would increase the burden of education expenses of Hong Kong government. It was because mainland Chinese couples were not Hong Kong citizens; they had no duty to pay tax to Hong Kong government. Even though mainland Chinese born children were increasing the burden of education expenses, positively, when they received the Hong Kong style education earlier, they could adopt the living style in Hong Kong and increased the probability to reside in Hong Kong and enter the workforce in the future. And so, they could help Hong Kong to moderate the population ageing and labor shortage created by low fertility. On the other hand, if these children would be back only for free education, free medical services or to receive social welfare, they would be a burden to Hong Kong society. It was difficult to make a conjecture whether these children would be back to Hong Kong for which reasons. It could be say that the cross border birth issue generated an unknown aspect to Hong Kong society and to the population development.

IV. The challenge of population policy

With the issue of mainland Chinese crossing the border to give birth in Hong Kong, there was a necessity to rethinking the population policy. First, the increase in live births did not imply there would be an increase of young population. In the case of Hong Kong, the large-scale outflow of infant generated a wrong image to the population growth. Although there was a tendency that the mainland Chinese born babies were coming back to Hong Kong to receive compulsory education, it could not suggest that they would reside in Hong Kong in the future. The main reason was the birthright citizenship allowed them to enjoy the rights to be a Hong Kong citizen; yet this citizenship would not be removed even they changed their nationality. From the standpoint of solving population ageing and shortage of labor caused by low fertility, attracting these mainland Chinese born babies to reside in Hong Kong could be a solution. Although from 2008, there were social debate on removing birthright citizenship to Chinese citizens; Hong Kong government did not have the power to modify the Hong Kong Basic Law. According to Hong Kong Basic Law Article 159, 'the power of amendment of Hong Kong Basic Law shall be vested in the National People's Congress' and 'the power to propose bills for amendments to this law shall be vested in the Standing Committee of the National People's Congress, the State Council and the Hong Kong Special Administrative Region' (Hong Kong Special Administrative Region, 2013). Therefore, even it was possible to modify the Hong Kong Basic Law; it was difficult to persuade the mainland Chinese government to remove the birthright citizenship to all Chinese nationals as Hong Kong was a part of China. Considering the mainland Chinese couples born babies all hold Hong Kong citizenship, while they could enjoy the rights to be a Hong Kong citizen, they also had responsibility to fulfill their obligations to be a Hong Kong citizen.

Illegal migrants granting birthright citizenship in European countries was also a social issue between 1980 and 2004. Countries such as United Kingdom, France, and Ireland were facing illegal migrants granting the right of stay through giving birth in their territories. United Kingdom was the first country modified her birthright citizenship in 1981 to control British subjects to get British citizenship. Children who are born in United Kingdom by non- British citizen could become a British citizen only with the

condition of residing in United Kingdom for not less than 10 years (Iseult, 2007, p. 73). Ireland also modified the birthing citizenship in 2004 by inserted a new section 2 in Article 9 (on citizenship): ‘at least one parent who is an Irish citizenship or nationality, unless provided for by law’ (Iseult, 2007, pp. 85-86). Since Hong Kong was a part of mainland China, and the acquisition of citizenship was always depends on the length of stay (7 years), adding conditions, particular length of residency, to the birthright citizenship would be an easier way to push those mainland Chinese born babies to reside in Hong Kong in the future.

Beyond that, as Yip, Law & Cheung questioned ‘is having children an individual choice or does it have collective dimensions?’ Hong Kong government had long seen having children was an individual choice and had a concept that the government should not intervene the decision of Hong Kong citizens. Population policies towards raising fertility was passive. For example, child allowance was actually a salary tax deduction or a tax refund. Although the government had increased the amount of child allowance for the first to third children from 30000HKD to 50000HKD in a year and set up an additional tax allowance of 50000HKD to the parents who gave birth of that tax year. However, these tax allowances were only applicable to those Hong Kong citizens who had to pay salary tax and only for those who had to pay 50000HKD salary tax could enjoy the highest amount of child allowance. For the maternal leave, expectant mothers could take maternity leave for 10 weeks’ paid maternity leave if the mother had worked under a continuous contract for not less than 40 weeks immediately before the commencement of the maternity leave. The expectant mothers could take maternity leave any time from 2 to 4 weeks before the expected date of confinement, any absent day for medical check, medical treatment or post-confinement leave would be counted as sick leave which the expectant mothers could only get 4/5 of her normal wages (Yip, Law, & Cheung, 2009, pp. 152-153). The only active policy which helped to reduce to burden of having children would be the kindergarten education subsidies (Pre-primary Education Voucher Scheme) which had mentioned in the previous stage. However, this subsidies only eligible to local non-profit-making kindergartens or Kindergarten-cum-Child Care Centers (Student Financial Assistance Agency, 2013). Other financial support towards child rearing were mainly towards low-income families, such as ‘Kindergarten and Child Care Centre Fee Remission Scheme’ which was based on the

adjusted family income (gross annual income per family member). Families which had adjusted family income more than 62908 HKD could not grant the fee remission.

Until 2012, the Hong Kong government continued to see migration from mainland China and forcing women to enter workforce were the solutions to population ageing (Hong Kong Special Administrative Region, Government releases Steering Committee on Population Policy Progress Report 2012, 2012). In other words, Hong Kong government believed the idea of replacement migration¹² (here the replacement migration were mainly from mainland China) could be a solution to Hong Kong population ageing. However, even the report on replacement migration issued by United Nation population division pointed out that the levels of migration needed to prevent population ageing were many times larger than the migration streams needed to prevent population decline and maintaining potential support ratios would entail volumes of immigration entirely out of line (Department of Economic and Social Affairs , 2000). Although under the ‘One Country Two Systems’ the different social system and social environment might send an image to most mainland Chinese citizens that Hong Kong was a place to escape from the rule of central government or policies established by the central government, it should be bear in mind that Deng Xiaoping once said that ‘Hong Kong will not change in 50 years’. From 1997 to 2012, 15 years had passed and in 2047 would ‘One Country Two Systems’ remain in Hong Kong was an unknown aspect. And the removal of ‘One Country Systems’ would directly decrease the willingness of mainland Chinese citizens to migrate to Hong Kong. Therefore, Hong Kong government should pay more attention to raise the local fertility and to build a family-friendly society.

V. Conclusion

Under the issue of cross border birth, it was clear that the mobility of babies could generate a new population issue. Although Hong Kong might be seen as a special case in the world, countries like United State of America, Canada were using birthright citizenship and were facing the cross border birth issue. Therefore, there would be

¹² Replacement migration is an idea that international migration could help a country to offset population decline and population ageing resulting from low fertility and mortality rates (Department of Economic and Social Affairs , 2000).

necessary to rethink population policy together with citizenship. In the case of Hong Kong, the Hong Kong government should not rely too much on migration as the share of migrants from One-way Permits would continue to be the mainstream. Although these migrants were at their work age and were young, their education level was relatively lower than those local Hong Kong citizens and in the result their labor force participation rate was low. Thus, there was a necessity for Hong Kong government to rethink the population policy and introduced pronatalist policies.

References

- Bacon-Shone, J., Lam, J., & Yip, P. (2008). *The Past and Future of One Way Permit Scheme in the Context of a Population Policy for Hong Kong*. Hong Kong: Bauhinia Foundation Research Centre.
- Barnett, K. (1961). *Hong Kong Report on the 1961 Census* (Vol. 2). Hong Kong: Commissioner for Census and Statistics.
- Department of Economic and Social Affairs . (2000, 03 17). *Replacement Migration: Is it a solution to declining and ageing populations?* Retrieved from United Nations Department of Economic and Social Affairs Population Division: www.un.org/esa/population/publications/migration/migration.htm
- Endacott, C. (1982). *Government and People in Hong Kong 1841-1962 A Constitutional History* (2 ed.). United States of America: Greenwood Press.
- Fan, S. (1974). *The Population of Hong Kong*. Hong Kong: The Committee for International Coordination of National Research in Demography.
- Freedman, R., Namboothiri, D., Adoaiya, A., & Chan, K. (1970). Hong Kong's Fertility Decline 1961-68. *Population Index*, 36(1), 3-18.
- Hong Kong Special Administrative Region. (2012, 05 30). *Government releases Steering Committee on Population Policy Progress Report 2012*. Retrieved from Press Releases: www.info.gov.hk/gia/general/201205/30/P201205300456.htm
- Hong Kong Special Administrative Region. (2013, 7 13). *The Basic Law of Hong Kong Special Administrative Region of People's Republic of China*. Retrieved 8 6, 2013, from <http://www.basiclaw.gov.hk/en/basiclawtext/index.html>
- Hong Kong Special Administrative Region Government. (2013 年 07 月). Hong Kong: The Fact Sheet. 参照日: 2013 年 08 月 02 日, 参照先: Hong Kong: The Fact Sheet: <http://www.gov.hk/en/about/abouthk/factsheets/docs/population.pdf>
- Hung, T. (2007, 5 8). *Reason why mainland mothers give birth in Hong Kong*. (J. a. Center, Ed.) Retrieved 8 12, 2013, from Hong Kong Stories: <http://jmsc.hku.hk/hkstories/content/view/129/1048/>
- Information Service Department of the Hong Kong SAR Government. (2011). *Hong Kong 2011*. (I. S. Department, Ed.) Hong Kong, Hong Kong SAR: The Government Logistics Department. Retrieved 5 16, 2013, from Hong Kong 2011: <http://www.yearbook.gov.hk/2011/en/index.html>
- Iseult, H. (2007). Bounded citizenship and the meaning of citizenship laws: Ireland's ius

- soli citizenship referendum. In L. Cardinal, & N. Brown, *Managing Diversity: Practices of Citizenship in Australia, Canada and Ireland* (pp. 69-94). Ottawa: University of Ottawa Press.
- Kani, H. (1999). *Motto Shiritai Hong Kong* (2 ed.). Tokyo Japan: Koubundou.
- Ku, A., & Pun, N. (2006). Remaking citizenship in Hong Kong. In A. Ku, & N. Pun, *Remaking Citizenship in Hong Kong: Community, nation and the global city* (pp. 1-15). London & New York: Routledge.
- May, J. (2012). *World Population Policies: Their Origin, Evolution, and Impact*. Dordrecht Heidelberg New York London: Springer.
- National Bureau of Statistics of China. (2008). *Guomin Jingji he Shehui Fazhan Tongji Gongbao*. National Bureau of Statistic of China.
- Student Financial Assistance Agency. (2013, 08 15). *Pre-primary Education Voucher Scheme*. (Hong Kong Special Administrative Region of People's Republic of China) Retrieved 08 06, 2013, from Student Financial Assistance Agency: <http://www.sfaa.gov.hk/eng/schemes/pevs.htm>
- The Director of Immigration v. Chong Fung Yuen, FACV000026/2000 (The Court of Final Appeal of the Hong Kong Special Administrative Region 2001 年 7 月 20 日).
- The Economist. (2010, 08 19). Hong Kong's baby-boom Mamas without borders Why more mainland Chinese women are rushing to give birth in Hong Kong. *The Economist*.
- The Task Force on Population Policy. (2003). *Report of the Task Force on Population Policy*. Hong Kong: Hong Kong Special Administrative Region of People's Republic of China.
- Yip, P., Law, C., & Cheung, K. (2009). Ultra-low fertility in Hong Kong. In G. Jones, P. Straughan, & A. Chan, *Ultra-low Fertility in Pacific Asia' Trends, causes and policy issues* (pp. 132-159). USA and Canada: Routledge.
- Zhang, Y., & Chen, Y. (2002). *Sianggang ju min de go ji wen ti*. Hong Kong: Joint Publishing (H.K) Co., LTD.