



1. Foreword

1.1 Ethnic minorities constitute 6.38% of the Hong Kong population according to the 2011 census. Many of them, especially Indians, Pakistanis and Nepalese, are at least second generation immigrants in Hong Kong with their parents and grandparents having been sent to Hong Kong by the British government during the colonial days. Their history in Hong Kong is at least as long as that of many Chinese families which migrated from mainland China during the two World Wars.

1.2 Despite this, the acceptance of the Chinese community towards Asians and South East Asians is weak. According to a study carried out by the Government in 2009, 42% of the Chinese population aged 15 and above do not accept their children studying in a prestigious school with the majority of Indians, Pakistanis, Bangladeshis or Nepalese, while the figure is only 10.3% for a prestigious school with the majority of Caucasians.

2. Legislation against racial discrimination

2.1 Unlike the other three pieces of equal opportunities legislation, there is no provision in the Race Discrimination Ordinance (RDO) which states that discrimination by the government in its performance of functions and exercise of powers is unlawful. While the Government is prohibited from practicing racially discriminatory acts in the exercise of its functions under the Basic Law and the Bill of Rights Ordinance, the Equal Opportunities Commission has no power to deal with complaints under the Basic Law and the Bill of Rights Ordinance. This means that people racially discriminated against by the Government in its exercise of powers and performance of functions cannot seek redress through conciliation or litigation initiated and funded by the Equal Opportunities Commission. The remedies and time bar of judicial review and the RDO are also different.

2.2 The RDO excludes and in effect wrongfully legalizes discrimination on the grounds of nationality and language. Banks which have repeatedly refused to open accounts for ethnic minorities can easily argue that they do so on the basis of nationality. Moreover, racially discriminatory provision of goods and services including education may not be caught if the discriminator argues that the discrimination is based on language. It is very difficult for complainants to gather evidence that the discrimination is based on race rather than nationality or language.



2.3 Moreover, for indirect discrimination, the RDO only applies to discriminatory requirements and conditions. This is modeled on the United Kingdom legislation, but the United Kingdom Equality Act 2010 now covers indirectly discriminatory provisions, criteria or practices, which can be both formal and informal.

2.4 The government introduced the Administrative Guidelines on Promotion of Racial Equality. However, the set of guidelines is non-statutory and do not apply to all government departments.

2.5 Furthermore, the Government is very reluctant to introduce amendments to the equal opportunities legislation. The EOC has submitted its proposed amendments to the Sex Discrimination Ordinance for ten years, but the Government has all along refused to submit a law amendment bill to the Legislative Council. Recently, the EOC has invited an overseas expert to have a complete review of the four pieces of equal opportunities legislation. **We urge the Government to take the review seriously and have an overhaul of the equal opportunities legislation to remedy the existing defects in the law.**

3. Limited access to public service

3.1 Before the handover in 1997, only English but not Chinese proficiency was required of a number of civil service posts and the relevant civil servant could effectively discharge their duties. However, after the handover, proficiency in both Chinese and English is required of all local civil servants, regardless of their specific duties. Although the GCSE (Chinese) Examination results may be considered for appointment to civil service posts, departments have the discretion on this matter and ethnic minority applicants often cannot pass individual departments' internal Chinese language tests. The public is left in the dark on whether the departments have carefully reviewed the genuine Chinese levels required of the posts. The Government also refuses to provide the number of ethnic minority applicants employed with a GCSE (Chinese) result. This problem hinges on the failure of the Chinese language education policy to build up the Chinese reading and writing capacity of ethnic minorities. As a result, ethnic minorities' access to the public service is seriously limited. Furthermore, the lack of ethnic minority nurses, firemen, immigration officer, postmen etc adds to the invisibility of ethnic minorities in the social arena.

3.2 To ensure equal access to the public service, **Hong Kong Unison urges the Government to review the Chinese reading and writing capabilities are genuine**



occupational requirement to each civil service post, especially in light of the poor Chinese language education for ethnic minorities.

4. Education for non-Chinese speaking students

Current situation

4.1 Both Chinese and English are persistently essential in Hong Kong, but the absence of a coherent Chinese Language education policy for ethnic minorities has left many of them unable to write and read Chinese well enough for participating effectively in society.

4.2 There is no policy to structurally cater for the fact that Chinese is not the mother tongue of ethnic minority children in kindergartens. The kindergarten curricula are not subject-based and there is no effective monitoring of the Chinese learning of ethnic minority children. As a result, the Chinese language foundation of ethnic minority children is not well-laid. Ethnic minority parents do not have the real choice of sending their children to mainstream primary schools, which is explained in the following paragraph.

4.3 Ethnic minority students only have two choices, namely mainstream and designated schools. Currently, 30 primary and secondary schools are “designated”, ie they admit a significant number of ethnic minority students. Designated schools teach ethnic minority students Chinese which is of a level too low for them to enjoy equal opportunities in further study and employment; for example they teach secondary six students primary-two level Chinese. On the other hand, mainstream schools assume all students are native Chinese speakers and accordingly put in place a curriculum and assessment unsuitable for ethnic minority students. Both extremes fail to adequately build up the Chinese capacity of ethnic minority students. International schools are way too expensive for ethnic minority students who are often from the working class.

4.4 Moreover, ethnic minority students in designated primary schools cannot manage studies at good mainstream secondary schools because the gap in Chinese level is too big. Those in mainstream primary schools cannot get into good mainstream secondary schools either. This is because the secondary school allocation system depends on their grades in schools and their Chinese grades are often very poor.

4.5 The outcome is that although many ethnic minority residents are at least second generation immigrants, many of them cannot read or write Chinese due to the poor education policy. Despite the fact that both English and Chinese are official languages of Hong Kong,



opportunities are extremely limited for residents of the lower and middle classes who do not read or write Chinese. For example, most small enterprises only have Chinese application forms during interviews and company notices are only written in Chinese. Also, every year about 1 % of ethnic minority students are admitted into government-subsidized degree programs while 20% of Chinese students are admitted to such programs.

Our demand

4.6 The Equal Opportunities Commission has also urged the government to address this issue, for example by introducing an alternative language qualification with different stages for ethnic minorities and providing extra support to students¹. **Hong Kong Unison urges the Government to implement a “Chinese as a Second Language” curriculum as soon as possible.** This is also in line with the recommendation by the Concluding Observations of Committee on the elimination of Racial Discrimination on Mongolia for the 69th session in 2009 that Kazakh children should be provided with adequate opportunities to learn Mongolian as a second language.

4.7 Hong Kong Unison’s advocacy for a “Chinese as a Second Language” curriculum is *not* based on the view that languages which are minority languages in Hong Kong should not be protected. The most important challenge ethnic minorities face in Hong Kong is different from that common across the world—in Hong Kong they do not have sufficient Chinese skills to access information and services as well as to enjoy equal opportunities.

The Government’s arguments

4.8 The Government argues that an alternative curriculum will preset lower standards for ethnic minority students. This shows a sheer lack of understanding on the Government’s part of a “Chinese as a Second Language” curriculum. As with the “English as a Second Language” curriculum common in English-speaking countries, a “Chinese as a Second Language”, aims at enabling non-native speakers to learn with native speakers ultimately with suitable curriculum and pedagogy.

¹ In its report in March 2011, the Working Group on Education for Ethnic Minorities of the Equal Opportunities Commission recognizes that it is unfair to impose the same Chinese language proficiency requirement on ethnic minorities without adequate and appropriate support. It therefore recommends a Chinese Proficiency Programme and Testing System with curriculum taught in stages, graded assessment and accreditation. It also recommends the government to carefully review the policy of designated schools. The report can be retrieved at <http://www.eoc.org.hk/eoc/Upload/UserFiles/File/EducationReportE.pdf>.



4.9 The Government has published a Supplementary Guideline on teaching non-Chinese students, but the guideline is in fact a general outline on teaching non-Chinese speaking students. There is no concrete advice on how schools can adapt their curricula for ethnic minority students. Moreover, laying the responsibility on schools is ineffective as schools and teachers lack the expertise, time and resources to design a new set of materials for ethnic minority students. Furthermore, schools do not have the capacity to develop a recognized assessment mechanism for ethnic minority students.

4.10 The Government claims that ethnic minority students may take the GCSE (Chinese) Examination of the United Kingdom in Hong Kong and the results may be considered for further studies. However, the GCSE (Chinese) Examination is an examination for students learning Chinese as a foreign language rather than a second language. Also, the content is based on the British context and the level is too low. A student attaining an A* (the highest grade) in GCSE (Chinese) was even fired as a delivery assistant because he could not read the list of goods in Chinese. Moreover, the GCSE (Chinese) Examination will be scrapped in 2017. **Hong Kong should develop its own assessment for students learning Chinese as a second language and not rely on foreign tentative solutions.**

4.11 The Government provides several remedial programmes, namely the Chinese Language Learning Support Centre, Summer Bridging Programme and after-school tutorial classes. It has been proven that these remedial programmes cannot address structural problems within the education system. As pointed out in the report of the Working Group on Education for Ethnic Minorities of the Equal Opportunities Commission, these remedial programmes lack the central support and quality assurance from the Government. Also, the Summer Bridging Programme and after-school tutorial classes are run by NGOs, which only play a remedial role and have no expertise to deal with problems within the education system.

4.2 Racial segregation across schools

In at least 9 of the 30 designated schools, ethnic minority students constitute 90% more of the student population. This segregation is in itself racial discrimination, potentially violating the RDO, and the absence of a Chinese-speaking environment in these schools hampers the Chinese learning of their students. The Government claims that parents choose to place their children in designated schools. However, in truth, there is no real choice for parents as their children risk failing in Chinese Language and having limited further study opportunities if sent to mainstream schools as explained above. **Hong Kong Unison urges the Committee to show concern over the absence of real school choice for ethnic minority students and the resulting segregation.**