

# **Interpreter services at hospitals for ethnic minorities**

*Submission to  
Bills Committee on Race Discrimination Bill*

*April 2008*

**Hong Kong Human Rights Commission  
Society for Community Organization  
Asylum Seekers' and Refugees' Voice**

**52, Princess Margaret Road, 3/F  
Homantin, Hong Kong  
Tel: (+852) 2713 9165 Fax: (+852) 2761 3326  
Email: [soco@pacific.net.hk](mailto:soco@pacific.net.hk)**

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## **1. Race discrimination bill has no protection against language discrimination**

The government has proposed only to define racial discrimination in line with article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which includes discrimination based on race, colour, descent, or national or ethnic origin. This definition, however, does not include racial discrimination based on language.

In the proposed race discrimination bill, the government makes it lawful in various areas to refrain from facilitating communication with ethnic minorities who do not speak Chinese or English. According to the bill, the failure to use a specific language in areas such as training, education, provision of goods, services and facilities, disposal of premises or access to clubs, is *not* illegal.

In some countries the ethnic minorities have already integrated into society and speak the local language very well. However, this is not the case in Hong Kong. In fact according to government statistics<sup>1</sup> the difficulty most frequently encountered by ethnic minorities is the language problem.

According to statistics published by the Home Affairs Bureau<sup>2</sup> only 11.2% of the ethnic minorities are fluent in Chinese, while only 60.4% claim to be fluent in English. Thus the rest are not fluent in the official languages of Hong Kong. A further break down by ethnicity reveals some significant differences: While 45.1% of the Thais who claim to be fluent in Cantonese, this only applies to 10.3% of the Pakistanis. And while 85.4% of the Indians are fluent in English, this only applies to 15.1% of the Pakistanis.

The fact that so many do not speak English or Chinese means that the government must adapt the bill to the special circumstances of Hong Kong and thus make discrimination based on language unlawful.

One may argue against including language as a ground of discrimination by pointing to the indirect discrimination clause. The government argues that situations where people are discriminated because of language are already covered under indirect

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1 AC Nielsen 2000: Omnibus Household Survey in the Fourth Quarter of 1999 (Characteristics of the Ethnic Minorities)

Prepared for the Home Affairs Bureau, Hong Kong. table 13c

2 AC Nielsen 2000: Omnibus Household Survey in the Fourth Quarter of 1999 (Characteristics of the Ethnic Minorities)

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discrimination. However, not all cases of language discrimination are indirect, and relying on the indirect discrimination clause would significantly limit the possibility for a victim to make a complaint if the type of discrimination was direct and not indirect.

A language discrimination provision would also make it unlawful if ethnic minorities are denied access to government services. Often government front line workers and institutions will use language as an excuse for not providing services. For instance many minorities have not been able to find a job through the Labour Department because the worker told them that they could not help them find a job if they couldn't speak Chinese. In a survey released by the Society for Community Organization (SoCO), only 7.4% of the ethnic minorities who had approached the Labour Department to search a job could find a job through these means. However, language as a requirement seems to be an excuse for the front line officers for not providing adequate service to minorities. In fact language may be used a mask for racial hostility of individuals who speak other tongues.

Accessing hospital services is a major problem as interpreters are seldom provided. However, the need for interpreters is widespread. A survey by SoCO in February 2004 revealed that more than 1/3 of ethnic minorities has communication problems with hospital staff, and that they cannot fully express their problems to the staff. It is not only those who do not speak Chinese who have problems. Even those who have English as their second language face various difficulties.

The right to health care is a human right. According to the International Convention on the Elimination of Racial Discrimination (ICERD) every person has the right to receive public medical services (article 5(e)(iv)). However, when smooth communication between patient and staff is not provided, the government is eventually barring ethnic minorities from getting optimum health care on an equal basis with Chinese people.

The current language policy only imposes a *de jure* equality where it imposes the same obligations and affords the same opportunities to all citizens. However, this does not mean that there is *de facto* equality, as a big portion of the ethnic minorities do not have the official state language as their mother-tongue.

In fact Hong Kong has a legal obligation to legislate against language discrimination: Article 2(2) of the ICESCR and Article 1 of the Bill of Rights already state that the rights must be exercised without discrimination as to "race, colour, sex, language,

religion [...] national or social origin.”

The Hong Kong government must look beyond the ICERD, which only serves as a minimum, and form a law, which can serve the uniqueness of the Hong Kong situation by including language as a ground of discrimination.

## **2. Problems of the current interpretation services at public hospitals and clinics**

It is of utmost importance that professional and reliable interpretation services is available to patients in need and in order for medical staff to provide reliable services and avoid medical blunders.

Although the government states that interpreter services are available, the service is not easily accessible for ethnic minorities. The usual practice is that the staff of clinics and hospitals will only arrange interpretation on special request of the medical staff or if the patient makes a request through a referral from social workers or NGOs.

Some few NGOs provide interpreter services for clients, however, according to our knowledge these interpreters have not received formal training in interpretation nor registered as court interpreters, which is the only way at the moment to verify their interpretation skills.

### **2.1 Problems with front line medical workers**

Although it is government policy to provide interpreter services front line medical staff will often not arrange for such services due to the following reasons:

1. Front line workers, such as inquiry desk officers, nurses and doctors do not know about the procedures on how to arrange a professional interpreter. **Training about arrangement of interpreters for frontline workers must be arranged.**
2. Front line workers say that it is expensive to arrange interpreters and even feel that it is not fair to local Chinese people, because they would feel obliged to let the ethnic minority come first in the queue because the interpreter is hired by the hour. They believe that such treatment is discriminatory to Hong Kong Chinese. They are not aware that positive discrimination is necessary to be able to provide equal access to medical services. Thus they are reluctant to arrange interpreters. **The hospital budgets must include an amount for interpretation and training about equal opportunities and non-discrimination is important.**

3. They seem to only being willing to arrange interpreters in emergency cases and not in normal outpatient cases. **No matter the urgency interpreters must be arranged.**
4. Front line workers in hospitals will usually just ask people if they can bring a friend or family member for interpretation. It is only if the patient makes a special request through NGOs or social workers that clinics and hospitals will arrange interpretation on a case-by-case basis. **Hospital staff should not rely on the friends of patients as the accuracy of interpretation may be questionable.**

## **2.2 Information level**

5. No ethnic minorities know that free of charge professional interpreters can be arranged. Information to ethnic minorities must be given in hospital venues and through the communities.
6. If a patient wants to get an interpreter there is no formal or convenient mechanism through which it can be arranged. **There must be a formal/central booking system.**

## **2.3 Problems of the interpreters**

7. Sometimes the interpreters don't have time because they are all hired ad hoc and often have full time or part time jobs. **In-house interpreters must be arranged in hospitals where many minorities are concentrated.**
8. Although the court interpreters are professional they lack training in interpreting in the medical setting. Ad hoc staff interpreters (such as security guards in hospitals) may not have the necessary skills for interpreting without the right training. **Training in medical interpretation must be provided.**

### **3. Overseas experience**

As Australia has vast experience in interpreter service provision we would like to give an overview of the services available.

#### **3.1 Language Support Services of New South Wales**

##### **3.1.1. Introduction**

This part aims at giving an introduction to the rationale behind the language support services in Australia and an overview of the current services available provided in order to promote a multicultural society.

The language support services provided by the Australian government can be easily comprehended by the principles of multiculturalism. These principles have been laid out in the Community Relations Commission and Principles of Multiculturalism Act 2000, and shine through the different language support services available throughout New South Wales.

The aims of the language support services and principles of multiculturalism are to:

1. To encourage ethnic minorities to *participate* in community and meet their citizen obligations.
2. To promote *multicultural* society where all individuals and institutions respect and make provision for the culture, language and religion of others within an Australian context where English is the common language.
3. To promote *access* and equity to government services, meaning that all individuals should have the greatest possible opportunity to make use of relevant activities provided by the government.
4. To promote *benefits* of a culturally diverse society, where institutions recognize the linguistic and cultural assets in the population as a valuable resource and promote this resource to maximize development of the State.

##### **3.1.2 Overview of services:**

###### **A. Language Class**

While the Hong Kong government does provide some introductory Cantonese language classes to ethnic minority residents, the language programme in Australia is much more comprehensive. The Adult Migrant English Program (AMEP) ([www.immi.gov.au/amep/](http://www.immi.gov.au/amep/)) was established in 1948 and is provided by the Department of Immigration and Multicultural Affairs and is a government funded program that provides 510 hours of English classes to new migrants and refugees. The AMEP will teach people how to read, write, speak and understand English through either part-time, full-time or home study courses.

In the AMEP, migrants can study English at four different levels, from Beginner to

Advanced. After completing each level, they will be given a Certificate in Spoken and Written English (CSWE) to mark their achievement.

## **B. Interpreting and Translating Services**

In Hong Kong, the government uses free-lance court interpreters in police and immigration investigations and in the courts. They are only very seldom used in other areas, such as the hospital services or social services. However, in Australia, interpreting and translation services are widely available. The Community Relations Commission provides interpreting and translating services through a service called Language Link ([www.crclanguage.com.au](http://www.crclanguage.com.au)), which caters for 77 languages and dialects and operates for 24 hours a day and 7 days a week. The service standard is that the call should be answered within 30 seconds.

The service is provided on user-pays basis (with exemption granted on needs basis). It is available to government departments, Courts, Legal Aid, private and commercial sectors, community groups and individuals.

On site interpreting is provided in areas such as: personal and domestic situations, workshops and seminars, police investigations, law, health, education, housing, insurance matters, international conferences, business negotiations, license testing as well as individual or client-group interviews.

A variety of translation services are also offered for personal documents, qualifications, multilingual pamphlets and books, as well as technical and other more complex material.

The Language Services Division works in partnership with tertiary institutions, professional associations and key government agencies to provide opportunities for the professional development of interpreters and translators and to improve availability of language services in Sydney metropolitan, regional and rural areas.

## **C. Community Language Allowance Scheme (CLAS) Testing**

At the moment not many ethnic minorities of Hong Kong work in the public sector. However, if employed they would be an important resource in especially providing services to ethnic minority residents and to foster a multicultural society. In Australia, the Community Language Allowance Scheme is a Government strategy to recognize and value the linguistic skills of the public sector employees. The CLAS provides an allowance, additional to salary, for selected employees of government agencies who use a language other than English to communicate with clients in addition to their normal duties. The Community Relations Commission examines the language competency of these employees.

## **D. Video conferencing**

Some areas in Australia are less accessible and therefore there are plans in the government to offer video conferencing in rural areas to improve the accessibility of



interpreting services.

Preliminary trials are underway which focus on the services of the courts and the Department of the Corrective Services.

### **E. Recognition of Overseas Nursing Qualifications**

In Hong Kong there are many overseas-educated nurses, especially from Nepal. However, they are not employed in the hospitals but rather work in elderly homes of Hong Kong. However, many of them wish to join the public hospitals to help the community. So far, the government has not yet taken any steps to overcome their barriers. However, in Australia the Community Relations Commission established a committee on the Recognition of Overseas Nursing Qualifications to examine and identify barriers to the employment of overseas trained nurses and proposes strategies to remove barriers to employment of nurses trained overseas. At the same time it is emphasized that high standards of health and patient safety are maintained.

Options considered include offering bridging courses and adopting overseas models for recruitment of nurses.

### **F. Online Language Services (OLS)**

While Hong Kong does not yet have any comprehensive language services available, it is interesting to understand how such future services may be provided efficiently. The Community Relations Commission created the Online Language Services (OLS) to enhance the provision of interpreting and translation services. The aim is that it should transact electronically the full range of translation services and interpreter booking using the Internet. Thus the full translation transaction, from booking to payment, will be processed electronically.

### **G. Language services**

In Hong Kong some ethnic minorities are unable to get jobs because they cannot get a driver's license or they may not understand or know about the public housing scheme due to language barriers. In Australia, initiatives have been taken to access these services. The Community Relations Commission supplies interpreters to the Roads and Traffic Authority for candidates taking the Driver's Knowledge Test through block bookings which are regular assignments booked in advance.

Furthermore the Commission also supplies interpreters to the Land and Housing Corporation to assist clients in accessing housing information and services in appropriate language according to the needs of the clients. The Language Services arranged 58 interpreters and translator for the casual panel of interpreters and translators.

### **H. Qualification of the interpreters**

In New South Wales, interpreters and translators play a vital role in assisting Non-English speakers to achieve community participation by breaking down language barriers. All the interpreters and translators work in the Commission are bound by

the codes of ethics and conduct to ensure a high level of quality service.

In other to ensure the accuracy and creditability of the services, all interpreters and translators employed have to obtain a professional qualification at interpreter level and above through the National Accreditation Authority for Translators and Interpreters (NAATI).

### **3.1.3 Overview of services provided by the Interpreting and Translating services of the Community Relations Commission in Australia**

#### **A. Interpreting and Translating Services**

- ✓ Over 75 languages
- ✓ User-pays basis (with exemption granted on needs basis)
- ✓ Available to government departments; private and commercial; community groups and individuals.

#### **B. Community Language Allowance Scheme (CLAS) Testing**

- ✓ Allowance for government employees who can use non-English language to communicate.
- ✓ Examinations based.

#### **C. Video conferencing**

- ✓ Provided in rural areas to improve accessibility

#### **D. Recognition of Overseas Nursing Qualifications**

- ✓ Committee set up to examine and remove barriers to employment of nurses trained overseas.
- ✓ Options considered: bridging courses and adopting overseas models

#### **E. Online Language Services (OLS)**

- ✓ Aiming at transacting electronically the full range of translation services and interpreter booking using the Internet (booking and payment).

#### **F. Language services**

- ✓ Supply of interpreters for candidates taking driver's license tests.
- ✓ Supply of interpreters to clients in accessing housing information.

#### **4. Recommendations:**

1. Include language as a ground of discrimination and cancel the exemptions on language as mentioned in clause 58 of the proposed Race Discrimination Bill.
2. The government should mainstream the use of interpreters in government departments, so that staff training in the administration and use of interpreters is available. Information about the services should be provided in different languages to ethnic minority patients.
3. The government should set up an examination for medical interpreters to ensure the qualification and service standard.
4. The government should actively hire ethnic minorities in the public sector in order to use the skills and talents of ethnic minorities and to provide full access to public services for non-English speaking ethnic minorities. Especially ethnic minority staff in the medical sector such as doctors, nurses and social workers would be beneficial to ethnic minority patients.