

Subcommittee on Rights of Ethnic Minorities
Employment of Ethnic Minorities
9 January 2017

Submission from the Equal Opportunities Commission

Purpose of the Paper

This paper sets out to provide the Equal Opportunities Commission's (EOC's) views for the Subcommittee on Rights of Ethnic Minorities regarding employment problems encountered by ethnic minorities (EMs) in Hong Kong.

Protection under the Race Discrimination Ordinance

2. Access to equal employment opportunities is a right protected under the Race Discrimination Ordinance (RDO). Discrimination in recruitment, training, on-the-job and dismissal on the ground of one's race would be unlawful under the RDO. Given that language used by people is often associated with their race, unfair treatment based on language may constitute indirect discrimination against EMs. The Code of Practice on Employment under the RDO¹ issued by the EOC stipulates that "employers must ensure that any language requirement (including academic qualification, fluency and accent requirement) for a job is relevant to and should be commensurate with the satisfactory performance of a job" (Paragraph

¹ Equal Opportunities Commission (2009), *Code of Practice on Employment under the Race Discrimination Ordinance*.

5.3.12 (1)). In this connection, using language as a recruitment criterion where it cannot be justified might be indirect race discrimination.

3. Protection under the RDO also covers provision of vocational training as well as goods, facilities and services, including employment-related public service. Unfair treatment based on one's race in admission to and while undergoing vocational training, and in the access to and delivery of services may also be unlawful. Although it is not mandatory for vocational training bodies to modify their medium of instruction for trainees of any racial group, providers of vocational training as well as goods, facilities and services, particularly public services, are highly recommended to put in place support measures to remove language barriers to allow for equal access of EM applicants, trainees and service users.

EOC's Work on Promoting Equal Employment Opportunities for EMs

4. Since the implementation of the RDO in 2009, the EOC has been promoting the principles of culturally inclusive workplaces and non-discriminatory employment through public education programmes and publicity campaigns, based on the Code of Practice on Employment under the RDO. In 2015, the EOC set up the dedicated Ethnic Minorities Unit to intensify the Commission's work on promoting equal opportunities for EMs in education, employment and access to goods, facilities and services, with the following recent actions taken in the area of employment:

- i. Meeting with the Labour Department was held in July 2016 to reflect stakeholders' concerns on the access of its employment support service, including language barrier and staff's cultural sensitivity. As a follow up to the meeting, suggestions have been made to strengthen the

Department's protocols in providing services for EM job seekers, with particular emphasis on the provision of interpretation service.

- ii. A series of cultural sensitivity training sessions with the Labour Department has been underway since November 2016, which covers all frontline staff of the Job Centres. A training session was also scheduled with the Employees Retraining Board (ERB) for February 2017 for its training bodies on addressing the vocational training needs of EMs, with the consideration of their lower level of Chinese language proficiency particularly in reading and writing.
- iii. We are developing a platform to link up mainstream industries with the EM community through meetings and briefing sessions. The first session, which took place in December 2016 to introduce job opportunities for EMs in airline, public transport, elderly care and personal health care industries, was attended by EM secondary school students as well as their career teachers and NGO workers. More sessions to expand the job choice of EM youth will follow.

Recommendations on Promoting Equal Employment Opportunities for EMs

Employment Support by the Labour Department

5. The Labour Department has put in place certain measures and procedures to enhance the service for EMs, such as Employment Service Ambassadors, Job Fairs, interpretation services and special counters for EM job seekers. However, we continue to advise the Labour Department to ensure these facilities and arrangements are effectively implemented at the front end to benefit EM job

seekers. Interpretation services, in particular, are essential for many EMs and they should be provided proactively, consistently and in a timely manner.

6. Regarding the on-site support at the Job Centres, Employment Service Ambassadors have been serving well as the initial contact point to provide immediate assistance for EM job seekers, especially new arrivals. However, the Ambassadors are basically trainees under the Youth Employment and Training Programme and are replaced every 6 months. Given that the Personalized Employment Advisory Service would involve in-depth follow-up and should be provided by professional staff, setting up a small crew of long-term full-time staff conversant in an EM language widely understood by South Asians, such as Hindi, Urdu, etc., is highly recommended to fill the service gap.

7. Another area that might need strengthening is better screening and job matching for EM job seekers. Currently, certain ethnic groups are mostly restricted to low skilled jobs. For instance, according to the 2011 Census Report, 38.4% Pakistani and 39.3% Nepalese working population in Hong Kong were employed in elementary occupations, in contrast with only 12.3% in the whole population. The Labour Department is therefore suggested to make it a strategic priority to widen the employer base for EMs, including to those with high educational qualification attained in their home countries.

Recruitment in the Civil Service

8. The EOC has made a submission to the Panel of Public Service of the Legislative Council on the need for the government to take the lead and open up civil service jobs to EM applicants. (LC Paper No. CB(4)1342/14-15(01)) in July

2015. Over the past few years, the Government has taken some steps to hire more EMs by reviewing the language proficiency requirements (LPRs), accepting results of non-local public examinations, making adjustments in recruitment selection process and implementing employment initiatives specific to ethnic minorities. However, it is highly uncertain that the review is a regular exercise and recent progress seems to have slackened as only a few Government grades with LPRs newly adjusted can be identified in the last 2 years.

9. We note that some Government Departments have publicized their recent recruitment of EMs into their services. The Fire Services Department has introduced bilingual recruitment tests to encourage EMs to join its ranks since 2014 and presently two firemen and one paramedic come from EM groups. The first EM technician trainee recruited by the Electrical and Mechanical Services Department in 2014 is also expected to graduate from the Training Scheme this year. In addition, the Hong Kong Police Force has been organizing community-based Chinese classes and mentorship projects for EM youth to better integrate since 2013. Ten project participants have successfully joined the discipline force, among which eight were recruited in the Police Force.

10. We urge the Government to capitalize on these positive examples for stronger impetus to open up civil service jobs for EMs by requiring all Bureaux/Departments to critically review the LPRs of their job positions on a regular basis. We also urge the government to make relevant information, such as reviewed requirements for particular jobs, number of new EM recruits in individual Departments, etc., accessible to the public. Additional thought should be given to whether clearing the Chinese paper of the Common Recruitment Examination is an essential and justifiable requirement for all professional grades.

Otherwise, a language requirement that expects language proficiency of EM applicants to be on par with their ethnic Chinese peers may unreasonably screen out EMs.

Job Opportunities in the Private Sector

11. While the government as the largest employer in Hong Kong should lead the way in opening its doors to EMs, it is equally essential that the private sector is welcoming of EM employees. EMs, particularly South Asians, are seen in large numbers in certain low level, unskilled jobs such as construction, security and catering. This has created stereotypes and a self-fulfilling cycle, where jobs in these industries form the majority of job vacancies offered by the Labour Department and at its job fairs. EMs themselves, end up opting for these jobs as they know they will be accepted more easily.

12. To promote the employment of EMs among all employers in Hong Kong, we urge the Government to come up with promotional campaigns, incentives and other measures to spread the message of equal opportunities in employment to EMs. For example, in view that the Labour Department has recently launched the Higher Education Employment Information e-Platform, aiming to strengthen employment support for persons with higher education, including the second generation of Hong Kong emigrants, this e-Platform and similar initiatives could also be extended to cover EMs with high educational qualification attained in their home countries.

Vocational Training

13. In order to improve the employability of EMs, they need to have equal access to skills training. It has been repeatedly brought to our attention that though some vocational training courses of the Vocational Training Council (VTC) and ERB specifically target non-Chinese speaking trainees, many others are not available in English or do not provide materials in English. This is found to be true also of many employment linked apprenticeships and on-the-job training for certain paraprofessional jobs, such as the Navigation Scheme for Young Persons in Care Services launched by the Social Welfare Department. EM youth who may be qualified for the job and have adequate oral fluency but lack the language proficiency are not catered to undertake the linked course and associated examination in Chinese.

14. We are pleased to learn that the ERB has recently launched a scheme to provide additional resource for operators of mainstream courses to translate teaching materials and arrange interpretation services for EM trainees who can understand Cantonese but cannot read/write Chinese. Other vocational training institutes are highly recommended to consider similar support measures to expand options for EMs.

15. We also urge the Government Departments and training institutes running any vocational training programmes to develop workplace Chinese courses that are tied up with relevant industries and under the Qualification Framework so as to help EMs reach the functional Chinese level to cope with their work. Taking the elderly care industry as an example, some job-based basic Chinese training for EMs with oral Cantonese proficiency would enable them to manage the written

Chinese required for the job as a Personal Care Worker. Advance courses built on this foundation could further equip them with the language abilities needed to undergo the training and pass the assessments required to become a Health Worker.

Conclusion

16. While it may be beneficial to EMs to find job opportunities in an increasing array of industries arising from current and anticipated labour shortages, it goes against the principle of equal opportunities to offer EMs jobs simply because there is a dearth of local Chinese manpower. “Equal opportunities” presumes a level playing field with merit being the overriding criterion for selection regardless of colour, race, gender, age etc. EMs should be in a position to compete for jobs on a level playing field without barriers of colour, race and language. We understand that language may be a genuine requirement for some jobs but such an evaluation should be made objectively and not with the intention of screening out EMs.

17. Equal opportunities also expects reasonable accommodations from employers for certain disadvantages employees may have, such as a disability or lack of language fluency, that do not impinge on the person’s ability to carry out their jobs and can be provided without hardship by the employer. It is this mindset that the EOC would like to see promoted among all employers. The motivation for opening up jobs to non-Chinese employees should be merit and justifiable criteria based and not shortage of manpower. This would help EMs feel they are fairly treated and not simply a forced second choice.

Equal Opportunities Commission

January 2017