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Panel on Constitutional Affairs
Legislative Council Secretariat
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Subject: Submission to LegCo Constitutional Panel on "An outline of the topics in the third report of the Hong Kong Special Administrative Region under the International Convention on the Elimination of All Forms of Racial Discrimination"

LegCo,

We welcome this opportunity to input into HKSAR China's response to the UN.

YLMPCG as a Minorities Parent's group our focus is on education of our children meeting all domestic and international obligations within a framework which is inclusive and equitable for all children in HKSAR. We refer to our solution as "Wholistic multi-cultural education" in which all children (i.e. majority and minority) their Parents having the lawful right to choose education which is public financed and have the right to choose: 1) the Medium of Instruction of either Putonghua, Cantonese or English; 2) the school of their choice.

Historically one of the key issues of China is a weak relationship between the Government and citizens. The current realities of HKSAR reflects this. Our Society believes that as a matter of urgency the key relationship of HKSAR Government – HKSAR People must improve and that as a first step HKSAR should be meeting all UN and other international obligations as well as Governance best practices.

1. Current status:

HKSAR has the Vision of "Asia's World City" and the current reality is that we are far from being "Asia's World City" and that daily by ignoring international obligations and best practices we are falling even further behind. Either we change the Vision or we change what we are doing but we can not have it both ways.

HKSAR is supposed to be governed under the Sino-British "Joint Declaration of "one country two systems" and that HKSAR's "Basic Law" is in effect HK's Constitution and that this is not being followed.

China, and therefore HKSAR, is obliged under domestic and international laws, covenants & treaties. UN obligations are based on principles of of the inherent dignity and of the equal and

inalienable rights of all members of the human family which is the basis of freedom, justice and peace in the world. HKSAR has traditionally been a place for refugees and others seeking to improve their lives and of their families based on values similar to those of the UN.

HKSAR is not a “democracy” in the generally accepted internationally accepted meaning of this term – it is a “Plutocracy” and therefore discrimination in all forms are the basis of HKSAR's current political, social, economic and other systems systems.

HKSAR does not have a “rule of law” to the generally accepted internationally accepted meaning of this term. This is reflected in that all HKSAR people are not equal before the law - for example it can be argued that the Heung Yee Kuk as well as HKSAR Government Employees are operating outside of the law.

Because there is no recognized and accessible means to obtain citizenship in HKSAR there is effectively no “Immigrant” status for anyone who is not ethnic Chinese; therefore non Chinese are unable to fully participate in HKSAR as equals to Chinese. This lack of official status means that in all aspects of life for non-ethnic Chinese people living in HKSAR they are discriminated against and are unable to participate as equals. That the reality is that all Minorities have little input into the current political system including legislation of their legitimate rights.

That the failure of HKSAR to follow UN recommendations 27 May 2014 including to establish an independent Human Rights Organization, to enact comprehensive anti-discrimination legislation and specifically for minorities children to address all of the inequities of the HKSAR educational needs rather than over simplify and create a policy of “Chinese as a Second Language” is needed. That forcing Chinese language as the Medium of Instruction (CMI) education does not support the develop of each minority child to their “full human potential” which is the obligations under UN Declaration of Human Rights Article 26.2. Parents have the priority to decide for their children development and education.

On 27 May 2014 <http://www.info.gov.hk/gia/general/201405/27/P201405270931.htm> the HKSAR Government reported it's response to the United Nations recommendations including:

- 1. “In response to the Committee's recommendation to establish an independent human rights institution in the HKSAR, the spokesperson said, “We note the Committee's concern and recommendation in this regard. However, we consider that human rights are fully protected by law in the HKSAR and enshrined in the Basic Law, the Hong Kong Bill of Rights Ordinance and other relevant ordinances. There is also an existing institutional framework of organisations which helps promote and safeguard different rights, including the Equal Opportunities Commission (EOC), the Office of the Privacy Commissioner for Personal Data, the Office of The Ombudsman, and the legal aid services. The Government's performance in promoting and safeguarding human rights is open to scrutiny through regular reports to the United Nations and is constantly watched over by the Legislative Council, the media and various human rights non-governmental organisations. The existing mechanism of protecting human rights has worked well and that there is no obvious need to establish another human rights institution to duplicate the functions of or supersede the existing mechanism.”*
- 2. The Committee was concerned about the absence of comprehensive anti-discrimination legislation and discrimination against new arrivals and sexual minorities. The spokesman said that “the four existing anti-discrimination ordinances protect equal opportunities in their respective areas, and are enforced by the EOC, an independent statutory body. The EOC is*

currently undertaking a review on the four anti-discrimination ordinances."

3. On education, the Committee is also concerned about support provided to ethnic minorities in learning Chinese. The spokesperson said that "we will provide schools with the 'Chinese Language Curriculum Second Language Learning Framework' from the 2014/15 school year. This will be supplemented with learning and teaching materials as well as assessment tools to help non-Chinese speaking students overcome the difficulties of learning Chinese as a second language. Schools will also be provided with specially designed Chinese Language Assessment Tools to assess and set realistic and progressive learning targets, learning progress and expected learning outcomes using a 'small-steps' approach to enhance learning effectiveness. An expert task group has been formed to validate the framework prior to its full scale implementation. Teacher training with regard to the use of the assessment tools has already been rolled out. Full-scale and comprehensive training on pedagogy and the use of the Learning Framework will also begin from June 2014."

That our members have attended and written our recommendations to EOC's Race Discrimination Law Review and that we remain dissatisfied with the total lack of progress made by EDB, EOC and the HKSAR Government in addressing their obligations to perform to their UN obligations.

That we highlight these education related Articles of the United Nations Declaration of Human Rights:

Article 26.1 states: "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit."

Article 26.2 states: "Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace."

Article 26.3 states: "Parents have the prior right to choose the kind of education that shall be given to their children."

The UN Convention of the Rights of the Child:

Article 2.1 says "State Parties shall respect and ensure the rights set forth in the present Convention to each child within jurisdiction without discrimination of any kind...."

Article 3.1 says "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

Article 30 "In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language."

Our understanding is that in China the local dialect (or for minorities their native language) is the primary language taught to young children in Primary Schools. That the languages of "Unity" of Putonghua and of "Economics and Business" of English are taught as second languages to children as they grow older primarily at Secondary School after they have a strong basis in their local language/ "native" language.

Currently in HKSAR there is no native language policy for children and that minorities children do not have a strong native language basis. That effectively what is happening in HKSAR is an illegal process of Assimilation and that on top of issues of developing as children they are faced with crisis of identity. That the statistics show that the current education system is failing minorities children.

That EDB has failed and is failing to meet its Vision and Mission.

A key issue in education of minorities children is proficiency in the language of the Medium of Instruction ((MOI). That it is effective & efficient (EDB Mission) for all children for them to achieve "*full development of the human personality*" (UN Declaration of Human Rights & EDB Vision) when children are taught in the language that they have the greatest opportunity to learn, to use, to understand and achieve proficiency in.

That many of the problems of our ethnic minorities children's education arise because the HKSAR obligations, including UN Declaration of Human Rights, United Nations Convention on the Rights of the Child and the Basic Law and all other obligations are not being met. We demand that all obligations are met.

In the case of 2014 Primary One Admissions (POA) EDB by failing to meet parent's UN Declaration of Human Rights of "prior rights to the kinds of education available to their children" it is enforcing Chinese as a language and therefore is forcing assimilation of our children by not offering parents their full rights of the prior right of choices for the kinds of education for their children. This is unacceptable to us.

The HKSAR Government has not been telling the UN nor others the reality of discrimination and segregation in the HKSAR and that the realities of race, religion and perhaps other forms of discrimination are being ignored by HKSAR Government. We agree with the recent UN recommendation that comprehensive anti-discrimination legislation as well as all other UN recommendations are needed. Specifically:

1. That for minorities students enrolled in mainstream Chinese schools race discrimination is commonplace, is a violation of our children's UN human rights, and is negatively affecting our minorities children identity and ability to learn. See SCMP (<http://www.scmp.com/news/hong-kong/article/1519659/ethnic-minority-children-being-stereotyped-and-belittled-local>)
2. We note that the recent outrage by many HKSAR people surrounding Primary School texts books used in some elite Chinese schools in HKSAR which are using racial stereotyping does not support the UN Declaration of Human Rights and. See SCMP's article of 3 June 2014 (<http://www.scmp.com/news/hong-kong/article/1524001/outrage-over-primary-school-textbook-asks-pupils-match-races>).
3. That a much wider segmentation and discrimination exists for the majority of Chinese students in HKSAR which directly affects everyone. That today the ESF, funded partly by HKSAR Public Funds, provides English Medium of Instruction (EMI) for the wealthier segment of the local Chinese population and expatriates and that this is segmentation and discrimination. Today, despite HKSAR obligations including the UN Declaration of Human Rights of parents "prior rights" of the kinds of education for their children and of a child's right for their "*full development of the human personality*," that for the majority of local Chinese children studying in the HKSAR using the Public Education System the only choice "due to lack of Public Funds" financing is Chinese Medium of Instruction (CMI) because most parents

can not afford to finance their children's education at ESF or other "International" schools who offer EMI. That the majority of HKSAR Chinese students do not have a choice of either CMI or EMI or choice of Chinese language dialect and therefore they are being denied their full rights under the UN Declaration of Human Rights.

We urge the HKSAR Government to reconsider its position on segregation and discrimination as this negatively affects everyone and of course on HKSAR's standing globally including its' future development as "Asia's World City, a Major City in China."

That under the EDBs' "Designated" schools program our minorities children did not suffer from discrimination nor segregation inside Designated schools and that as parents with the prior right of the kinds of education for our children we want our children to be enrolled in EDB's Designated schools (see below) in which we have the choices of EMI or CMI , and of the Chinese dialect (Cantonese or Putonghua) and the choice of school.

That currently there is no "Chinese as a Second Language" (CSL) it is simply a Chinese as a first language program which is wholly unsuitable for a minority child!

That the streaming of Minorities children into mainstream schools teaching CMI has resulted in an even worse situation for in that students are segregated into their own classrooms and have no interaction with Chinese students.

We hope that LegCo makes sure that any report to the UN is from Public Consultation and is truthful and honest without distortions.

Yours Sincerely.

Paul D. Tarrant
Chair