

**The Report of the Hong Kong Special Administrative Region
(HKSAR) under the International Convention on Elimination of All Forms
of Racial Discrimination (ICERD)**

Meeting of LegCo Panel on Constitutional Affairs

15 June 2009

- Submission from the Equal Opportunities Commission –

Background

1. The Equal Opportunities Commission (the Commission) is responsible for administering four anti-discrimination ordinances: the Sex Discrimination Ordinance (SDO), the Disability Discrimination Ordinance (DDO), the Family Status Discrimination Ordinance (FSDO) and the Race Discrimination Ordinance (RDO). Under these ordinances, the Commission is charged with the responsibility of eliminating discrimination on the grounds of race, sex, marital status, pregnancy, disability and family status, eliminating sexual harassment, racial and disability harassment and vilification, and promoting equality in opportunities between men and women, between persons with disabilities and without disabilities, persons with family status and without family status and persons with different racial background.
2. With the long awaited RDO enacted, the Commission is expecting fundamental changes in the values of our society and in the way society views racial issues. The Commission prepares this paper to report on the work done by the Commission in relation to the RDO so far and to outline the possible improvements that could be made to our society. This paper aims to offer forward-looking options which in our opinion would be more conducive to fostering racial harmony in our community.
3. The Commission wishes to offer its comments on two aspects, namely under Article 2 and 5 of the ICERD.

Article 2 – Policy of eliminating racial discrimination

4. With the new RDO coming into effect soon, the Commission takes the view that people of different races are protected under the RDO and that people coming from various parts of the world, if discriminated against because of race, will and should be protected. The RDO makes an important stride to safeguarding the rights of people in Hong Kong against racial discrimination and the Commission as the law enforcement agent of the RDO, would monitor the implementation of the RDO with due diligence.

5. The RDO offers protection in employment, education, provision of goods and services, premises, and clubs and activities and it binds the Government. Most of the services and facilities provided by the Government are under the remit of the RDO. However, the RDO, unlike other existing anti-discrimination ordinances, does not have a specific provision applying to the performance of functions and powers of the Government. It was the Administration's position that the proposed legislation would apply to an act done by the Government in the same way as it would apply to a similar act done by individual persons and organisations in the private sector under an earlier formulation of Section 3 of the Race Discrimination Bill (RDB). Section 3, as enacted, now reads "This Ordinance binds the government". In so far as government facilities and services that may come within the enactment, section 27(2) (h) further clarifies the ambit of the RDO to include particularly "the services of any department of the Government or any undertaking by or of the Government." The impact of such a difference in drafting the RDO is yet to be assessed after the RDO is fully operational. The test may come where a complaint, grounded in an act of the government and/or services provided by a department, also involve the other existing anti-discrimination ordinances, which, in this context, are differently worded.

6. The Commission considers that the supporting services to enable ethnic minorities to have access to vital public services are still sketchy and sporadic and that the Administration should adopt a programmatic approach toward the goal of ensuring racial equality. In this context and in the absence of a specific provision applying to the performance of functions and powers of the Government, the Commission had made a suggestion to the Bills Committee on Race Discrimination Bill in 2008 requesting the Administration to consider imposing a statutory duty on the Government

and specified public authorities to draw up a Race Equality Scheme for the purpose of eliminating racial discrimination and promoting racial harmony. The Administration, however, was of the view that drawing up a Race Equality Scheme would involve significant resource and manpower requirements, and the means for achieving this and the implications of the mechanism involved would need to be carefully examined.

7. In response to the request of the Bills Committee on Race Discrimination Bill that a statutory duty should be imposed on the Government and specified public authorities to draw up a Race Equality Scheme, the Administration had instead proposed to compile administrative guidelines on promotion of racial equality within the Government for the key Bureaux and Departments to follow in their formulation and implementation of their relevant policies and measures. Under this circumstance, the Commission urges the Administration to put in place the administrative guidelines as soon as possible. To ensure compliance with the administrative guidelines, the Commission suggests a review mechanism be set up to monitor the effectiveness of these guidelines.
8. The Commission joined the first round of Thematic Household Survey (THS) in 2008 to conduct a study “Thematic Household Survey on Racial Acceptance”. The Study included a face-to-face survey of 10,022 households, each of which a household member aged 15 and over was randomly selected for interview. The survey aims to elicit the public perception of racial acceptance under different areas, including but not limited to employment, education, provision of goods, services and facilities, and disposal or management of premises and to examine the relationships between people’s attitudes towards other ethnic groups and the following factors: demographic and economic characteristics, experience of interaction with other ethnic groups, and exposure to specific programmes intended to promote equal opportunities concepts of racial acceptance. We also hope to document the public perception of efficacy of existing measures provided by the government and private sectors against racial discrimination through this survey.
9. It is found in the survey that the degree of acceptance towards other ethnic groups was higher when taking community roles than taking private roles. The acceptance level among Chinese towards the major groups of minorities was highest towards Caucasian (94.3% when taking community

roles and 87.3% when taking private roles), Japanese / Korean (91.9% and 83.0% respectively), followed by Indonesian / Malaysian /Filipino (87.9% and 70.3% respectively) and Indian / Pakistani / Bangladeshi / Nepalese (82.2% and 58.6% respectively).

10. As to interaction with various ethnic groups, 27.9% of Chinese people had pleasant experience. They had relatively more pleasant experience with Caucasians (17.6%) and least with Arabians (3.3%). In comparison, a large proportion of non-Chinese (38.4%) had pleasant experience of interaction with other ethnic groups, with 33.8% having pleasant experience of interaction with Chinese, 10.0% with Caucasian and 3.8% with African. Only a small percentage of Chinese (6.0%) said that they had unpleasant experience of interaction with other ethnic groups. 3% of them had unpleasant experience of interaction with India / Pakistani / Bangladeshi / Nepalese. A slightly larger proportion of non-Chinese (7.3%) had unpleasant experience of interaction with other ethnic groups. In general, the main causes of unpleasant experience of interaction among Chinese with the respective ethnic groups were “general behaviours / conduct” (ranging from 46.6% to 68.5%), “working attitude” (ranging from 14.6% to 47.3%), “with body odour” (ranging from 1.1% to 20.5%), “living habits” (ranging from 7.7% to 20.3%), “appearance / skin colour” (ranging from 2.8% to 7.6%) and “clothing” (ranging from 0.7% to 4.4%).
11. In a nutshell, the survey findings showed that there were variations in the acceptance level of the Chinese population towards different ethnic groups. The Commission believes that the findings will enable the Commission to evaluate the present social situation of racial discrimination in Hong Kong and to provide baseline information for longitudinal comparison when the RDO is implemented. The survey results will also provide valuable information to guide the Commission’s promotion and public education strategies, with respect to propaganda channels and their effectiveness.
12. The Code of Practice on Employment under the Race Discrimination Ordinance (the CoP) has been prepared and submitted to the Legislative Council for negative vetting and is currently being considered by a sub-committee at LegCo. When the RDO and the CoP become effective, a series of public education activities will be rolled out to publicize the RDO and the CoP and to promote the concept of equal opportunities for ethnic minorities. Details are as follows:

1. Programmes to promote compliance with the Race Discrimination Ordinance (RDO)

- Production and broadcast of new TV and radio Announcements of Public Interest (APIs) on the RDO and racial equality and harmony
- Advertisement campaign at Mass Transit Railway stations to promote the RDO and other equal opportunities ordinances
- Advertisement on major local newspapers and ethnic minority newspapers on the enforcement of the RDO
- Production and Printing of the Code of Practice on Employment under the RDO in eight languages including English, Chinese, Thai, Indonesian, Nepali, Urdu, Tagalog and Hindi
- Roving exhibitions on equal opportunities ordinances, especially the RDO, at Mass Transit Railway stations and various venues
- Regular publications such as newsletters and leaflets to keep the public abreast of the latest information on enforcement of the RDO

2. Programmes to promote the concept of racial harmony and equal opportunities for ethnic minorities

- Community Participation Funding Programme on Equal Opportunities – financial support for NGOs and schools to conduct public education programmes on equal opportunities for ethnic minorities
- Radio Project with RTHK Radio 2 – weekly interviews on equal opportunities issues on a half-hour programme on RTHK Radio 2 which began from Nov 2007 to Nov 2008 will continue from May 2009 to May 2010
- Drama performances on inclusion and equal opportunities for all – plays to inculcate acceptance of equal opportunities in primary and secondary school students
- Career Challenge - an annual mentorship programme for local and ethnic minority students to cultivate awareness of equal opportunities issues and elimination of stereotyping and discrimination through a series of talks and workplace visits
- Promotion on internet - a series of short videos promoting equal opportunities and diversity (on the EOC website and YouTube)
- Radio Docu-drama Programme with Commercial Radio 1 – weekly radio docu-drama and interviews on Commercial Radio 1 from October 2009 to March 2010 (currently under development)

Article 5 – Guarantees of rights of everyone without distinction as to race, colour, or national or ethnic origin (on education)

13. Education is always a prime concern for the non-Chinese speaking ethnic minority population in Hong Kong. Education is not only important for an integral development of a person; it is also the most effective means to move out of poverty. Though the Government is correct in saying that primary and secondary schools provide education to all eligible children in Hong Kong irrespective of race, colour or national or ethnic origin and that government has devoted significant attention to the needs of ethnic minority students, it is still under debate whether the ethnic minority students could realistically benefit from mainstream schooling when they have difficulties with the medium of instruction, which is primarily Chinese. The number of ethnic minority students who can progress from primary school through to tertiary education is telling and the difficulties they face are self-evident.
14. While we understand that balancing integration with individual rights is never an easy task, we urge the Government to consider providing a tailor-made Chinese language curriculum to cater for the special needs of ethnic minority students in addition to the existing education support which Government has made available to schools with minority students. The provision of a separate curriculum that is relevant to local conditions will, we believe, enhance the employability of ethnic minority students when they eventually enter the work force.
15. As stated in the Government report, for students without a Chinese language qualification based on local examinations to gain admission to local universities, they need “an alternative language” other than Chinese. For students with less resource, the language requirement may be a barrier for them to gain access to tertiary education. The Commission hence urges the Government to consider giving support assistance to students with less resource. Similarly, separate curricula/examination leading to qualification recognized by employers need to be considered.
16. For vocational training, although the Vocational Training Council (VTC) and the Employees Retraining Board offer vocational education and training programmes to eligible person irrespective of race, the courses offered in English are limited. We urge the Government to consider offering more courses in English to help the ethnic minority students.

17. Unemployment rate for South Asians in Hong Kong (not counting foreign domestic helpers) is disproportionately high; the reason for this phenomenon could be multifold, but it is clear that they usually have a lower locally-recognized educational achievement. To help this particular group of people, we urge the Government to consider conducting more vocational training courses in English and to offer more immersion programmes for them in order that they could better integrate into our society.

Conclusion

18. The Commission agrees with the principles enshrined in the Convention on the Elimination of All Forms of Racial Discrimination. The Commission is prepared to provide assistance by way of advice and experience sharing to the Government and related bodies to realize the rights recognized in the Convention, if so required. Should the Panel or the Government require further information, the Commission would be happy to provide.

Equal Opportunities Commission
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