



Hong Kong Unison Limited
香港融樂會有限公司

Submissions to the Panel on Constitutional Affairs of the Legislative
Council on the Second Report of the HKSAR
on the Convention of the Rights of the Child
(March 2013)

Foreword

1. Hong Kong Unison is particularly concerned with the education of ethnic minority children. The current education policy for ethnic minority children, especially the Chinese language education policy, is so ineffective that the further education and employment opportunities are severely limited. The education policy also fails to help them develop their potentials. As a result, generations of ethnic minority children have not been able to pursue their dreams and develop their potentials fully simply because of their race. Every year only less than 1 % of ethnic minority students are admitted into government-subsidized degree programs¹.
2. In this paper, two general demands are described, followed by demands related to specific articles of the Convention on the Rights of the Child.

General demands applying to the whole Convention

3. **Firstly, we urge the Government to set up a statutory, independent Child Rights Commission** in line with the Paris Principles to promote and protect child rights. The Commissioner can take a proactive role in ensuring ethnic minority children have equal access to resources and opportunities in various respects. This can be done through advocating

¹ The Report on the Working Group on Education for Ethnic Minorities of the Equal Opportunities Commission published in 2011.



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institutional change in policy areas like education and enhancing the awareness of ethnic minority parents of support currently in place as these parents are often marginalized from the mainstream population.

- 4. Secondly, we urge the Government to put more weight on race issues in its policies concerning children. It should also implement a comprehensive racial equality and non-discrimination policy in light of the fact that the population of ethnic minority children is growing steadily.**

Articles 3 and 28

Education

Current situation

5. Both Chinese and English are persistently essential in Hong Kong, but the absence of a coherent and effective Chinese Language education policy for ethnic minorities has left many of them unable to write and read Chinese well enough to participate effectively and meaningfully in society.
6. 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



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their children to mainstream primary schools, which is explained in the following paragraph.

7. Ethnic minority students only have two choices, namely mainstream and designated schools (those mentioned in paragraphs 473 and 474 of the Government's report). Currently, 30 primary and secondary schools are "designated", i.e. 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 mentioned are way too expensive for ethnic minority students who are often from the working class.
8. 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. 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.
9. The outcome is that although many ethnic minority residents are at least second-generation immigrants, many of them do not have adequate



Chinese reading and writing skills. As most jobs for degree holders require Chinese proficiency, the employment opportunities even for those ethnic minority residents managing to graduate from universities are therefore limited. In-work and inter-generational poverty persists. They continue to be socially marginalized from mainstream society.

Our demand

10. 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 students². **Hong Kong Unison urges the Government to take immediate actions on the implementation of “Chinese as a Second Language” curriculum which was promised in Mr. CY Leung’s manifesto.** 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.

11. **We also urge the Government to devise a concrete timeline, action plan and budget for the recommendations made by the Equal**

² 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>.



Opportunities Commission in its Report on the Working Group on Education for Ethnic Minorities in 2011, including reconsidering the case of a “Chinese as a Second Language” curriculum and reviewing the adequacy and appropriateness and monitoring the effectiveness of the support measures for ethnic minority students.

12. Hong Kong Unison’s advocacy for a “Chinese as a Second Language” curriculum is *not* based on the view that minority languages in Hong Kong should not be protected. The most pressing challenge ethnic minorities face in Hong Kong is that they do not have sufficient Chinese skills to access information and services as well as to enjoy equal opportunities in a range of public and private spheres.

The Government’s arguments

13. 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 the objects and ends 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.
14. As mentioned in paragraph 475 of the Government’s report, 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.

15. As mentioned in paragraph 479 of the Government's report, 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 (the highest grade A* in GCSE Chinese equivalents to local primary 2 level). *A real example: A Pakistani student attaining an A 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.

16. Hong Kong should develop its own assessment for students learning Chinese as a second language and not rely on foreign solutions as these are unhelpful as a marker of competence of Chinese skills required in the local market.

17. Current remedial programmes mentioned in paragraphs 477 and 478 of the Government's report, namely the Chinese Language Learning



Support Centre, Summer Bridging Programme and after-school tutorial classes, 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 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 and are underequipped to address the language skills acquisition problems which require pedagogical expertise..

18. In paragraph 476 of the Government's report, it is stated that there are training programmes provided by a tertiary institution for Chinese language teachers for non-Chinese speaking students. However, there are no increments in salary or other incentives for teachers completing such programmes. These teachers tend to be overloaded with all the work related to non-Chinese speaking students within the school.

19. We urge the Government to provide increments in salary as incentives for teachers completing postgraduate training on teaching non-Chinese speaking students. This can also contribute to a change in values so that the profession would regard teaching ethnic minority students as expertise, not punishment.

Racial segregation across schools

20. In at least 9 of the 30 designated schools, ethnic minority students constitute 90% or more of the student population. Segregation by race



itself amounts to racial discrimination, potentially violating the RDO. The absence of a Chinese-speaking environment in these schools hampers the Chinese learning of the students. In addition, many of the designated schools are of very poor quality. These schools only admit ethnic minority students because otherwise they would not have enough students and have to close down.

21. 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.
22. **The Government has a moral and legal responsibility to combat the segregation in accordance with Article 3 of the Convention on the Rights of the Child, which states that the best interests of the child shall be a primary consideration of administrative authorities.**
23. **Hong Kong Unison urges the Committee to show concern over the absence of real school choice for ethnic minority students and the resulting segregation. We also urge the Government to devise a concrete timeline, action plan and budget for the recommendation made by the Equal Opportunities Commission in its Report on the Working Group on Education for Ethnic Minorities in 2011. We also urge the Government to abolish designated schools so as to facilitate social integration of ethnic minority children.**



Vocational Training and Guidance:

24. For students with lower academic achievements, most of the programmes offered by tertiary institutions, such as the Institute of Vocational Education, are taught in Cantonese. The Project Yi-Jin, one of the major outlets for high school leavers, only provides Chinese programmes too. Ethnic minorities have limited options in vocational training programs.
25. Moreover, participation in vocational programmes is not very useful in enhancing ethnic minorities' competitiveness in the job market. This is because their lack of Chinese proficiency keeps them at low-skilled positions even after they obtain vocational qualifications.

Article 2

Legislation against race discrimination

26. 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



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conciliation or litigation initiated and funded by the Equal Opportunities Commission. The remedies and time bar of judicial review and under the RDO are also different.

27. Moreover, for indirect discrimination, the RDO only applies to discriminatory requirements and conditions. This is modelled 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.
28. 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.
29. 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.
30. **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. The Government should also set up a statutory, independent Child Rights Commission in line with the Paris principles to promote and protect children's rights.

Article 6: Right to life, survival and development

31. The Government has adopted an integrated approach for social welfare services for families, children and youths. With this approach, social workers handle problems of all groups in the same way and neglect issues unique to each group.. Social workers in general lack the cultural sensitivity, basic knowledge and skills necessary for serving ethnic minorities. The resulting incompetence and even phobia in serving ethnic minorities thus hinder social workers from giving immediate attention or assistance to ethnic minorities even in emergencies.

32. The Government should provide social workers with pre-employment and on-the-job training on serving different racial groups and set up guidelines to ensure all races are served equally competently. We also urge the Government to issue a set of statutory guidelines for social services sector so as to ensure members of ethnic minority receive equal quality of social services.

Article 7: Naturalization

33. Many ethnic minority residents, including those whose families have settled in Hong Kong for a century, cannot get naturalized as Chinese nationals or get an HKSAR passport due to the apparently discriminatory and arbitrary practice of the Government.



34. The Government of China has delegated the power of approving naturalisation applications to the Hong Kong Government. The Hong Kong Government has set ten factors to be considered in an application, such as whether the applicant has a reasonable income and whether the applicant has a near relative who is a Chinese national with the right of abode in Hong Kong. Only Chinese nationals are eligible for an HKSAR passport.
35. The approval process is very opaque and apparently arbitrary. Firstly, the Government has not announced to the public whether any of the factors are given heavier weight and what the factors mean. For example, what amounts to a reasonable income is not known by the public.
36. Secondly, according to the law, the Government does not have to give reasons for rejecting an application. There is also no appeal mechanism. An applicant cannot check whether the processing of the application is rational and in line with natural justice. Also, there is no way for an applicant to improve his or her situation for the sake of re-applying. Thirdly, frontline officers tend to dissuade ethnic minority applicants from submitting applications before the officers responsible for reviewing applications have a chance to fully review them. There may be wrongful “rejection” in this regard and the data on refused applications do not truly reflect the situation.
37. The failure for ethnic minority residents to get an HKSAR passport has shattered their sense of identity as they have long seen Hong Kong as their home. They are also denied the facility and protection enjoyed by



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HKSAR passport holders when they travel abroad and their study and employment opportunities are thus limited. Some banks also refused to open accounts for them due to their nationalities are not Chinese. This would be further political marginalize the younger generations.

- 38. Hong Kong Unison urges the Government to align the practice and attitude of frontline officers and officers reviewing naturalization applications to ensure the process is rational and non-discriminatory. Also, it should ensure that the public understands the relative importance and true meaning of each factor considered in an application. Furthermore, it should revise the procedure of considering applications so that applicants will know why the Government rejects or is going to reject the applications and have the chance to make representation and appeal the decisions.**

Article 12: Respect for views of the child

39. Ethnic minority children are under-represented or unrepresented at all in all forums, including the Children's Rights Forum organized by the Constitutional and Mainland Affairs Bureau. Their views, perspectives and concerns are neglected and never heard.
40. We urge the government to **set up a channel** (or to strengthen the existing channels, if any) to engage ethnic minority children and to collect their views and perspectives when formulating and implementing policies and programs affecting them.



Article 23: Children with disabilities

41. Ethnic minority students with special educational needs (SEN) are often ignored.
42. Firstly, teachers and school social workers often cannot tell whether the poor performance of these students is attributed to the language barrier or learning disabilities. Even when they suspect that it is due to learning disabilities, they are reluctant to refer the students to the relevant departments for assistance.
43. Secondly, the learning disabilities test is conducted in Chinese or English only without a translation into a student's mother tongue. The content does not cater for the cultural difference of ethnic minority students either. As a result, ethnic minority students with learning disabilities cannot be effectively identified, with effective treatment and support delayed or totally withheld.
44. Thirdly, as ethnic minorities are marginalized in society, parents of ethnic minority students with disabilities either are not aware of these services. The parents do not read and write Chinese but the promotional materials of these services are usually in Chinese only, subsequently they do not have equal access to most information on government policies supporting their children.



45. We urge the Government to include how to support ethnic minority students with learning disabilities in the professional training for teachers. The learning disabilities test should be cultural sensitive and available in minority languages. Moreover, the Government should reach out to ethnic minority parents to identify ethnic minority children with learning disabilities.

Article 24: Health

46. Doctors and nurses can decide for ethnic minorities whether interpreters are needed for the communication between them. Some frontline medical staffs admit that calling interpreter would mean they have to spend double or more time to a patient given that they are already extremely over-loaded and stressed, and therefore they tend not to call interpreter. As a result, ethnic minority patients do not receive equal quality of medical services. Moreover, ethnic minority patients in general do not aware the availability of the interpreting services, as a result, they often have weaker access to information about their own health situation.

47. We urge the Government to provide training to medical professionals to enhance their cultural sensitivity, thereby ensuring the part in their Code of Professional Conduct related to communication is substantially adhered to as well as to take effective steps to ensure ethnic minorities are aware of the interpreting services and receive equal quality of medical services.



Article 27: Standard of living

48. Ethnic minority residents in Hong Kong, many of whom are from Pakistani, Nepalese and Indian origins, face problems of intergenerational and in-work poverty. They have limited options in employment and low upward mobility owing to the long-standing language barrier due to the lack of Chinese proficiency.

49. Many ethnic minority youths have low career aspirations because most mid-tier, semi-professional (e.g. police officers, nurses, firemen and immigration officers) and government degree and non-degree jobs are closed to ethnic minorities. We urge the Government **to initiate concrete measures** to combat intergenerational poverty of ethnic minorities.

Article 29: Human rights education, education against discrimination and civic education

50. Ethnic minority students in mainstream schools suffer from bullying and isolation. Teachers and other students in general do not understand the principles of racial equality, diversity and human rights. We urge the government **to implement a systematic Civic Education Scheme** which includes the promotion of anti-discrimination, appreciation of diversity and effective measures in creating an inclusive and racially harmonious learning environment.