

立法會
Legislative Council

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LC Paper No. CB(2)587/17-18
(These minutes have been seen
by the Administration)

Subcommittee on Rights of Ethnic Minorities

**Minutes of the meeting
held on Monday, 6 November 2017, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Paul TSE Wai-chun, JP (Chairman)
Hon Alice MAK Mei-kuen, BBS, JP (Deputy Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon Claudia MO
Hon LEUNG Che-cheung, SBS, MH, JP
Hon KWOK Wai-keung, JP
Hon Dennis KWOK Wing-hang
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon SHIU Ka-chun

Member absent : Hon Andrew WAN Siu-kin

Public Officers attending : Mr Andy CHAN Shui-fu, JP
Under Secretary for Constitutional and Mainland Affairs

Mr D C CHEUNG
Principal Assistant Secretary for Constitutional and Mainland Affairs

Miss Cathy LI King-tsz
Assistant Secretary for Constitutional and Mainland
Affairs

Equal Opportunities Commission

Mr Michael CHAN
Chief Operations Officer

Mr Peter Charles READING
Legal Counsel

Mr Raymond HO
Senior Equal Opportunities Officer (Ethnic Minorities
Unit)

Clerk in : Ms Joanne MAK
attendance Chief Council Secretary (2) 3

Staff in : Mr Dennis HO
attendance Senior Council Secretary (2) 3

Mrs Fonny TSANG
Legislative Assistant (2) 3

Action

I. Implementation and review of the Race Discrimination Ordinance
[LC Paper Nos. CB(2)211/17-18(01) to (03) and CB(2)228/17-18(01)]

The Subcommittee deliberated (index of proceedings attached at **Annex I**).

Follow-up actions required of the Administration and the Equal Opportunities Commission

Admin 2. The Administration was requested to:

- (a) consider taking forward the Equal Opportunities Commission's ("EOC") recommendations which were considered by EOC to be of higher priority under the Discrimination Law Review ("DLR") relating to the Race Discrimination Ordinance ("RDO"), including:

- (i) to amend RDO by providing that it is unlawful for the Government to discriminate in performing its functions or exercising its powers (DLR recommendation 6);
 - (ii) to repeal the provisions regarding vocational training and education in relation to modifying or making different arrangements for medium of instruction under sections 20(2) and 26(2) of RDO (DLR recommendations 9 and 10); and
 - (iii) to follow up on the recommendation that protection from discrimination on grounds of nationality and citizenship should be provided under RDO (DLR recommendation 24); and
- (b) relay the following views raised by members to the Education Bureau:
- (i) teaching materials and curriculum on learning Chinese as a second language should be provided for use by teachers; and
 - (ii) equal opportunities should be safeguarded for ethnic minorities ("EMs") in vocational training and education. In particular, more vocational training programmes should be conducted in English to cater for the non-Chinese speakers.

EOC 3. EOC undertook that it would:

- (a) provide information on the recommendations that EOC had made to Government departments and public bodies for enhancing the rights and well-being of ethnic minorities and the response of the Government departments/public bodies concerned to those recommendations; and
- (b) relay the Deputy Chairman's view that disaggregated data on the ethnicities of their patients should be kept by the Hospital Authority for service planning purposes.

Motions

4. The Chairman put the three motions moved by Mr SHIU Ka-chun, Dr Fernando CHEUNG and Ms Claudia MO respectively (wording of the motions at **Annex II**) to vote. Members present unanimously voted for the motions. The Chairman declared that the three motions were passed.

Admin 5. The Administration was requested to provide a written response to the three motions.

(Post-meeting note: The Administration provided a written response to the three motions on 6 December 2017 [LC Paper No. CB(2)493/17-18].)

II. Schedule of meetings and items for discussion at future meetings

Clerk 6. The Clerk was requested to revise the proposed meeting schedule for members' consideration.

(Post-meeting note: The proposed schedule of meetings was issued vide LC Paper No. CB(2)306/17-18 on 14 November 2017.)

7. Members suggested the following items for discussion by the Subcommittee:

- (a) review of the Administrative Guidelines on Promotion of Racial Equality;
- (b) provision of teaching materials and curriculum on learning Chinese as a second language for use by teachers;
- (c) services and measures to address the issue of domestic violence among EM families;
- (d) restrictions applied by schools on religious garments worn by students and the provision of school meals fulfilling religious dietary requirements; and
- (e) issues related to EM women (including poverty and employment difficulties).

Clerk The Deputy Chairman proposed that to facilitate deputations' attendance, the subjects to be discussed at the future meetings should be decided as early as possible. The Chairman requested the Clerk to follow up.

8. Members agreed that the next meeting would be held on Monday, 11 December 2017, at 4:30 pm to discuss the provision of venues in districts for EMs to conduct religious and cultural activities with deputations and the Administration.

III. Any other business

9. There being no other business, the meeting ended at 12:33 pm.

Council Business Division 2
Legislative Council Secretariat
27 December 2017

**Proceedings of the meeting of the
Subcommittee on Rights of Ethnic Minorities
on Monday, 6 November 2017, at 10:45 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
<i>Agenda item I - Implementation and review of the Race Discrimination Ordinance</i>			
000553 - 001443	Chairman Administration	Opening remarks Briefing by the Administration [LC Paper No. CB(2)211/17-18(01)]	
001444 - 003315	Chairman Equal Opportunities Commission ("EOC")	Briefing by EOC [LC Paper No. CB(2)211/17-18(02)]	
003316 - 004356	Chairman Ms Claudia MO Administration Mr SHIU Ka-chun	<p>Ms Claudia MO and Mr SHIU Ka-chun urged the Administration to follow up on EOC's recommendation under the Discrimination Law Review ("DLR") to amend the Race Discrimination Ordinance (Cap. 602) ("RDO") to provide that it was unlawful for the Government to discriminate in performing its functions or exercising its power as early as possible. Ms MO said that as mentioned in Hong Kong Unison's submission [LC Paper No. CB(2)228/17-18(01)], the court held that the acts of the Police in investigation and arrest did not amount to "services" for the purpose of RDO and policing was not bound by RDO. Mr SHIU Ka-chun also expressed concern that, unlike the other three anti-discrimination ordinances, RDO did not have a provision to ensure that there was protection from discrimination in relation to various Government functions and powers exercised by the Government.</p> <p>The Administration explained that RDO was binding on the Government and it prohibited discriminatory acts and practices in the areas specified in RDO. At the present stage, the Administration sought to focus on taking forward the nine prioritized recommendations under DLR first, and it would follow up on the remaining recommendations at a later stage. In the meantime, the Administration continued to safeguard the equal rights of people with different ethnic origins, and enhance the sensitivity among Government staff serving ethnic minorities ("EMs") through education and publicity as well as the application of the Administrative Guidelines on Promotion of Racial Equality ("the Administrative Guidelines").</p>	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
004357 - 004954	Chairman Mr POON Siu-ping Administration EOC	<p>In reply to Mr POON Siu-ping's enquiries, EOC advised that there were four EM staff members in the EM Unit. The additional recurrent funding of \$4.69 million covered the staff costs of the Unit, whereas the one-off funding allocation of \$3 million this year was provided for the series of promotional initiatives to be implemented by the Unit. The Administration advised that it would carefully consider and support funding proposals from EOC as necessary.</p> <p>With reference to paragraph 16 of EOC's paper [LC Paper No. CB(2)211/17-18(02)], Mr POON enquired about the details of the training and information provided to frontline staff in the banking sector and the Estate Agents Authority ("EAA"). EOC said that it had conducted training and sharing sessions with banks and estate agents under EAA. EOC was also working with the Hong Kong Monetary Authority and Hong Kong Association of Banks to provide EM customers with key information pertaining to banking services in different EM languages at their webpages.</p>	
004955 - 005536	Chairman Dr Helena WONG Administration EOC	<p>Dr Helena WONG enquired about the timetable for taking forward EOC's recommendation to amend RDO to specify that it was unlawful for the Government to discriminate in performing its functions or exercising its power. The Administration replied that it sought to focus on taking forward the nine prioritized recommendations under DLR first. It would be difficult to provide a timetable on the other recommendations at this stage, when study on whether and how other recommendations would be taken forward had not even been started.</p> <p>With reference to paragraph 18 of EOC's paper [LC Paper No. CB(2)211/17-18(02)], Dr WONG further requested EOC to provide information on the policy recommendations which EOC had provided to Government departments and public bodies. EOC said that the Government departments and public bodies concerned were generally positive about EOC's recommendations. While some departments, such as the Labour Department, had accepted the recommendation to employ more EM staff members, EOC looked forward to Government departments' further improvements in taking forward this recommendation.</p>	EOC (paragraph 3 of minutes)
005537 - 010116	Chairman Mr Abraham SHEK Administration	<p>Mr Abraham SHEK criticized the Administration for its lack of progress in ensuring equal rights in accessing education among EM students, since EOC submitted its "Education for all" report in March 2011.</p> <p>The Administration replied that it had shown its commitment in supporting non-Chinese speaking students in paragraph 199 of the 2017 Policy Address.</p>	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
010117 - 010734	Chairman Deputy Chairman Administration EOC	<p>The Deputy Chairman enquired why there were only 11 conciliation cases out of the 213 complaints handled by EOC in 2016. She considered that the Hospital Authority should keep disaggregated data on the ethnicities of their patients for service planning purposes.</p> <p>EOC explained that the success rate of conciliation for complaint cases under RDO in 2016 was 64%, which was similar to the success rates for the cases under the other anti-discrimination ordinances. Where conciliation was unsuccessful, the complainant/aggrieved party might apply for legal assistance provided by EOC.</p>	
010735 – 010545	Chairman Mr Holden CHOW Administration	<p>With reference to Hong Kong Unison's submission [LC Paper No. CB(2)228/17-18(01)], Mr Holden CHOW expressed concern that many bureaux and departments were not aware of the Administrative Guidelines. Mr CHOW also requested the Administration to take forward the remaining RDO-related recommendations which were considered to be of higher priority by EOC under DLR.</p> <p>In reply, the Administration explained that a number of bureaux and departments had put in place new measures to assist EMs in accordance with the Administrative Guidelines, for example:</p> <ul style="list-style-type: none"> (a) instant telephone interpretation services in seven common non-ethnic Chinese languages had been introduced to cover a total of 67 police report rooms/reporting centres under the Hong Kong Police Force since November 2016; (b) employer sharing sessions on recruiting EMs had also been organized by the Employees Retraining Board in collaboration with the Home Affairs Department at the latter's Support Service Centres for EMs; and (c) the Construction Industry Council had been running its "Skills Enhancement Courses for Ethnic Minorities – Pilot Scheme" to enhance the employability of EMs. <p>Mr CHOW urged the Administration to consider providing teaching materials and curriculum on learning Chinese as a second language for use by teachers. The Administration undertook to relay his view to the Education Bureau for consideration.</p>	Admin (paragraph 2 of minutes)
010546- 011236	Chairman EOC	EOC undertook to relay the Deputy Chairman's request to the Hospital Authority that disaggregated data on the ethnicities of their patients should be kept for service planning purposes	EOC (paragraph 3 of minutes)

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
011237 - 011752	Chairman Dr Fernando CHEUNG Administration	<p>Dr Fernando CHEUNG expressed concern that EM students did not have equal opportunities in education and vocational training. Dr CHEUNG urged the Administration to take forward EOC's recommendation to repeal the provisions regarding vocational training and education in relation to modifying or making different arrangements for medium of instruction under sections 20(2) and 26(2) of RDO. In addition, Dr CHEUNG also considered it important to amend RDO to explicitly state that it was unlawful for the Government to discriminate in performing its functions or exercising its power.</p> <p>The Administration replied that it would relay Dr CHEUNG's concerns relating to the medium of instruction arrangements in vocational training and education to the Education Bureau.</p>	Admin (paragraph 2 of minutes)
011753 - 012337	Chairman Mr IP Kin-yuen Administration	Mr IP Kin-yuen requested the Administration to provide a timetable for taking forward the remaining recommendations by EOC under DLR. The Administration said that it would be difficult to provide a timetable on the other recommendations at this stage, when study on whether and how other recommendations would be taken forward had not even been started.	
012338 - 012719	Chairman Ms Claudia MO Administration	<p>Ms Claudia MO suggested that the Constitutional and Mainland Affairs Bureau should set up a one-stop platform for translation and instant interpretation services for EMs seeking Government services at different bureaux/departments.</p> <p>The Administration replied that since the interpretation needs of EMs varied depending on the type of public services they were accessing, it had to look into whether a one-stop approach in the provision of translation and interpretation services was most effective and appropriate and whether adequate translators and interpreters who could provide services in all subject areas including those professional ones were available.</p>	
012720 - 013140	Chairman Mr SHIU Ka-chun Administration	<p>Mr SHIU Ka-chun commented that the provision of interpretation services for EMs should be strengthened at hospitals, birth registries and police stations, while more vocational training programmes should be provided in English to cater for non-Chinese speakers.</p> <p>Mr SHIU also raised concern that there was no protection from discrimination under RDO on grounds of nationality and citizenship. He said that some banks would refuse requests from people with certain nationalities for opening bank accounts. The Administration replied that EOC had suggested in the DLR report that further consultation,</p>	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
		research and education should be conducted on the matter, which was relatively complex and controversial.	
013141 - 013830	Chairman Dr Fernando CHEUNG Administration	Echoing Mr SHIU's view on the protection from discrimination on grounds of nationality and citizenship, Dr Fernando CHEUNG said that he had come across asylum-seekers in Hong Kong who could not afford to send their children to school because they were not permitted to work and therefore had no income. He also expressed concern over the difficulties encountered by Hong Kong-born EMs in applying for the Hong Kong Special Administrative Region passports. The Administration said it would appreciate details of the cases concerned be provided to facilitate follow up as appropriate.	
013831 - 014153	Chairman	Voting on motions moved by Mr SHIU Ka-chun, Dr Fernando CHEUNG and Ms Claudia MO respectively The Administration was requested to provide a written response to the motions.	Admin (paragraph 5 of minutes)
014154 - 014450	Chairman Dr Fernando CHEUNG Administration	In response to Dr Fernando CHEUNG's enquiry, the Administration said that it would seek to submit legislative amendment proposals in the 2017-2018 legislative session for implementing nine prioritized recommendations under DLR. It would also request various bureaux/departments to examine the remaining recommendations considered by EOC as priority.	
<i>Agenda item II - Schedule of meetings and items for discussion at future meetings</i>			
014451 - 014603	Chairman Deputy Chairman Ms Claudia MO	Discussion on the proposed meeting schedule tabled at the meeting Members agreed that a timetable of the Subcommittee's future discussions would be prepared, such that interested deputations/members of the public could prepare their submissions early.	Clerk (paragraph 7 of minutes)
014604 - 015224	Chairman Dr Helena WONG Deputy Chairman Mr SHIU Ka-chun Dr Fernando CHEUNG	Items proposed for discussion by the Subcommittee at future meetings	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
<i>Agenda item III - Any other business</i>			
015225 - 015233	Chairman	Closing remarks	

Council Business Division 2
Legislative Council Secretariat
27 December 2017

少數族裔權益事宜小組委員會

在 2017 年 11 月 6 日的會議上

就議程第 I 項"《種族歧視條例》的執行情況及檢討工作"通過的議案

(議案中文措辭)

鑒於現時《種族歧視條例》充滿漏洞，不能完全保障少數族裔，而且成功申訴種族歧視的門檻極高，本委員會要求政府修訂《種族歧視條例》，訂明政府除了在提供服務之外，在執行職務和行使職權時作出歧視都即屬違法，保障不同族裔市民在政府行使其職能和職權時免受種族歧視。

動議人：邵家臻議員

(English translation of the motion)

Subcommittee on Rights of Ethnic Minorities

Motion passed under agenda item I

**"Implementation and review of the Race Discrimination Ordinance"
at the meeting on 6 November 2017**

Given that the existing Race Discrimination Ordinance ("RDO") is full of loopholes and fails to provide ethnic minorities with full protection, and that the threshold for substantiating complaints of racial discrimination is extremely high, this Subcommittee requests the Government to amend RDO by providing that apart from the provision of services, it is also unlawful for the Government to discriminate in performing its functions and exercising its powers, such that when the Government performs its functions and exercises its powers, people of different ethnic groups will be protected from racial discrimination.

Moved by: Hon SHIU Ka-chun

少數族裔權益事宜小組委員會

在 2017 年 11 月 6 日的會議上

就議程第 I 項"《種族歧視條例》的執行情況及檢討工作"通過的議案

(議案中文措辭)

平等機會委員會於 2013 年檢討 4 條歧視條例，並向政府提出 73 項建議，包括 27 項應優先處理的建議，但政府只同意優先處理其中 9 項。本委員會認為政府應優先處理平等機會建議的 27 項，其中包括修訂《種族歧視條例》，訂明政府在執行職務和行使職權時作出歧視即屬違法。

動議人：張超雄議員

(English translation of the motion)

Subcommittee on Rights of Ethnic Minorities

Motion passed under agenda item I

**"Implementation and review of the Race Discrimination Ordinance"
at the meeting on 6 November 2017**

In 2013, the Equal Opportunities Commission ("EOC") conducted a review of the four discrimination ordinances and made 73 recommendations to the Government, including 27 prioritized recommendations. However, the Government only agreed to accord priorities to nine of these recommendations. This Subcommittee considers that the Government should accord priorities to the 27 recommendations made by EOC, including amending the Race Discrimination Ordinance by providing that it is unlawful for the Government to discriminate in performing its functions and exercising its powers.

Moved by: Dr Hon Fernando CHEUNG Chiu-hung

少數族裔權益事宜小組委員會

在 2017 年 11 月 6 日的會議上

就議程第 I 項"《種族歧視條例》的執行情況及檢討工作"通過的議案

(議案中文措辭)

政府於檢討《種族歧視條例》之際，應同時考慮設立政府一站通式少數族裔翻譯服務，以助改善政府的醫療、房屋等服務，方便少數族裔。

動議人：毛孟靜議員

(English translation of the motion)

Subcommittee on Rights of Ethnic Minorities

Motion passed under agenda item I

**"Implementation and review of the Race Discrimination Ordinance"
at the meeting on 6 November 2017**

At the time of reviewing the Race Discrimination Ordinance, the Government should in parallel consider providing GovHK-style translation and interpretation services for ethnic minorities, with a view to facilitating improvement in Government's healthcare and housing services, etc. for the ease of ethnic minorities.

Moved by: Hon Claudia MO