

**For information
19 November 2018**

Legislative Council Panel on Constitutional Affairs

**Outcome of the Hearing of the Report of the
Hong Kong Special Administrative Region by
the United Nations Committee on the
Elimination of Racial Discrimination Under
the International Convention on the
Elimination of All Forms of Racial Discrimination**

Purpose

The United Nations Committee on the Elimination of Racial Discrimination (the Committee) conducted hearing on the Report of the Hong Kong Special Administrative Region (HKSAR) submitted under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) on 10 and 13 August 2018. This paper informs Members of the outcome of the hearing.

Background

2. The ICERD was extended to Hong Kong in 1969 and continues to apply to Hong Kong after the establishment of the HKSAR on 1 July 1997. The HKSAR is required to submit periodic reports to the Committee on the measures that it has adopted and give effect to the provisions of the ICERD. Including the one under discussion in this paper, the HKSAR has so far submitted three reports¹ under the ICERD as part of China's reports. The Legislative Council (LegCo) Panel on Constitutional Affairs (CA Panel) discussed the HKSAR's third report and the related issues at its meetings on 16 November 2015 and 16 July 2018².

¹ The three reports were submitted in October 2000, June 2008 and January 2017 respectively.

² We consulted members of the LegCo CA Panel on the outline of topics to be included in the third report of the HKSAR under the ICERD on 16 November 2015. On receipt of the Committee's "list of themes", we also consulted the CA Panel and met with deputations on 16 July 2018.

The Hearing

3. The hearing took place on 10 and 13 August 2018 in Geneva. A seven-member delegation of the HKSAR Government, comprising officials from the Constitutional and Mainland Affairs Bureau (CMAB), Security Bureau, Education Bureau, Labour Department and Department of Justice, attended the hearing as part of the Chinese delegation.

4. The hearing on 10 August 2018 featured the opening statements made by the Central People's Government (CPG), HKSAR Government and Macao SAR Government, and a session where Committee members raised questions orally on the reports submitted by the three governments. In its opening statement, the HKSAR Government delegation reported the progress made since the HKSAR submitted its second report under the ICERD in 2008. These include the setting up of a steering committee chaired by the Chief Secretary for Administration to co-ordinate, review and monitor support for ethnic minorities (EMs) in Hong Kong and a earmarked sum of \$500 million to strengthen the support services; the implementation of the "Chinese Language Curriculum Second Language Learning Framework" (Learning Framework) in primary and secondary schools since the 2014/15 school year; the implementation of an Action Plan to Tackle Trafficking in Persons and to Enhance Protection of Foreign Domestic Helpers in Hong Kong; the operation of the unified screening mechanism to screen non-refoulement claims on all applicable grounds; and the follow up on the Discrimination Law Review report submitted by the Equal Opportunities Commission.

5. At the hearing, a number of comments and questions were raised by Committee members on the implementation of the ICERD in the HKSAR. The HKSAR Government, in conjunction with the CPG and Macao SAR Government, decided that written answers to the "list of themes"³ issued before the hearing and the oral questions raised at the hearing should be provided to facilitate discussion at the subsequent hearing on 13 August 2018. The Written Response (see **Annex A**) was tabled at the hearing on 13 August 2018⁴. At the hearing, the HKSAR

³ In June 2018, the Committee issued a "list of themes" in relation to China's report (incorporating HKSAR's report) (the "list of theme" has already been provided to the LegCo CA Panel vide LC Paper No. CB(2)1788/17-18(01) for discussion at its meeting on 16 July 2018) to facilitate focused discussion at the hearing scheduled for August. The Committee has made it clear that no written replies to the "list of themes" are required. This point has been mentioned in the LC Paper No. CB(2)1788/17-18(01) (see paragraph 4).

⁴ The HKSAR Government, in conjunction with the CPG and Macao SAR Government, decided that written answers should be provided to the questions and issues raised at the

Government delegation orally responded to the key questions and issues raised by the Committee at the hearing on 10 August 2018, and drew the Committee's attention to the Written Response for details.

Concluding Observations

6. The Committee issued its Concluding Observations on 30 August 2018 (at **Annex B**). In it, the Committee expresses its appreciation for the open and constructive dialogue with the delegation, and also thanks the delegation for the additional oral and written information provided during the consideration of the report. The Committee also welcomes the community outreach programmes aimed at EMs and the implementation of the Learning Framework in primary and secondary schools.

7. The Committee also raises concerns and makes some recommendations in certain areas. A press release on our initial response to the Committee's Concluding Observations (at **Annex C**) was issued on 31 August 2018. The Committee's Concluding Observations has also been uploaded to CMAB's website⁵ for public reference.

Submission of the next report

8. The Committee has in its Concluding Observations set January 2023 as the deadline for the submission of the next report. We will take critical look into all the issues relating to the HKSAR as raised in the Concluding Observations and give a detailed response to the Committee's recommendations in the next report. As an established practice, we will consult the LegCo CA Panel in preparing the report.

9. Members are invited to note the content of this paper.

Constitutional and Mainland Affairs Bureau November 2018

hearing, and that the answers should be embedded in the Written Response (prepared in response to the "list of themes") to enable the Committee to have full understanding of all the issues involved. The expanded Written Response, at **Annex A**, was substantially expanded as a result.

⁵ See https://www.cmab.gov.hk/tc/press/reports_human.htm

**The Hong Kong Special Administrative Region (HKSAR) Government's
Response to the List of Themes prepared by
the United Nations Committee on the Elimination of Racial Discrimination
in relation to the combined 14th to 17th periodic reports
of the People's Republic of China
(with answers to the questions orally raised by the Committee
at its hearing on the report on 10 August incorporated)**

Part Two: Hong Kong Special Administrative Region

**Legal, institutional and public policy framework for combating racial
discrimination (arts. 2 to 7)**

2. Efforts ... to establish national human rights institutions that are fully compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and to render the Equal Opportunities Commission in Hong Kong, China, compliant with the Paris Principles (CERD/C/CHN-HKG/14-17, paras. 6.1–6.5).

1. Human rights are fully protected by law in the HKSAR, and are enshrined in the Basic Law, the Hong Kong Bill of Rights Ordinance (HKBORO) and other relevant legislation. These are buttressed by the rule of law and an independent judiciary. There is also an existing institutional framework of statutory organisations which help promote and safeguard various rights, including the Equal Opportunities Commission (EOC). The HKSAR Government's performance in promoting and safeguarding human rights is open to public scrutiny through regular reports to the United Nations and is under the scrutiny of the Legislative Council of the HKSAR, the media and various non-governmental organisations (NGOs). The HKSAR Government considers that the existing mechanism has worked well and that there is no need to establish an additional human rights institution which would duplicate the functions and work of the existing mechanism.

2. Although the Paris Principles are not set out in an international convention, the EOC largely follows the Paris Principles in terms of independence, autonomy, pluralism, powers of investigation, resources and powers to take legal action. The EOC is an independent statutory body. Its powers, functions and autonomy in internal governance are protected by law. Members of the EOC comprise representatives with different expertise and from various sectors.

3. Over the years, the HKSAR Government has continued to strengthen the mandate of the EOC. In 2014, the HKSAR Government took forward the Statute Law (Miscellaneous Provisions) Ordinance 2014 to, among others,

- (a) provide protection to members and staff of the EOC from personal liability when acting in good faith in the performance or purported performance of any of the EOC's functions under the Disability Discrimination Ordinance (DDO) and the Family Status Discrimination Ordinance (FSDO) to align with the protection provided in the Sex Discrimination Ordinance (SDO) and the Race Discrimination Ordinance (RDO); and
- (b) enable EOC to issue enforcement notices in relation to discriminatory practices under the DDO.

3. Statistics, disaggregated by national origin and ethnicity of the complainant, indicating the number, type and outcome of racial discrimination-related administrative and civil complaints submitted to the Equal Opportunities Commission in Hong Kong, China, courts, and other relevant bodies (CERD/C/CHN-HKG/14-17, paras. 6.1–6.6).

4. The Committee has asked for the basis for the statement in the Appendix to our Report that racial discrimination is not a prevalent or serious problem in the HKSAR. It should be noted that, from April 2013 to March 2018, the EOC has handled 401 complaint cases (including self-initiated investigations) and received 1 814 enquiries in relation to race discrimination under the RDO. Among the 401 cases, the top three categories concern allegations of racial vilification (233), racial discrimination (114), and racial harassment (52), and do not include any complaints of serious vilification.

5. The EOC is responsible for conducting formal investigations, handling complaints, encouraging conciliation between parties in dispute, and providing assistance to aggrieved persons in accordance with the four anti-discrimination ordinances. Aggrieved persons may lodge a complaint with the EOC through an on-line form on its website, email, telephone, letter, fax, or in person. The complaint handling procedures have been well publicised on EOC's website. The primary objective of the EOC is to encourage a settlement between the complainant and the respondent by way of conciliation.

6. In terms of the ethnic origins of the aggrieved persons, 200 were Chinese, followed by 119 South Asians, 24 South East Asians and 21 Europeans, Australians and other Caucasians.

7. Out of 401 complaint cases, conciliation of 33 cases were successful while 17 were unsuccessful; investigation of 2 cases were discontinued due to early resolution and 323 cases were concluded on other grounds such as lacking in substance, no unlawful act was found, the complainants have no desire to pursue further, or the case has lapsed over 12 months, etc. Regarding the 26 self-initiated investigation cases, 10 cases were resolved and 12 cases did not require follow up action. The remaining 4 cases are still under investigation.

8. If a complaint is not successfully conciliated during the EOC's complaint handling process, the complainant has the right to apply to the EOC for legal assistance. The EOC exercises statutory discretion¹ through the Legal and Complaints Committee in deciding whether or not to grant legal assistance and each application is considered independently. Since the enactment of the RDO in 2009 up to end-2017, 13 race discrimination cases have been put forward for application of legal assistance from the EOC, of which 7 were granted.

9. Under the RDO, a victim of racial discrimination, harassment or vilification may also make a claim by bringing civil proceedings in the District Court. This can be done in addition, or as an alternative, to lodging a complaint with the EOC.

10. A person who has alleged that he has been treated in contravention of the RDO, has brought proceedings under the RDO or has given evidence or information in connection with such proceedings is also protected from discrimination by way of victimization under section 6 of the RDO.

11. With the growing incidence and reports of online hate messages, the EOC has felt it necessary to address the issue. The EOC has held meetings with a major social media service provider, which in turn has brought together NGOs that work with ethnic minorities (EMs), the abovementioned social

¹ In doing so, the EOC considers a wide range of factors, including (a) whether the case raises a question of principle; (b) whether the complexity of the case or parties' relative positions makes it too difficult for the applicant; (c) strength of the evidence and likelihood of success; (d) whether the case can set important legal precedent; (e) whether litigation can lead to effective remedy for the applicant, and whether the case can be effectively used to enhance public awareness and promote equal opportunities; (f) the attitude and behaviour of the parties; and (g) the EOC may consider any other matters which may be relevant on a case by case basis.

media service provider and the EOC in roundtable discussions to discuss ways to combat this growing problem. Separately, the EOC is also working with NGOs to ascertain the extent of the issue and consider whether any action can be taken against the perpetrators.

8. Content of provisions of legislation criminalizing acts in conformity with article 4 of the Convention (CERD/C/CHN-HKG/14-17, paras. 1.3–1.4 and 4.1–4.3).

12. The HKSAR Government do not tolerate racist views of extremist or racist organisations. While the HKSAR Government firmly upholds freedom of opinion and expression, the laws of the HKSAR also contain adequate safeguards and provisions to effectively punish or suppress any racist acts of violence.

13. Section 46 of the RDO makes it a criminal offence for a person, by any activity in public, to intentionally incite hatred towards, serious contempt for, or severe ridicule of, another person or members of a class of persons on the ground of race, and which involves threatening physical harm or inciting others to threaten physical harm towards another person, or the property or premises of that other person, and is punishable by a maximum penalty of a fine of \$100,000 and imprisonment for two years.

14. Section 17B(2) of the Public Order Ordinance makes it an offence for any person who in any public place behaves in a noisy or disorderly manner, or uses, or distributes or displays any writing containing threatening, abusive or insulting words, with intent to provoke a breach of the peace, or whereby a breach of the peace is likely to be caused. In some situations, such behaviour may also constitute the common law offence of outraging public decency or the offences of obstruction of public places and public nuisance under sections 4(28) and 4A of the Summary Offences Ordinance.

15. The HKSAR Government and the EOC, will continue to promote the message of non-discrimination on the ground of race to all sectors of the population.

Situation of racial and ethnic minorities in China, Hong Kong, China and Macao, China (arts. 2–7)

11. Recent statistics, disaggregated by ethnicity and sex, on the enjoyment of economic, social and cultural rights, including access to primary, secondary

and tertiary education, food, housing, social security and health-care services, and on employment, unemployment and activity rates (CERD/C/CHN-HKG/14-17, paras. 5.28–5.72)

16. The HKSAR Government is committed to the promotion of equal opportunities for all, including EMs. The right to receive key public services such as education, housing, social welfare and medical care is enjoyed without distinction as to race, colour, descent or national or ethnic origin.

Education

17. The HKSAR Government provides nine-years of free universal basic education to all eligible local children, including EM children. Under the existing policy, all parents must send their children (aged 6 – 15) who have the right of abode in Hong Kong to attend schools. Starting from the 2008/09 school year, the HKSAR Government has extended free education to include senior secondary education provided by public sector secondary schools.

18. For the planning of educational support measures, students whose spoken language at home is not Chinese are broadly categorised by the Education Bureau (EDB) as non-Chinese speaking (NCS) students. The number of NCS EM students studying in public sector primary and secondary schools by ethnicity from the 2015/16 to 2017/18 school year is tabulated at **Annex A**.

19. As regards tertiary education, according to the statistics provided by the institutions, the number of NCS students (i.e. local students whose ethnicity is not Chinese and/or whose spoken language at home is not Chinese) who enrolled in full-time undergraduate and sub-degree programmes from the 2015/16 to 2017/18 academic year is tabulated below while breakdown by ethnicity is not available.

Type of Programme	Academic Year		
	2015/16	2016/17	2017/18
Undergraduate	684	795	991
Sub-degree	553	721	946
Total	1 237	1 516	1 937

Social Security

20. The means-tested Comprehensive Social Security Assistance (CSSA) scheme provides financial assistance to needy individuals and families

to meet their basic needs. As at March 2018, there are 12 647 CSSA recipients whose country of origin was not China, i.e. 4% in total number of CSSA recipients.

Employment

21. Based on *2016 Population By-census – Thematic Report: Ethnic Minorities*² published by the Census and Statistics Department in December 2017, the labour force participation rate for EMs (with foreign domestic helpers (FDHs) excluded) was 64.5% in 2016 which was higher than that of 58.7% for the whole population (see **Annex B**).

22. According to the *Hong Kong Poverty Situation Report on Ethnic Minorities 2016* published by the HKSAR Government in February 2018, the unemployment rate of all EMs in Hong Kong in 2016 was 4.6%, out of which the unemployment rate of South Asians³ (SAs) was higher at 5.3%. Among the SAs, the unemployment rate of Pakistanis was the highest at 9.2%. The unemployment rates of Indians and Nepalese were 5.2% and 4.1% respectively. Of the other ethnicities, the unemployment rate of Thais was 4.6%, which was also higher than the unemployment rate of the whole population of 3.7%.

Medical Care

23. It is the HKSAR Government's policy to promote and protect the health of the community and to ensure that public healthcare services are available to all members of the public regardless of their race, colour, descent or national or ethnic origin. Specific measures have been put in place to facilitate EMs to access the public healthcare services. Details are set out in paras. 37-42 below. Since both the Hospital Authority (HA) and the Department of Health (DH) do not keep records of the patients' race, figures on the number of EMs seeking public healthcare services is not available.

Housing

24. All eligible persons, including EM, may apply for and live in public rental housing (PRH) to meet their housing needs. The Hong Kong Housing Authority accords equal treatment to all PRH applicants and tenants regardless of their ethnic background, and does not mandate the provision of

² 2016 Population By-census – Thematic Report: Ethnic Minorities
(<http://www.bycensus2016.gov.hk/en/bc-articles.html>)

³ In the analysis of the report, South Asians include Indians, Pakistanis, Nepalese, Bangladeshis and Sri Lankans.

information regarding their races or maintain such records.

25. Furthermore, for eligible PRH applicants (including EM), if at least half of the family members under their applications have lived in Hong Kong for seven years and all members are still living in Hong Kong at the time of flat allocation, a PRH unit will be allocated to them. All family members under 18 years old are deemed to have satisfied the above-mentioned seven-year residence rule regardless of their place of birth, if one of their parents has lived in Hong Kong for seven years.

26. Moreover, section 28 of the RDO makes it unlawful for a person to discriminate against another person on the ground of race in the sale, rental or management of premises, which includes private housing.

12. Statistics on poverty rates, disaggregated by ethnicity, and information on the benchmark used to determine poverty. (CERD/C/CHN-HKG/14-17, para. 5.57)

27. The poverty line endorsed by the Commission on Poverty was set based on the concept of “relative poverty”. With monthly household income before policy intervention (i.e. before taxation and social welfare transfers) as the basis for measurement, the poverty line is set at 50% of the median household income by household size. Households with income below the poverty line are classified as poor while the household members concerned are counted as poor persons.

28. The HKSAR Government, after releasing the *Hong Kong Poverty Situation Report on Ethnic Minorities 2014* in December 2015, published the *Hong Kong Poverty Situation Report on Ethnic Minorities 2016* in February 2018 to facilitate continuous monitoring of the poverty situation of EMs. According to the latest report, in 2016, there were 49 400 poor EMs before policy intervention with a poverty rate of 19.4%. The corresponding figures after recurrent cash intervention (such as CSSA) decreased to 44 700 persons and 17.6% respectively. The poverty risks faced by different ethnic groups varied distinctly, with SAs at more severe risk. The post-intervention poverty rate of SAs in 2016 was 23.0%, which was visibly higher than the 14.7% of the whole population. The size of their poor population (17 900 persons) was also the largest among various ethnic groups. Among the SAs, the poverty rate of Pakistanis was the highest, at 48.6% (8 600 persons). In addition, the poverty rates of Thais and Indonesians were also rather high at 22.4% and 33.2% respectively (the size of their poor population were relatively small, at 1 900 and 2 400 persons respectively).

29. As shown by the findings, EMs were generally self-reliant and less dependent on social assistance in the form of cash benefits, but various poverty indicators after recurrent cash policy intervention still fared better than those before policy intervention. The provision of non-recurrent cash (including one-off measures such as provision of rates waiver and additional social security payments) and in-kind benefits (primarily PRH) contributed further to the improvement of poverty indicators. This reflects that the HKSAR Government's policy intervention helped relieve EMs of their financial burden.

30. To enhance collaboration within the Government on support for EMs, the Chief Secretary for Administration has set up a cross-bureau steering committee to coordinate, review and monitor support for EMs in HKSAR in 2018. The HKSAR Government has also earmarked \$500 million to strengthen the support for EMs.

18. Content and implementation of legislative prohibitions on racial discrimination in employment and statistics on related procedures and sanctions. Efforts to increase employment opportunities for members of ethnic minorities, and their outcomes (CERD/C/CHN- HKG/14-17, paras. 5.44–5.48 and 7.3–7.4).

31. The RDO protects people against discrimination, harassment and vilification on the ground of race. Part 3 of the RDO deals with discrimination and harassment in the employment field, which includes employment as well as other occupational relationships and matters. For example, section 10 makes it unlawful for an employer to discriminate against a job applicant or employee on the ground of race in offers of employment, the terms of employment, affording access to opportunities for promotion, transfer or training or to any other benefits, facilities or services, and dismissal, subject to certain exceptions. Section 24 also makes it unlawful for an employer to harass a job applicant or employee on the ground of their race. During the period of April 2013 to March 2018, the EOC handled 51 employment-related complaints under the RDO. Most cases were discontinued due to lack of substance.

32. The Labour Department (LD) has been proactively promoting the working abilities of EMs among employers through various channels and making ongoing efforts to canvass vacancies suitable for EM job seekers via its employer network to enhance their employment opportunities.

33. From 2015 to 2017, LD organised six large-scale inclusive job fairs and 35 district-based inclusive job fairs at which job seekers, including EMs,

could submit job applications and attend interviews with employers on the spot. LD also organised experience sharing sessions for employers during which NGOs serving EMs were invited to brief employers on the cultures of EMs and the skills to communicate with them to enhance their understanding in this regard.

34. Moreover, LD frequently reminds employers who advertise vacancies via LD to consider the genuine needs of the posts when specifying the language requirement, and encourages them to relax the language requirement so as to attract more job seekers to apply for the vacancies. Amongst the private sector vacancies recorded by LD in recent years, about 70 000 vacancies each year had a lower requirement for Chinese language on job seekers. This initiative opened up more job opportunities for EMs with lower Chinese language proficiency.

35. The EOC also carries out publicity and education programmes and enforcement work to promote public awareness of the RDO and racial equality. The EOC has set up an Ethnic Minorities Unit (EM Unit) to address the needs of EM including to promote equal opportunities in employment for EMs. Recently, the EOC has published “Racial Diversity & Inclusion Charter for Employers” to provide employers with guidelines to develop racially inclusive policies, culture and work environment. Moreover, the EOC has updated its “Equal Opportunities in Employment: Good Management Practices” by introducing specific general guidelines on language requirements, dress codes, racial harassment and genuine occupational qualification with respect to racial discrimination.

36. To promote equal employment opportunities for EMs, the EOC has been performing a bridging role between local industries and EM communities. EOC has organised a briefing session for EM youth to introduce job opportunities in healthcare, public transportation and airlines; convened a meeting with NGOs serving EMs and employer groups to facilitate job referrals; and formed a “Working Group on Mainstreaming Employment Opportunities in Healthcare Industries for EMs” with a view to removing language barriers for EMs to pursue a career in the sector.

<p>19. Measures to provide equal access to affordable and adequate health care, regardless of ethnicity and geographical location, and their results (CERD/C/CHN-HKG/14-17, para. 5.60).</p>
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37. The HKSAR Government has all along been committed to promoting and protecting the health of our community. The public healthcare

system is made available to all members of the public regardless of their race, colour, descent or national or ethnic origin. Having regard to the special circumstances of EMs in terms of language proficiency, a number of measures have been put in place to ensure that EMs receive proper public healthcare services.

38. To cater for the needs of EMs, interpretation services are arranged in public hospitals and clinics of the HA through a service contractor, part-time court interpreters and consulate offices. The interpretation services provided by the service contractor cover 18 languages. The utilisation rate of interpretation services has increased in the past few years. The number of interpretation services provided by the HA in its public hospitals and clinics increased from 4 976 in 2012-13 to 15 257 in 2017-18.

39. In addition, HA provides response cue cards, disease information sheets and patient consent forms in 18 languages to enhance communication between hospital staff and EMs.

40. Since mid-2015, the HA has also launched a dedicated website for EMs, providing essential information on the accident and emergency service, the addresses, telephone numbers, consultation hours of General Outpatient Clinics and the arrangement of interpretation services. The website is available in eight languages, including Hindi, Nepali, Punjabi (Indian), Punjabi (Pakistani), Urdu, Thai, Bahasa Indonesia and Tagalog.

41. The DH also provides telephone and on-site interpretation services for patients at its health centres and clinics. Patients of EM can request for prior arrangement of interpretation service during appointment booking, whilst onsite interpretation service could also be arranged where appropriate. At present, interpretation service covers 18 EM languages including Bahasa Indonesia, Hindi, Nepali, Punjabi, Tagalog, Thai, Urdu, etc. DH has designed multilingual posters for display at a prominent place of health centres and clinics for promoting and helping EMs understand how to request interpretation services.

42. In respect of health promotion, DH has translated a variety of key information on health into different languages. For example, for prevention of infectious diseases, the translated information has been used to prepare health education materials, including pamphlets, posters and booklets, which have been uploaded onto the website of the Centre for Health Protection of the DH. The DH has also distributed the health education materials to NGOs and religious groups serving EMs, and disseminated health information through newspapers and newsletters targeting EM readership.

20. Updated statistics, disaggregated by sex, on the representation of ethnic minorities in the police, military, judiciary, prosecution service and civil service and decision-making political positions, with an indication of the level of representation in higher-level positions. Measures taken to ensure fair and adequate participation of all minority groups in public service and political life (CERD/C/CHN-HKG/14-17, paras. 5.13–5.18)

Participation of ethnic minorities in public service

43. The HKSAR Government has continued to implement suitable measures to ensure that Non-Ethnic Chinese (NEC), like other applicants, have equal access to job opportunities in the Government. It is the HKSAR Government's policy to ensure the Chinese language proficiency requirements (LPRs) set for all civil service positions are no more than necessary for performance of the job. A comprehensive review of the entry requirements relating to Chinese proficiency for all the grades of the civil service was completed by the HKSAR Government in early 2018. After review, 22 more grades have lowered/will lower their Chinese LPRs, increasing the total number of grades that have lowered/will lower their Chinese LPRs since 2010 to 53.

44. In the recruitment process, Government bureaux/departments (B/Ds) will continue to select suitable candidates on an objective basis by taking into account their ability, performance, character, and requisites set according to the job requirements (including LPRs). Race, colour, descent or national and ethnic origin are not relevant considerations.

45. For instance, the Hong Kong Police Force (the Police) has modified the Practical Incident Handling Test for recruiting Police Constables since 2011, such that candidates will be required to write both English and Chinese in situations that simulate police operations, as opposed to Chinese only in the past. Additional scores would be awarded to candidates with foreign language skills, whose written and oral proficiency will be tested with the help of an interpreter during the selection process.

46. Given that neither job applicants nor serving civil servants are required to declare their ethnic origins, we do not possess the relevant statistical information. But, according to available information gauged by observation through name and appearance, it is believed that the Police has appointed more than 60 EM new recruits since 2011, two EMs reported for duty as Customs Officer on 23 April 2018, and there are 20 EM employees (viz., one services staff and 19 interpreters) in Immigration Department (ImmD).

47. Under Article 92 of the Basic Law, Judges and Judicial Officers (JJOs) of the HKSAR shall be chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions. The professional qualifications for appointment as JJOs are stipulated in the respective ordinances. Race, colour, descent or national and ethnic origin are not a relevant consideration in the appointment of JJOs. The Judiciary does not possess the relevant statistical information on their ethnic origins.

48. Appointments of Judges of the Court of First Instance, District Judges and Permanent Magistrates are made through open recruitment. In each open recruitment exercise, advertisements are published on the Judiciary's website and newspapers. Eligible candidates may apply in response to the job advertisements.

49. Relevant B/Ds have continued to undertake appropriate measures to tap into the pool of talents possessing knowledge in EM languages and cultures, with a view to facilitating the provision of public services for these communities. The Police, ImmD and Social Welfare Department (SWD) have continued to employ Police Community Liaison Assistants in police districts, Interpreters in Removal Assessment and Litigation (Operations Support) Section and Welfare Support and Liaison Assistants in Integrated Family Service Centres respectively to strengthen communication with EMs.

Participation of ethnic minorities in political life

50. Article 26 of the Basic Law provides that permanent residents of the HKSAR shall have the right to vote and the right to stand for election in accordance with law. The laws governing eligibility to stand in the Chief Executive, Legislative Council and District Council elections make no reference to race, colour, descent or national or ethnic origin. Section 34 of the RDO prohibits racial discrimination in determining the eligibility of a person to stand for election to a public body and to vote in elections of members of a public body, or in considering whether a person should be appointed as member of a public body.

51. Multiple measures have been taken in previous elections to ensure that the electors can exercise their right to vote, including making available electoral information in seven EM languages on the dedicated website for the election, provision of Language Assistance Folders in the polling stations, etc. Free interpretation service has also been provided in the seven EM languages to EM electors, through its telephone hotline service, to facilitate them to

understand the voting procedures and respond to their enquiries on election-related matters prior to the election as well as on the polling day.

27. Measures taken to ensure that ethnic minorities enjoy freedom of religion on an equal footing with the rest of the population (CERD/C/CHN-HKG/14-17, para. 5.24)

52. The HKSAR Government is committed to upholding religious freedom in Hong Kong in accordance with Articles 32 and 141 of the Basic Law, Article 15 of the Hong Kong Bill of Rights and the relevant legislation. Religious organisations have the freedom to conduct religious activities in accordance with the laws of Hong Kong. Various religions, such as Buddhism, Taoism, Confucianism, Catholicism, Christianity, Islam, Hinduism, Sikhism and Judaism, coexist in Hong Kong with a considerable number of adherents. Apart from offering religious instructions, many major religious bodies establish schools, provide health, welfare and other social services and facilities.

53. In compiling the *Hong Kong Yearbook*, the Information Services Department has collected information on various religions such as Islam, Hinduism, Sikhism and Judaism. According to the chapter on “Religion and Custom” of the *Hong Kong Yearbook 2016*, there are over 400 Buddhist temples; more than 300 Taoist abbeys and temples; at least 1,500 Christian congregations; 40 churches, 31 chapels and 26 halls for Roman Catholics; five Islamic mosques; three Jewish synagogues; one Hindu temple and one Sikh temple in Hong Kong.

29. Measures taken to promote and respect local and regional languages, cultures and traditions (CERD/C/CHN-HKG/14-17, paras. 7.2 and 7.13–7.14).

54. EDB attaches great importance to the promotion of the language education policy of enabling our students to be biliterate (in written Chinese and English) and trilingual (in spoken English, Cantonese and Putonghua), through the provision of school-based professional support services, professional development programmes, as well as learning and teaching materials to schools. In respect of the promotion of local and regional languages, at present, we offer six other language subjects under the Senior Secondary Curriculum including French, German, Hindi, Japanese, Spanish and Urdu. Students may take the subjects according to their own interests, abilities and needs.

55. Schools in Hong Kong have all along been cultivating students’ appreciation of and respect for the cultures and heritage of different communities through the teaching of relevant subjects such as General Studies

at primary level, Life and Society at junior secondary level, as well as History, Ethics and Religious Studies, Tourism and Hospitality Studies, Health Management and Social Care, and Liberal Studies, etc. at senior secondary level. To instil in students the importance of human rights, equality, respect for others, care for others, racial harmony, etc., schools implement Moral and Civic Education through related lessons or whole-school approach learning activities. Diversified life-wide learning activities and Other Learning Experiences are also provided at senior secondary level to deepen students' understanding of these concepts and values. According to the needs of students and teachers, EDB has been organising relevant activities and developing related learning and teaching resources on a continual basis to facilitate student learning and teachers' professional development.

56. The Leisure and Cultural Services Department (LCSD) organises a wide variety of cultural activities for EMs from time to time to encourage community participation. Since 2001, LCSD has, in cooperation with Consulates-General / Consulates of Asian countries, organised outdoor carnival "Asian Ethnic Cultural Performances" annually showcasing traditional music and dance performances by Asian ethnics residing in Hong Kong. In "Asian Ethnic Cultural Performances 2016", ethnic performances of 16 Asia-Pacific countries and regions featuring more than 400 local and overseas artists were staged. In 2017, the programme showcased over 30 arts groups from 15 Asian countries and regions.

Situation of non-citizens, including migrant workers, asylum seekers and refugees (arts. 5–7)

30. Updated statistics available on non-nationals, disaggregated by national origin, in ... Hong Kong, China...

57. The Committee on the Elimination of Racial Discrimination may have been referring to the number of "international migrants" in the HKSAR quoted in the International Migration Report 2017, which defines "international migrant" as "a person who is living in a country other than his or her country of birth" and not just EMs as defined in the *2016 Population By-Census – Thematic Report: Ethnic Minorities*⁴, according to which there were 584 383 EMs (including FDHs) in Hong Kong.

⁴ See footnote 2.

58. Regarding the population of migrant workers, according to information of the ImmD, a breakdown of the number of migrant workers in the HKSAR under the Supplementary Labour Scheme (SLS) in 2017 by nationality is provided below –

Nationality	As at 31 December 2017
Chinese	4 722
Thai	121
Filipino	42
Indian	29
Indonesian	10
Others	6
Total	4 930

59. According to information of the ImmD, a breakdown of the number of FDHs in 2017 by nationality is provided below –

Nationality	As at 31 December 2017
Filipino	201 090
Indonesian	159 613
Indian	4 132
Thai	2 468
Sri Lankan	1 266
Others	1 082
Total	369 651

60. From 3 March 2014 to end June 2018, amongst the 15 992 non-refoulement claims received under the Unified Screening Mechanism (USM), a breakdown of the nationality of claimants is at **Annex C**.

31. Updated information on anti-trafficking legislation, and statistics on complaints, investigations, prosecutions, convictions, sanctions and remedies for human trafficking; statistics indicating the ethnicity/nationality of victims of trafficking in ... Hong Kong, China...

61. The HKSAR Government has always been fully committed to combatting trafficking-in-persons (TIP) and protecting FDHs through multi-faceted measures. As the potential threats of trafficking posed by transnational organised crime syndicates continue to evolve, we have continued to identify necessary new measures in response over the years.

62. In March 2018, a high-level inter-bureau/departmental Steering Committee to Tackle TIP and to Enhance Protection of FDHs in Hong Kong (Steering Committee) was established. The Steering Committee is chaired by the Chief Secretary for Administration, with the Secretary for Security and the Secretary for Labour and Welfare as Vice Chairmen. Membership of the Steering Committee includes heads of relevant departments, including the Police, ImmD and the Customs and Excise Department (C&ED), LD, SWD, and the Director of Prosecution of the Department of Justice (DoJ).

63. At the same time, the Government promulgated the Action Plan to Tackle TIP and to Enhance Protection of FDHs in Hong Kong (Action Plan), which outlines a package of multi-faceted measures that are comprehensive, strategic and targeted, covering areas including victim identification, investigation, enforcement, prosecution, victim protection and support, prevention, and partnership with different stakeholders.⁵ In addition to more than 20 ongoing measures, the Action Plan includes several major new initiatives, including:

- (a) extending the Police's victim screening mechanism to all 24 police districts;
- (b) appointing dedicated teams or officers in the relevant law enforcement agencies (LEAs) to handle cases relating to TIP and exploitation of FDHs;
- (c) extending the victim screening mechanism to the LD;
- (d) appointing dedicated teams or officers in the relevant LD divisions to ensure the effective implementation of measures to enhance protection of FDHs;
- (e) strengthening support for the designated co-ordinator of human exploitation cases in the DoJ;
- (f) setting up a dedicated hotline with interpretation services to provide support services to FDHs; and
- (g) engaging with the governments of major FDH source countries and launch public education campaigns through the relevant Economic and Trade Offices.

⁵ <https://www.sb.gov.hk/eng/special/pdfs/Action%20Plan%20to%20Tackle%20TIP%20and%20to%20Protection%20FDHs.pdf>

Victim Screening Mechanism

64. The HKSAR Government first introduced a TIP victim screening mechanism in 2015 in the ImmD. The mechanism was then gradually implemented by the Police in some police districts in 2016 and 2017, and also by the C&ED in 2017. As a result, the number of vulnerable persons screened under the mechanism has increased by 87%, from 2 515 in 2016 to 4 710 in 2017. Among them, only nine persons were identified as victims, i.e. less than 0.2% of the screenings conducted. This is consistent with the fact that TIP is not prevalent in Hong Kong. Enforcement and victim identification statistics are at **Annexes D and E**.

65. In July 2018, the Police extended the mechanism to all 24 police districts within 2018 and C&ED extended to all formations. The LD also plans to extend the screening mechanism to the branch offices of its Labour Relations Division, such that FDHs potentially being exploited or abused can be identified at an early stage, and those possibly facing greater dangers (e.g. being physically abused) can have their cases referred to LEAs at the earliest possible time for investigation.

Victim Protection and Support

66. Various government departments have been providing necessary protection and suitable assistance to victims. Depending on the circumstances of individual cases, such protection and support may include –

- (a) witness protection programme;
- (b) request for overseas LEAs to provide assistance to victims and families in their home country;
- (c) shelter medical services, psychological support, counselling and financial assistance, etc.;
- (d) publicly-funded interpretation during enquiry, investigation and court proceedings (including in the Labour Tribunal);
- (e) financial assistance to enable victims residing overseas to return to Hong Kong to testify as witnesses (covering expenses including accommodation, passage, daily subsistence and visa processing fees, etc.);

- (f) visa extension and waiver of visa fees for victims who need to stay in Hong Kong to act as prosecution witnesses in legal proceedings instituted by the Police, ImmD or LD; and
- (g) exceptional approval for FDHs to change employer while in Hong Kong when there is evidence suggesting that they are being exploited or abused by their employers.

67. Depending on the facts and circumstances of individual cases and subject to pre-conditions being satisfied, when the situation so warrants, DoJ will grant victims immunity from prosecution for crimes committed as a result of being trafficked or exploited.

68. Following the promulgation of the Action Plan, the Government will continue to provide holistic protection and suitable assistance to TIP victims and FDHs who have been abused or exploited, and keep the measures under review for necessary enhancements.

Legislative Framework

69. Hong Kong addresses TIP through various pieces of local legislation. Although the Palermo Protocol⁶ has not been applied to Hong Kong, the conduct of TIP as defined in the Protocol is covered and effectively prohibited by various pieces of legislation in Hong Kong, encompassing offences such as physical abuse, false imprisonment, criminal intimidation, unlawful custody of personal valuables, child abduction, child pornography and exploitation of children, illegal employment, etc. There are over 50 legal provisions against various TIP conducts that form a comprehensive package of safeguards comparable to composite TIP laws found in other jurisdictions. Some of the offences attract penalty of up to life imprisonment. A list of these offences is at **Annex F**.

70. Under our existing legislative framework, LEAs may resort to powers and rely on offences created by different statutes in the course of their investigation, enforcement and prosecution, so that they can cover all nature of crimes involved. This flexibility equips LEAs with more tools and tactics to tackle TIP depending on the circumstances of individual cases, rather than relying on a single piece of TIP legislation.

⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organised Crime

71. Also, section 8 of the Organized and Serious Crimes Ordinance permits the Court of First Instance or the District Court to make a confiscation order in relation to a person's proceeds of a specified offence exceeding \$100 000. Quite a number of TIP-related offences are offences "relevant to the definitions of organized crime and specified offences" under Schedule 1 of Ordinance.

32. Legislative protection and procedures for refugees and asylum seekers; availability of appropriate information, interpretation, legal and humanitarian assistance and judicial remedies to asylum seekers in ... Hong Kong, China... (CERD/C/CHN-HKG/14-17, paras. 2.24–2.34 and 5.8 and annex, p. 6)

Claims for non-refoulement protection

72. Hong Kong is a small city with a dense population (population density over 6 700 per sq. km.), a long coastline (over 730 km), a liberal visa regime (nationals or residents of over 170 countries / regions may visit Hong Kong visa-free), a large number of visitors (over 60 million visitors per year), and a well-developed transportation hub in the region (over 100 airlines operate direct flights between Hong Kong and some 190 cities). All these make Hong Kong vulnerable to the ill effect of illegal immigration. Against this background, the 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol have never applied to Hong Kong, and illegal immigrants seeking non-refoulement protection in Hong Kong will not be treated as "asylum seekers" or "refugees". The HKSAR Government maintains a firm policy of not determining or recognising refugee status of anyone.

73. Separately, since March 2014, the HKSAR Government has screened non-refoulement claims pursuant to the USM. Under USM, illegal immigrants and overstayers who are liable to be removed to their home countries may raise objection to the removal on the relevant applicable grounds, including where they face a real risk of being tortured, ill-treated or persecuted on return.

74. Regardless of the outcome of their non-refoulement claims, ImmD will not permit the claimants to settle in Hong Kong.

75. The handling of non-refoulement claims under USM observes the high standards of fairness set out by the relevant court judgments, including that by the Court of Final Appeal of Hong Kong. To establish their claims, a claimant has every reasonable opportunity and all necessary professional support throughout the assessment process, including publicly funded legal and

interpretation / translation services provided by qualified persons, from the stage of stating details of their claim through completing a claim form to attending an interview for elaborating their claim before a case officer, and medical examination if the alleged physical or mental condition of the claimant is in dispute and is relevant to the claim.

76. Thereafter, ImmD will inform the claimants of its decision and reasons in writing. Claimants aggrieved by ImmD's decision have a right to lodge an appeal, which would be considered by the statutory and independent Torture Claims Appeal Board (TCAB).

77. The determination of whether a claim is to be substantiated entirely depends on the particular facts and merits of a case. If, based on the grounds of the claim and the facts in support of the claim submitted by the claimant and other relevant information available, there are substantial grounds for believing that the claimant would be in danger of being subjected to torture, an absolute and non-derogable right being violated (e.g. being subjected to cruel, inhuman or degrading treatment or punishment, or arbitrary deprivation of life), or persecution, then ImmD or TCAB must accept the non-refoulement claim as substantiated. Otherwise, the claim will be rejected. If a non-refoulement claim is rejected, the claimant, as a person subject to removal, will be removed to his home country accordingly.

Humanitarian Assistance

78. Since 2006, the HKSAR Government has commissioned an NGO to offer humanitarian assistance (including food, accommodation, utilities expenses, transportation allowance as well as other basic necessities) to non-refoulement claimants to prevent them from becoming destitute during their presence in Hong Kong, whilst avoiding any magnet effect which may have serious implications on the sustainability of the assistance programme and on our immigration control.

79. Given that some claimants may not be able to cope with their basic needs while awaiting screening/removal, the HKSAR Government has been offering in-kind assistance to them on humanitarian grounds since 2006, so as to prevent them from becoming destitute. International Social Service Hong Kong Branch (ISS-HK) will assess claimants' eligibility for the type and level of assistance based on individual claimant's needs, health condition and availability of resources. Such assistance covers accommodation-related assistance (e.g. rent allowance), utilities allowance, food, clothing, other basic necessities, appropriate transportation allowance and counselling services. If there are extra needs, service users may submit justifications and documental

proofs for consideration by ISS-HK on a case-by-case basis.

80. The objective of the assistance programme is to ensure that claimants will not, during their presence in Hong Kong, become destitute. It is not intended to provide them with assistance more than necessary to meet their basic needs, so as to avoid any magnet effect which may have serious implications on the long-term sustainability of the assistance programme and the immigration control of Hong Kong.

Comprehensive Review of the Strategy of Handling Non-refoulement Claims

81. Since the HKSAR Government commenced operating the USM in March 2014, the number of non-refoulement claims has increased from an average of 1 032 claims per year in the previous three years to 4 634 in 2014 (4.5 times) and 5 053 in 2015 (almost 5 times). Over 11 000 claims were pending screening by ImmD as at early 2016. Against this background, the Government commenced the comprehensive review of the strategy of handling non-refoulement claims in early 2016, focusing on the following four areas – (a) preventing the mechanism from being abused through various pre-arrival control measures; (b) expediting the commencement of screening procedures for pending claims, shortening the screening time per claim, and expediting the handling of appeals; (c) expediting repatriation of rejected claimants; and (d) studying detention measures and stepping up enforcement against unlawful employment and other criminal offences.

82. Various measures being or already implemented so far have shown effective results. The number of new non-refoulement claims has dropped significantly by 80%. The number of decisions made by the TCAB has increased in 2017 and 2018 by over 5 times as compared with 2016. As at end-May, about 6200 appeals were pending handling.

33. Updated statistics on non-refoulement claims filed, granted and pending processing in ... Hong Kong, China ... (CERD/C/CHN-HKG/14-17, paras. 2.27– 2.34).

83. On commencement of the USM on 3 March 2014, there were 6 699 non-refoulement claims pending determination. Between March 2014 and June 2018, 15 992 non-refoulement claims were made to the ImmD. During the same period, 13 223 claims have been determined, out of which 111 were substantiated (including 38 substantiated by the TCAB on appeal). As at 30 June 2018, there were 2 997 outstanding non-refoulement claims pending screening by ImmD, representing a drop of over 70% from the peak.

84. The overall statistics on the determination of non-refoulement claims has to be put into context. Of all the 15 992 non-refoulement claims made to the ImmD between March 2014 and June 2018, over 80% are nationals of countries in South or Southeast Asia (Vietnam, India, Pakistan, Indonesia and Bangladesh, etc.). The statistics on the determination of non-refoulement claims must be considered in light of the country conditions in, and the nature of the claims of nationals from, those countries.

34. Statistics, disaggregated by ethnicity, on stateless persons in ...Hong Kong, China Information on availability of residency cards for children of refugees. Measures taken by Hong Kong, China, to address the situation of stateless children of asylum seekers.

85. The ImmD has not made any determination as to the statelessness of persons and has no relevant statistics or information.

86. The United Nations 1951 Convention relating to the Status of Refugees and its 1967 Protocol have never been applicable to Hong Kong. Non-refoulement claimants will not be regarded as “asylum seekers” or “refugees” in Hong Kong.

87. Only persons who are liable to be removed to his home country / a country where he enjoys a right to enter (known as “Risk State” in the context of USM) would be eligible to make a non-refoulement claim under USM. Therefore, none of the claimants, children or otherwise, are stateless persons.

35. Specific information on monitoring and regulation procedures for recruitment agencies employing migrant workers and recruiting domestic workers for employment abroad.

88. The HKSAR Government strictly enforces Part XII of the Employment Ordinance (EO) and the Employment Agency Regulations. It ensures that employment agencies (EAs) in Hong Kong are operating in compliance with the law through inspections, complaint investigations and prosecutions.

89. LD promulgated the Code of Practice for Employment Agencies (CoP) in January 2017 so as to promote professionalism and service quality in the EA industry. Furthermore, the Employment (Amendment) Ordinance 2018, which strengthens the regulation of EAs, has come into effect on 9 February

2018 to better protect job seekers and employers. LD has also updated the Code on the same day to tie in with the implementation of the amended legislation. Moreover, LD strengthened its manpower to further raise the annual target for inspections of EAs from 1 800 to 2 000 in 2018-19. Figures relating to regulation of EAs in the past three years are provided below –

	2015	2016	2017
Number of EAs convicted	12	8	11
Number of EAs with licence revoked/refused for renewal	5	5	6

36. Information on complaint mechanisms available to migrant workers; statistics on investigations, prosecutions and sanctions for non-payment of wages and other forms of labour exploitation and abuse of foreign migrant workers in ... Hong Kong, China... .

90. The HKSAR Government attaches great importance to protecting the employment rights of migrant workers. In HKSAR, migrant workers enjoy equal treatment as local workers in respect of statutory labour rights, including weekly rest day, statutory holidays, annual leave, maternity protection etc. Regarding maternity leave, FDHs are also entitled to 10 weeks' paid maternity leave like their local counterparts. Except in cases of summary dismissal due to the FDH's serious misconduct, an employer is prohibited from dismissing a pregnant FDH from the date on which she is confirmed pregnant by medical certificate to the date on which she is due to return to work upon the expiry of her maternity leave.

91. Migrant workers have full access to the services provided by LD. Any migrant workers wishing to file a complaint to the HKSAR Government are free to do so without fear. Apart from assisting migrant workers in pursuing their civil claims, LD investigates promptly any suspected offences under EO to bring employers in contravention of the law to justice.

92. In 2017, LD received 28 complaints involving migrant workers under SLS. Most of the complaint items were about wages and working hours arrangements. All complaints were followed up; prosecution was taken out against one employer under EO.

93. The HKSAR Government also takes non-payment of wages by FDH employers seriously. In 2017, six FDH employers were convicted of a wage offence under EO.

Support for migrant workers imported under SLS

94. Under SLS, each migrant worker is required to attend a mandatory briefing organised by LD within eight weeks upon his/her arrival in HKSAR. Publicity leaflets and information cards are distributed to them at the briefings to ensure their understanding of their rights and protection under labour laws of HKSAR and SLS requirements as well as the channels for enquiries and seeking assistance.

95. LD conducts inspections of migrant workers' workplaces and accommodation to check employers' compliance with the relevant requirements. Migrant workers can call the 24-hour hotline of LD to request assistance or lodge complaints against suspected breaches of labour laws or SLS requirements. LD conducts in-depth investigation into complaints received.

96. Employers are liable to prosecution if they contravene relevant labour laws. In addition, employers violating relevant labour laws, terms of the Standard Employment Contract (SEC) or SLS requirements, etc., the approvals granted to them for importation of workers may be withdrawn. If an employer has serious adverse record(s) within two years prior to the date of submission of an application under SLS, the application will not be approved.

Support for FDHs

97. As for FDHs, LD has launched a range of publicity and educational programmes to strengthen the support to FDHs and educate them their employment rights and obligations. For example, information packs are distributed to newly arrived FDHs at the airport by NGOs, information kiosks are set up at the popular gathering places of FDHs to screen publicity videos on the employment of FDHs and distribute information packs, advertisements are placed on the local Filipino and Indonesian newspapers, etc. A one-stop website on employment of FDHs, available in FDHs' mother languages, has been launched in 2016 so that FDHs may access publicity materials in relation to their employment conditions anytime, even before they sign the employment contract or arrive in Hong Kong. In April 2018, LD has made available an online enquiry and complaint proforma on the FDH and EA portals to facilitate FDHs in making enquiries and complaints in respect of suspected breaches of labour laws or CoP by employers or EAs.

98. LD has maintained close contacts with the FDHs' home countries and their consulate-generals in Hong Kong in promoting and protecting the rights of FDHs in Hong Kong. For example, LD has established regular liaison mechanism with the consulate-generals of major FDH home countries to exchange views on FDH related matters and share intelligence. Besides, LD has regularly participated in the welcoming programmes organised by the Indonesian and Philippines consulates to brief new FDHs on their employment rights in Hong Kong and the channels for seeking assistance.

Issues specific to Hong Kong, China, and Macao, China

38. Efforts to amend the Race Discrimination Ordinance of Hong Kong, China, to include all government functions and powers in the scope of its application, and to include indirect discrimination with regard to language, immigration status and nationality among the prohibited grounds of discrimination (CERD/C/HKG/14-17, paras. 1.1–1.5 and 2.3–2.8).

99. The RDO binds the Government (section 3 of the Ordinance) and therefore, prohibits discriminatory acts and practices of the HKSAR Government and other public authorities in all the areas specified in the RDO, such as employment; education; the provision of goods, facilities or services; and the disposal or management of premises. In particular, section 27 of the RDO renders it unlawful for the Government to discriminate against a person in the provision of the services of any department of the Government or any undertaking by or of the Government.

100. Under the HKSAR's legal framework, public bodies have always been prohibited from practising racial discrimination. The HKBORO prohibits the Government and public authorities from engaging in practices that would entail any form of discrimination, including discrimination on the ground of race. Avenues are also available to address complaints against public authorities through the Ombudsman, complaint channels in B/Ds, and the Legislative Council, etc.

101. Following a comprehensive review of the four anti-discrimination ordinances (including the RDO) in 2016, the EOC made 73 recommendations for the HKSAR Government's consideration, of which 27 were considered by the EOC as priority items. The HKSAR Government has consulted the Legislative Council Panel on Constitutional Affairs and decided to take forward eight recommendations of priority. Among them, six are related to RDO, namely,

- (a) to replace the references to “near relative” in the RDO with references to “associate”;
- (b) to provide protection from direct and indirect racial discrimination and racial harassment by imputation in the RDO;
- (c) to expand the scope of protection from sexual, disability and racial harassment between persons working in a common workplace (e.g. consignment workers) under the SDO, RDO and the DDO;
- (d) to protect service providers from racial and disability harassment by customers under the RDO and DDO;
- (e) to provide protection from disability and racial harassment between service providers and customers where the acts of harassment take place outside Hong Kong but on Hong Kong registered aircraft or ships in the RDO and DDO; and
- (f) to repeal provisions in the SDO, FSDO and RDO which disallow the award of damages if the respondent in an indirect discrimination case can prove that the requirement or condition was not applied with intention to discriminate.

102. The legislative proposals will be introduced into the Legislative Council by end-2018. The HKSAR Government will continue to carefully study the EOC’s submissions and consider how to follow up on the other recommendations at a later stage, while maintaining communication with the EOC.

103. Various B/Ds have been providing a range of services to meet the needs of new arrivals from Mainland China (NAs). For example, the EDB provides education support for new arrival students, the Labour and Welfare Bureau and the LD provide vocational training and employment support for NAs, the SWD provides welfare services for new arrival families in need, etc. to assist NAs in their early adaptation to life in Hong Kong and integration into the society.

104. The Basic Law and the HKBORO guarantee the fundamental rights of Hong Kong residents (including NAs).

105. The Home Affairs Department (HAD) through its district network and cooperation with non-profit-making organisations (NPOs) provide support

services for NAs to facilitate their integration into the community such as :

- District-based Integration Programmes: HAD organises through district levels adaptation courses, mutual help networks and community visits, etc. to help NAs better understand the districts they are living in and facilitate them to participate in community activities;
- Expectation Management Programmes: HAD organises activities in Shenzhen and Guangdong Province for prospective settlers from the Mainland to help them better understand the situation in Hong Kong before deciding to reside here; and
- Ambassador Scheme: The Scheme recruits persons of background and experience similar to NAs as ambassadors, who will reach out to the disadvantaged NAs and make referrals to government departments to follow up where necessary.

39. Measures taken to combat discrimination against migrant domestic workers, improve their working conditions, and repeal the “two-weeks rule”, the live-in requirement and the exclusion from the Minimum Wage Ordinance (CERD/C/CHN/CO/10-13, para. 30; CERD/C/HKG/14-17, paras. 2.21–2.23, 5.28–5.36 and 5.54–5.60; CERD/C/CHN/CO/10-13/Add.1, pp. 7–12).

The “two-week rule”

106. The “two-week rule” on FDHs is implemented to prevent abuse and to deter FDHs from overstaying and taking up unauthorised work. The same rule applies equally to other migrant workers, such as workers imported under the SLS, irrespective of their countries of origin. The rule does not preclude the FDHs from working in Hong Kong again after returning to their places of origin and does not lead to additional expenses on the part of the FDHs as the passages are paid by their employers. Under exceptional circumstances, such as where the employment contract is terminated due to external transfer, emigration, death or financial situation of the employer, or where there is evidence that the FDH had been abused or exploited, ImmD may allow the FDHs concerned to change employer without requiring them to return to their home countries before commencing new contracts in Hong Kong. Moreover, an FDH may, if necessary, apply for extension of stay from the ImmD to facilitate him/her in pursuing claims in court. If the employers are found to have breached the terms of the SEC or have exploited the FDH which in turn resulted in the early termination of the employment contract, their future application for FDH will not be approved.

107. Like their local counterparts, FDHs and other migrant workers, including those imported workers under SLS, are entitled to not less than one rest day every week, 12 days of statutory holidays with pay each year, seven to 14 days' annual leave with pay depending on the worker's years of service, etc. as stipulated under the EO. FDHs and other migrant workers who suspect that their employment rights are infringed are encouraged to report their cases to LD, or call LD's 24-hour hotline. LD does not tolerate any abuse and will investigate promptly any complaints lodged. Prosecution against the offending employer will be instituted by LD when there is sufficient evidence.

Live-in requirement

108. The legality of the live-in requirement for FDHs has been upheld by the Court of First Instance in a ruling handed down on 14 February 2018. Having regard to the measures and safeguards in place to protect the rights of FDHs, the Court considered that the live-in requirement does not unacceptably or significantly increase the risk of violations of fundamental rights of FDHs. The live-in requirement is a cornerstone of the HKSAR Government's policy that local workers should be given priority in employment, and importation of foreign workers should only be allowed when there is confirmed shortage in a particular sector that cannot be filled by local workers. Importation of FDHs has been allowed in order to meet the shortage of local full time live-in domestic helpers.

109. To safeguard the rights of FDHs, the employer shall provide FDH with free, suitable and furnished accommodation with reasonable privacy as per the accommodation arrangements in the "Schedule of Accommodation and Domestic Duties" of SEC. If an FDH considers that the employer has failed to provide suitable accommodation or breached the terms concerning accommodation arrangements as provided in SEC, or his/her employment rights being infringed, he/she may visit LD for free consultation and conciliation services.

110. Live-in domestic workers are exempted from the Minimum Wage Ordinance (MWO), irrespective of their sex, race and place of origin. Migrant workers who are not employed as live-in domestic workers, as in the case of their local counterparts, are covered by this Ordinance, and there is no question of discrimination.

111. One of the major considerations for the exemption of live-in domestic workers from MWO is that live-in domestic workers reside and work in the employer's home, which renders calculating and recording working hours

practically impossible, while Statutory Minimum Wage is set on an hourly basis. In addition, the exemption of live-in domestic workers also reflects the provision of in-kind benefits arising from dwelling in the household of their employers free of charge, including free accommodation and usually free food by the employers, as well as savings from the transport cost.

40. Progress regarding the “Chinese Language Curriculum Second Language Learning Framework” in Hong Kong, China; efforts to integrate students of ethnic minorities into public schools (CERD/C/CHN-HKG/14-17, para. 5.66).

112. The HKSAR Government is committed to encouraging and supporting the integration of NCS students, notably EM students, into the community, including facilitating their early adaptation to the local education system and mastery of the Chinese language.

113. EDB has, starting from the 2014/15 school year, implemented the “Chinese Language Curriculum Second Language Learning Framework” (“Learning Framework”), which was drawn up in consultation with teachers and language experts, in primary and secondary schools to help NCS students overcome the difficulties in learning Chinese as a second language with a view to facilitating their effective learning of Chinese and bridging over to mainstream Chinese Language classes as early as possible.

114. EDB has been providing reference materials for the learning and teaching of Chinese as a second language to facilitate schools’ implementation of the “Learning Framework”. In addition, EDB has continued to provide diversified school-based professional support services for schools admitting NCS students, organise diversified and advanced teacher professional development programmes, and launch the “Professional Enhancement Grant Scheme for Chinese Teachers (Teaching Chinese as a Second Language)” to encourage serving Chinese Language teachers to attend professional development programmes to enhance their professional capability in teaching Chinese Language to NCS students.

115. To facilitate schools’ implementation of the “Learning Framework” and creation of an inclusive learning environment in schools, EDB has substantially increased the funding to schools to currently over \$200 million per year. Starting from the 2014/15 school year, all public sector schools and Direct Subsidy Scheme schools offering the local curriculum which admit 10 or more NCS students are provided with an additional funding ranging from \$800,000 to \$1,500,000 per year depending on the number of NCS students admitted. The additional funding allows schools to adopt diversified learning

and teaching modes as appropriate based on the needs of their NCS students.

116. As regards schools admitting a handful of NCS students (i.e. 1 to 9), their NCS students can benefit from the immersed Chinese language environment of the school as well as the “Learning Framework”. Nevertheless, from the 2014/15 school year, they may apply for an additional funding of \$50,000 on a need basis to offer after-school support programmes in learning Chinese to consolidate what their NCS students have learnt in classes. EDB also continues to commission a tertiary institution to operate the Chinese Language Learning Support Centres in different districts to support NCS students (particularly those who have a late start in learning the Chinese language) by offering after-school remedial programmes.

117. To meet NCS students’ diverse needs and expectations in the learning of Chinese, starting from the 2014/15 school year, EDB has offered Applied Learning Chinese (for non-Chinese speaking students) (ApL(C)) at the senior secondary level to provide NCS students with an additional channel to obtain an alternative Chinese Language qualification. ApL(C) results are reported in the Hong Kong Diploma of Secondary Education (HKDSE). In addition to the HKDSE qualification, ApL(C) is also pegged at the Qualifications Framework Levels 1-3 to prepare students for further studies and work. The first cohort of NCS students completed the courses in 2017.

118. It is the HKSAR Government’s policy to encourage parents of NCS students to arrange their children to study in schools with an immersed Chinese language environment as early as possible to facilitate their mastery of the Chinese language. Since the 2013/14 school year, the former so-called “designated schools” system has been abolished.⁷ The provision of additional funding is no longer confined to a certain number of schools admitting NCS students. The revised funding mode⁸ aims to equip all schools for supporting NCS students and hopefully widen the school choices of parents of NCS students. To assist parents of NCS students in choosing public sector schools, EDB has made available information on admission to schools in major EM languages. Dedicated briefing sessions with simultaneous interpretation services are held annually for parents of NCS students. EDB also encourages

⁷ Schools admitting a critical mass of NCS students, having experience in taking care of NCS students, ready to partner with EDB to develop school-based support measures and share experience with other schools were provided with special grant from the 2006/07 to 2012/13 school years. These schools are generally known as the so-called “designated schools”.

⁸ Under the revised funding arrangement, all schools admitting 10 or more NCS students were provided with an additional funding to enhance support for their NCS students in learning Chinese. The additional funding has also been substantially increased from the 2014/15 school year as detailed in paragraph 115 above.

schools to organise parents' visits to schools so that they can learn more about the schools before making school choices.

119. English version of the School Profiles, which provide the basic information on all public sector schools, have been distributed to parents of NCS students since the 2015/16 school year. Schools are also required to indicate in their School Profiles to be distributed from the 2018/19 school year whether they provide additional support for NCS students to facilitate their learning of Chinese language. EDB will continue to encourage all schools to provide more details of their school-based support in their School Profiles and/or school webpages for the reference of parents of NCS students.

120. With the above-mentioned enhanced education support, in the 2017/18 school year, there are about 620 public sector and Direct Subsidy Scheme primary and secondary schools admitting NCS students, which covers about two-thirds of the schools in total, as compared with about 590 schools in the 2013/14 school year. While some schools may, due to various reasons including their location in districts where relatively more NCS people reside and parents' tendency to arrange their younger children to study in the same school with their siblings, still have relatively more NCS students compared with the schools in other districts, the measures introduced by the HKSAR Government do not in any way contribute to any *de facto* racial segregation. Any allegation that *de facto* racial segregation exists in Hong Kong is groundless and unfair.

121. To help create an inclusive learning environment in schools, EDB has repeatedly reminded schools to communicate with parents of NCS students in a proactive manner, including making available school circulars in English. Besides, schools may employ EM assistants or procure translation services as necessary to strengthen communication with parents of NCS students and organising multi-cultural activities. It is noted that schools admitting 10 or more NCS students in general have deployed about 10% of the enhanced funding for this purpose.

122. All in all, the "Learning Framework" has been implemented for only four years and the first cohort of NCS students who started learning Chinese Language under the "Learning Framework" in Primary 1 have just completed Primary 4. The support measures need time to take root and create a sustainable impact on NCS students. EDB has been reviewing the implementation of the "Learning Framework" in light of the views from stakeholders and school practices on learning and teaching and the effectiveness of support measures for NCS students and refine the measures where appropriate.

41. Concrete results of efforts to combat discrimination against ethnic minorities in law enforcement, employment and education, including access to free primary education for children of migrants in Hong Kong, China ... (CERD/C/CHN-HKG/14-17, paras. 2.7, 2.16–2.19 and 5.11–5.12).

123. The HKSAR Government has made continuous efforts to combat racial discrimination on various fronts such as law enforcement, employment and education, including access to free primary education for children of migrants in Hong Kong.

(I) Law enforcement

124. Under section 54 of the Police Force Ordinance concerning “Power to stop, detain and search”, if a police officer finds any person in any street or any other public place who acts in a suspicious manner, or whom he reasonably suspects of having committed or being about to commit or intending to commit any offence, the police officer is empowered to stop the person for the purpose of demanding that he produces proof of his identity for inspection. Under section 17C of the Immigration Ordinance concerning “Carrying and production of proof of identity”, a police officer is also empowered to require members of the public to produce proof of identity for inspection. Furthermore, police officers are empowered by legislation such as the Public Order Ordinance, Dangerous Drugs Ordinance, Weapons Ordinance, Firearms and Ammunition Ordinance, etc. to conduct stop and search action. By such actions, the Police will be in a better position to discharge their statutory functions, particularly in the prevention and detection of crime.

125. Generally speaking, the Police maintain figures mainly for operational purposes including the monitoring of crime trend, planning and deployment of resources. In the past five years, the statistics on identity card inspections and stop and searches conducted by police officers are set out below-

	2013	2014	2015	2016	2017
Identity card inspections	345 815	316 213	305 258	326 307	324 133
Stop and searches	1 571 598	1 204 941	1 320 640	1 274 731	1 237 293

126. As a professional law enforcement agency, the Police handle each case in an impartial, fair and just manner. Action is taken by the Police against the suspected illegal act itself, but not such factors as the background,

nationality, race or political stance of the person involved. The Police will only conduct stop-and-question or stop-and-search actions when they find any person acting in a suspicious manner, or when they reasonably suspect that such person have committed or is about to commit or intend to commit any offence. The Police fully understand the importance of obtaining public co-operation and understanding when stop-and-question or stop-and-search actions are conducted, and will continue to ensure that all such actions are conducted in a lawful and appropriate manner.

127. Furthermore, in the course of law enforcement, where it is necessary to interview EMs and take statement from them, LEAs will, based on the circumstances of each case, provide interpretation services to ensure that they can understand the relevant laws and their rights.

(II) Employment

128. LD constantly reminds employers to consider the genuine occupational qualifications of the posts when specifying the language requirements, and requires employers using its recruitment service to declare that the terms of employment, entry requirements and job descriptions, etc. of the job vacancies submitted by them are in compliance with the anti-discrimination ordinances (including the RDO). LD will not accept and publish vacancies which fail to meet the above requirements. In 2017, the number of private sector vacancies recorded and processed by LD was over 1.4 million.

(III) Education

129. All eligible children (including NCS children) in the HKSAR have the right to receiving 12 years of free education. The HKSAR Government ensures that all eligible children enjoy equal opportunities in admission to Primary One and Secondary One of public sector schools under the respective school places allocation systems.

130. EDB has issued relevant circulars and guidelines to schools which set out the direction in taking care of NCS students, notably EM students. Schools should ensure that their admission requirements are fair, just and open, and in compliance with the laws of Hong Kong (including RDO).

131. All educational establishments have the responsibility to use their best endeavours in supporting the teaching and learning of all their students irrespective of race, colour, descent or national or ethnic origin, in accommodating ethnic diversity in schools, in respecting cultural and religious

differences and in communicating with parents.

132. To raise teachers' empathy and cultural and religious sensitivity in taking care of NCS students, annual sharing sessions are organised in collaboration with the EOC. Through sharing of good practices, teachers are empowered especially to overcome practical difficulties in their daily teaching and administration, and treat NCS students alike as any other Chinese-speaking students in schools notwithstanding the differences in cultures and customs.

133. EDB offers support services to assist newly arrived NCS children in integrating into the society and overcoming learning barriers. Parents of NCS children may choose to enroll their children into the Initiation Programme which lasts for six months before they enter mainstream schools. For the newly arrived NCS children who choose to study in mainstream schools direct, schools may make use of the School-based Support Scheme Grant to organise school-based support programmes for them. EDB also subsidises NGOs to run the 60-hour Induction Programme for newly arrived NCS children studying in mainstream schools, so as to help them understand the community and local culture, as well as master learning skills.

134. As regards pre-primary education, kindergartens (KGs) should ensure equal opportunities for admission for all children (regardless of their race, gender and ability), including handling the applications from NCS children properly with due regard to their difference in culture and customs. The application forms and relevant information provided by KGs must be in both Chinese and English. KGs have also been reminded in circulars, guidelines and briefings that when interviewing NCS children, they should arrange interpretation and / or translation service for applicants where necessary, or allowing parents and children to be accompanied by a Chinese-speaking relative / friend during the interview so as to facilitate communication. From the 2017/18 school year, EDB has implemented the KG education scheme (Scheme) to provide good quality and highly affordable KG education, as well as enhance the accessibility of students to different modes of services that suit their specific needs. In the 2017/18 school year, out of the 748 KGs joining the Scheme, about 390 have admitted NCS students. Among them, about 310 KGs (80%) have their NCS students constituting less than 10% of their student population.

Non-refoulement claimants who are minors

135. The HKSAR Government provides free basic education for eligible children between the ages of six and fifteen. Children of school age must have the right of abode in Hong Kong or hold valid documents issued by the ImmD before they can be educated in Hong Kong. In relation to non-refoulement

claimants who are school-age children and wish to study in Hong Kong, if the removal would not be effected in the short term and the ImmD has no opinion on the application for admission of these children for schooling, the EDB will arrange for them to enter suitable schools after considering their area of residence and the level of study.

136. To promote fair access to education, 8 briefing sessions have been conducted by the EOC for principals, teachers, EM parents and community workers on the protection under the RDO regarding school admission and other policies, including school uniform, communication with non-Chinese parents, etc. in recent years. Besides, two guidance materials for schools on the RDO were published and distributed to all schools since 2016, namely “Promotion of Racial Integration & Prevention of Racial Discrimination in Schools” booklet and “Easy Guide on Promoting Racial Equality in Schools: Kindergarten Admission” leaflet.

Other concerns

43. Extent and impact of human rights and anti-racial discrimination training programmes provided to law enforcement officers and judicial officials, including judges, prosecutors, police and security and military personnel (CERD/C/CHN-HKG/14-17, para. 2.19).

137. Relevant training on human rights has been organised by the disciplined services, DoJ, the Judiciary and the EOC. For example-

Customs and Excise Department

138. Induction trainees of C&ED are required to attend (a) lecture on the HKBORO, including the enforcement mechanism for “Anti Trafficking-in-person”; and (b) workshop relating to “Equal Opportunities Legislation” held by Civil Service Training and Development Institute (CSTDI). In-house training programmes are also provided to all ranks of staff to enhance their understanding of and sensitivity towards racial equality issues while performing enforcement duties.

Correctional Services Department (CSD)

139. Cultural sensitivity training is provided to new recruits of the CSD. Relevant concepts and knowledge include the Standard Minimum Rules for the Treatment of Prisoners, the HKBORO and the RDO. Relevant information is

also provided to serving staff through in-service training. In addition, representatives from the Consulates in the HKSAR are invited from time to time to deliver talks to CSD staff in relation to the geographical and historical contexts, different ethnicities and cultures, living habits and taboos as well as religions and beliefs of the respective countries. The CSD also provides staff with training on EM languages including Nepali, Urdu, Vietnamese, Indonesian and Punjabi from time to time.

Immigration Department

140. All newly recruited immigration service members will receive training related to the issue of non-discrimination, including RDO and HKBORO so as to enhance their awareness of cultural differences and their ability in handling of persons with special needs.

Hong Kong Police Force

141. Through the foundation training and continuous development training courses as well as a diversity of learning modes, the Police regularly organises courses relating to EMs, the RDO and equal opportunities for new recruits and serving officers. As part of the foundation training, new recruits are also required to perform community services for EMs to enhance their knowledge of the cultures of NEC and promote mutual understanding.

Anti-trafficking Training

142. Capacity building for officers in relevant B/Ds is crucial to the successful implementation of the overall strategy of tackling TIP and enhancing protection of FDHs. In this regard, the HKSAR Government has been providing relevant training to more officers of LEAs, LD, SWD and prosecutors of the DoJ over the years. In 2017, over 1 800 government officials received local or overseas TIP-related training.

143. Currently, relevant LEAs have included the theme of TIP into their induction training for new recruits. LD has also included training on relevant labour legislation (e.g. protection against child labour and prohibition of exploitation such as non-granting of statutory holidays and underpayment of wages, etc.) into the training programme for its officers. Specialised training programmes were also organised for responsible officers in LEAs, LD and DoJ.

144. The HKSAR Government will continue to provide suitable training to staff of relevant B/Ds to enhance their awareness of TIP, the way to detect and identify TIP victims or FDHs being abused or exploited, and to enhance

their investigation skills in respect of such cases. We also plan to develop information packs for government officials who are more likely to come across TIP victims or exploited FDHs.

Prosecutors of the Department of Justice

145. DoJ has organised a number of seminars and training programmes to provide its prosecution counsel with continuing legal education, including those on human trafficking, human rights considerations in prosecuting public order event offences, and the handling of vulnerable witnesses in domestic violence and sexual abuse cases. Prosecution counsel are also provided training on the Prosecution Code. The Prosecution Code provides that prosecutors must be alert to an accused's right to equality before the law, and refers to the United Nations "Guidelines on the Role of Prosecutors" which states that prosecutors should carry out their function impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination.

Judiciary

146. Relevant human rights and anti-racial discrimination issues are covered in the professional training and development activities attended by JJOs from time to time. This includes participation in human rights seminars and conferences organised by the academia and professional bodies both locally and overseas.

147. Since 2015, the EOC has provided 30 sessions of training on the RDO and cultural sensitivity for civil servants and staff of public bodies, including but not limited to regular training courses with the CSTDI, Housing Department, Estate Agents Authority, HA, etc., and extensive training for all frontline staff of the Job Centre under the LD as well as Working Family Allowance Office.

<p>44. Concrete information on human rights training and education programmes implemented to foster intercultural dialogue, tolerance and understanding; detailed information on any such programmes being run at the community level to raise awareness of racism in its various forms, and the prohibition of racial discrimination (CERD/C/CHN-HKG/14-17, paras. 2.5, 2.17–2.19, 5.53, 5.59, 7.1–7.2 and 7.5–7.17</p>
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148. The HKSAR Government attaches great importance to human rights training and public education as an effective means to foster understanding and to cultivate respect for racial differences. Relevant training and programmes on racial equality and cultural sensitivity have been organised for public officials as well as at the community level.

149. For government officers at different ranks, the CSTDI organises regular seminars to enhance their understanding of racial equality and cultural sensitivity. About 4 900 officers attended the above training in the past five years (2013-14 to 2017-18). CSTDI also offers online training resources on its e-learning platform, the Cyber Learning Centre Plus, for government officers.

150. On teacher training, EDB has been organising human rights-related civic education seminars. Seminars on human rights-related themes, namely, “human rights and the Basic Law”, etc. have been organised to empower teachers’ competency in teaching related concepts and values. Resource materials, including web-based resources, in support of the promotion of human rights education, have been produced for reference and use by schools.

151. On education front, tertiary institutions offer programmes on history and culture of different countries, either for specific humanities discipline or as general education programmes for all their students. Courses on various aspects on human rights are also offered by the UGC-funded institutions. These programmes enable students to gain a better understanding of people of different races and ethnic origins. Many UGC-funded institutions have also organised student exchange and other forms of informal activities which are conducive to promoting cultural diversity, widening the students’ exposure as well as enhancing their appreciation of different culture.

152. The HAD also conducts school talks and roving exhibitions to convey messages of cultural diversity and racial harmony to the Chinese and EM communities. In 2017-18 school year, 45 school talks for over 12 000 primary and secondary school students were organised; and roving exhibitions in 18 public housing estates are scheduled to be conducted in the summer of 2018.

153. The Estate Management Advisory Committees of public rental housing estates partner with NGOs to hold functions on community building, so as to provide opportunities for EM and local residents to build mutual understanding, and foster a harmonious relationship in the community.

154. The SWD organises training programmes for departmental staff, social workers of NGOs and contract welfare service units to enhance their

understanding of the characteristics, difficulties and needs, cultural and religious background as well as the taboos of service users from EM groups. All newly recruited social workers and social security staff of SWD are required to receive training related to the RDO.

155. At community level, the Home Affairs Bureau has been working closely with the Committee on the Promotion of Civic Education (CPCE) under its purview to promote civic education (including human rights) through various channels and projects. These include providing sponsorship to NGOs and District Councils for organising civic education activities; producing publicity programmes and materials through publications, exhibitions or seminars on relevant themes; disseminating information through CPCE's Facebook page and websites; as well as providing relevant reference materials in the Civic Education Resource Centre (CERC).

156. The CPCE promotes the core civic values of “respect and inclusiveness”, “responsibility” and “love”. In the past two years (2016-17 and 2017-18), the CPCE has sponsored various projects promoting “respect and inclusiveness” with the objective of furthering exchanges between the general public and EM. In addition, the CPCE invited EM performing groups to participate in the Civic Education Exhibition in the past few years with the aim of fostering intercultural dialogue and understanding.

157. The CERC organises activities such as seminars, film shows, guided tours and thematic exhibitions, etc. to promote different civic values, including topics relating to respecting EMs.

158. The Constitutional and Mainland Affairs Bureau (CMAB) and the the Radio Television Hong Kong have, since 2014, co-operated to produce three TV documentary / drama series for broadcast at local TV channels and on the Internet with a view to spread the message of equal opportunities and non-discrimination for EMs.

159. The EOC has also organised 1 678 training programmes which covered the subject of RDO since April 2013. Among which, 250 training sessions on the RDO and cultural sensitivity were specifically conducted for both the mainstream community such as government officials, banking practitioners, estate agents, teachers, managerial staff of local businesses, etc. as well as the EM community. The EM Unit has also been expanding its scope of outreach through social media and corporate connections. The video clips on promoting racial equality on the EOC's EMBRACE Campaign page has generated over 14 000 views. Roving exhibitions to promote the RDO to the mainstream community were also implemented in 2014 and 2016 at a total of

15 exhibition points, including transportation hubs, shopping malls and gathering places of EMs.

Supplementary Information

Collaboration with NGOs

160. The HKSAR Government has, over the years, launched various initiatives to promote racial harmony and to assist integration of EMs in the HKSAR through collaboration with NGOs.

161. The Committee on the Promotion of Racial Harmony (CPRH) and Ethnic Minorities Forum under the HAD provide discussion platforms for EM organisations, NGOs and the concerned B/Ds on their services and dedicated support provided to EMs. The HAD also operates a number of programmes to facilitate the integration of EMs into community, either by organising activities or through sponsoring the work of NGOs. Since 2009, we have provided funding to NGOs for operating a total of six support service centres for EMs and two sub-centres in the HKSAR. They provide Chinese and English language training, orientation programmes, counselling and referral services, interest classes, and other support services to EMs. One of the centres also provides telephone and on-site interpretation services to facilitate EMs' access to public services. Other programmes include language programmes, integration activities, radio programmes in the languages of the EMs, and community teams to provide support services to the EM groups.

162. Since the implementation of the RDO, the EOC has continued its efforts to promote awareness and understanding among the public and stakeholders of the rights of the EMs and their equal opportunities through a series of programmes and activities, including the Community Participation Funding Programme on Equal Opportunities for NGOs promoting racial equality and integration.

Additional Provision for EOC to promote equal opportunities for EM

163. Starting from 2014-15, the EOC has set up an EM Unit to promote equal opportunities for EMs through advocacy, training and promotional efforts (please refer to the **Annex G** for the work of the EM Unit in recent years). Besides, the CMAB provided a one-off funding of \$2 million to the EOC in 2014-15 for promoting the RDO and another one-off funding of \$3 million in 2017-18 for promoting equal opportunities of EMs. The funded programmes include media campaigns, production of educational publications,

implementation of partnership projects to explore the feasibility of introducing qualification accreditation for EM language interpreters and conducting integrated research on EM education, academic and employment pathway with a view to drawing up practical guidebooks for EM youth.

164. In 2018-19, the EOC will work to advocate the rights of EMs to education and employment opportunities through the following activities and programmes:

- (a) on education, the EOC has set up the Working Group on Education for EMs to conduct a systematic study on the current position of Chinese language learning by EM students, and to collate the opinions of the major stakeholders with a view to submitting comprehensive recommendations to the Government. To promote fair admission policies and an inclusive learning environment, the EOC will also publish easy guides and organise training programmes for teaching staff, parents and students in schools; and
- (b) on employment, the EOC has set up a working group on “Mainstreaming Employment Opportunities in Residential Care and Healthcare Industries for EMs” to explore the feasibility of introducing a set of entry and registration requirements on Chinese proficiency having regard to the job requirement for registration and training of healthcare workers. In addition, the EOC has rolled out two programmes, namely the Charter for Racially Inclusive Workplace and Racially Inclusive Employer Award, with a view to encouraging employers to learn from those exemplary enterprises by adopting good practices in the employment of EMs.

Naturalisation as a Chinese national

165. Applications for naturalisation as a Chinese national in Hong Kong are handled by ImmD under the Nationality Law of the People's Republic of China (CNL) and in accordance with relevant laws and procedures.

166. Article 7 of the CNL provides that foreign nationals or stateless persons who are willing to abide by China’s Constitution and laws and who meet one of the following conditions may be naturalised upon approval of their applications:

- (a) they are near relatives of Chinese nationals;
- (b) they have settled in China; or

- (c) they have other legitimate reasons.

Factors to be considered in an application for naturalisation are set out in the relevant pamphlet published by ImmD.⁹ Relevant information is also available online.¹⁰

167. Each application will be considered on its own merits. Whether an applicant is an ethnic minority is not a relevant consideration.

Application of International Labour Conventions in Hong Kong

168. The Forced Labour Convention, 1930 (No. 29) has been applied to Hong Kong without modification since 3 June 1931 and continues to apply to Hong Kong after the establishment of the HKSAR on 1 July 1997.

169. The Labour Inspection Convention, 1947 (No. 81) has been applied to Hong Kong without modification (excluding Part II) since 11 July 1966 and continues to apply to Hong Kong after the establishment of the HKSAR on 1 July 1997.

170. The Abolition of Forced Labour Convention, 1957 (No. 105) has been applied to Hong Kong without modification since 25 November 1959 and continues to apply to Hong Kong after the establishment of the HKSAR on 1 July 1997.

171. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Domestic Workers Convention, 2011 (No. 189) have not been ratified by the People's Republic of China and have not been applied to HKSAR at present. This notwithstanding, domestic workers, including FDHs, are accorded with equal and full protection as other workers under the labour laws of HKSAR; they also enjoy the additional rights under the SEC. The HKSAR Government is committed to safeguarding the rights of FDHs in Hong Kong. In addition to the various measures introduced to promote the rights of FDHs, the HKSAR Government promulgated an Action Plan to tackle TIP and enhance protection of FDH in March 2018 to strengthen the efforts in this regard. We will continue to monitor the implementation of the Domestic Workers Convention, 2011 (No. 189) in other places and study the feasibility of its application to the HKSAR as

⁹ <https://www.immd.gov.hk/pdf/forms/id874ae.pdf>

¹⁰ https://www.immd.gov.hk/eng/services/chinese_nationality/Application_for_Naturalization_as_a_Chinese_National.html#firstTab

appropriate.

Using Putonghua as medium of instruction in teaching Chinese Language to NCS students

172. Parents of NCS students have different aspirations about their children's learning of Chinese. Schools are given the flexibility to use Cantonese and / or Putonghua as the medium of instruction for teaching the Chinese Language at certain levels / in specific classes having regard to their own circumstances including the readiness of teachers, ability of students, language environment of the school and expectation of parents, etc. It is evident that given ample learning support, NCS students can learn the Chinese Language through Putonghua. EDB will continue to provide assistance, professional training and on-site support to schools as appropriate.

Annex A

**Number of non-Chinese speaking (NCS) ethnic minority students in primary and secondary schools
by ethnicity from the 2015/16 to 2017/18 school years**

	2015/16		2016/17		2017/18	
	Primary	Secondary	Primary	Secondary	Primary	Secondary
Indonesian	115	57	128	72	142	82
Filipino	1 290	1 510	1 309	1 508	1 328	1 529
Indian	944	1 223	970	1 201	965	1 240
Pakistani	3 021	2 848	3 121	2 890	3 209	3 058
Nepalese	1 572	1 325	1 671	1 364	1 776	1 358
Japanese	95	57	113	59	116	66
Thai	158	115	161	134	171	158
Korean	44	50	53	55	66	61
Other Asian	230	205	227	213	224	240
White	496	218	567	217	600	218
Others	373	390	374	421	412	497
Total	8 338	7 998	8 694	8 134	9 009	8 507

Notes:

1. Figures refer to the position as at September of the respective school years.
2. Figures include NCS students in public sector and Direct Subsidy Scheme schools. Figures do not include students in special schools.

Labour force and labour force participation rates⁽¹⁾ of ethnic minorities by sex, ethnicity and age group, 2016

Sex/Ethnicity	Age group												Overall	
	15 – 24		25 – 34		35 – 44		45 – 54		55 – 64		65+			
	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)
Male														
Asian (other than Chinese)	3 619	44.8	11 741	90.8	15 205	93.3	9 588	90.9	3 738	84.8	1 568	36.2	45 459	80.3
Filipino	437	39.2	1 942	95.1	2 430	96.8	2 226	92.4	784	91.8	271	51.5	8 090	85.5
Indonesian	82	41.8	236	96.3	373	90.8	118	73.3	152	86.9	78	14.6	1 039	60.4
Thai	47	46.1	132	91.7	382	95.3	229	83.6	142	78.5	18	24.7	950	80.9
Japanese	41	20.1	688	98.3	1 054	97.5	1 004	95.2	713	90.8	156	48.3	3 656	88.1
Korean	66	27.6	431	95.6	829	99.2	369	96.6	221	84.0	61	64.9	1 977	87.3
South Asian	2 888	47.9	7 720	89.0	9 623	92.3	5 380	91.2	1 483	83.4	961	38.0	28 055	79.4
Indian	609	35.3	3 948	90.7	3 922	94.3	2 221	94.6	670	82.7	642	45.1	12 012	81.1
Nepalese	1 454	69.7	2 005	89.7	3 025	94.4	2 224	93.4	393	75.0	106	23.6	9 207	84.6
Pakistani	770	37.1	1 272	84.6	2 058	86.3	772	79.2	250	91.2	131	28.7	5 253	68.5
Other South Asian ⁽²⁾	55	40.1	495	84.9	618	90.6	163	84.5	170	100.0	82	42.3	1 583	80.8
Other Asian	58	28.3	592	87.3	514	82.6	262	71.2	243	65.0	23	9.2	1 692	67.7
White	562	27.5	5 852	92.2	8 193	95.2	7 364	94.4	4 112	86.8	1 358	48.1	27 441	84.8
Mixed	1 563	34.6	2 816	87.4	3 058	91.0	2 583	87.2	1 645	69.8	605	23.7	12 270	64.7
With Chinese parent	1 360	34.6	2 429	86.3	2 804	90.5	2 345	87.5	1 585	69.5	605	24.0	11 128	64.2
Other Mixed	203	34.6	387	95.6	254	95.8	238	84.1	60	81.1	-	-	1 142	69.6
Others ⁽³⁾	13	14.0	458	63.7	601	86.4	303	93.8	234	73.8	16	64.0	1 625	74.8
All ethnic minorities	5 757	39.0	20 867	89.9	27 057	93.4	19 838	91.7	9 729	82.3	3 547	36.5	86 795	78.8
All ethnic minorities, excluding foreign domestic helpers	5 616	38.5	19 781	89.4	25 762	93.1	18 781	91.3	9 530	82.0	3 439	35.7	82 909	78.1
Whole population	173 992	43.9	426 211	92.5	432 332	93.5	480 619	90.2	404 488	73.4	99 231	18.3	2 016 873	68.4

(cont'd) : Labour force and labour force participation rates⁽¹⁾ of ethnic minorities by sex, ethnicity and age group, 2016

Sex/Ethnicity	Age group												Overall	
	15 – 24		25 – 34		35 – 44		45 – 54		55 – 64		65+			
	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)
Female														
Asian (other than Chinese)	11 926	73.3	132 845	95.2	136 241	94.2	51 744	91.3	10 942	76.2	1 313	20.8	345 011	91.3
Filipino	2 061	75.6	56 896	99.0	64 025	98.9	36 019	97.4	7 731	92.8	613	46.5	167 345	97.5
Indonesian	7 066	99.8	68 093	99.0	62 956	98.0	9 070	95.1	482	64.6	49	5.4	147 716	97.6
Thai	115	64.6	460	66.0	1 128	67.9	2 175	75.6	1 298	57.9	122	12.6	5 298	61.4
Japanese	9	4.4	414	49.3	625	46.6	689	56.5	147	54.0	108	32.7	1 992	47.4
Korean	69	22.1	555	63.4	560	59.6	438	69.6	149	53.8	79	53.4	1 850	58.1
South Asian	2 409	43.9	5 635	58.7	6 155	60.8	2 649	60.5	824	42.1	272	13.2	17 944	53.4
Indian	740	36.4	2 921	61.9	3 072	68.6	1 367	68.4	412	45.0	99	6.9	8 611	55.3
Nepalese	1 192	62.7	1 914	68.1	2 254	65.5	1 017	65.8	212	38.3	114	43.3	6 703	63.8
Pakistani	372	26.4	290	24.2	179	12.2	46	8.2	41	14.3	14	8.0	942	18.5
Other South Asian ⁽²⁾	105	73.9	510	58.6	650	88.9	219	79.9	159	79.9	45	23.9	1 688	70.2
Other Asian	197	67.2	792	63.6	792	49.4	704	65.7	311	57.4	70	12.4	2 866	53.9
White	461	26.6	3 405	75.5	2 511	55.8	2 004	62.4	883	49.6	325	29.8	9 589	57.0
Mixed	1 541	37.7	4 061	87.0	4 893	75.1	2 898	69.1	1 228	45.9	201	5.5	14 822	57.4
With Chinese parent	1 280	37.5	2 271	80.5	2 765	65.0	2 169	63.8	1 029	42.2	196	5.5	9 710	48.8
Other Mixed	261	38.7	1 790	96.9	2 128	94.0	729	92.3	199	83.6	5	4.7	5 112	86.3
Others ⁽³⁾	19	31.1	183	54.8	148	42.3	29	20.4	25	21.7	-	-	404	39.6
All ethnic minorities	13 947	63.0	140 494	94.3	143 793	92.2	56 675	88.2	13 078	69.1	1 839	16.6	369 826	87.8
All ethnic minorities, excluding foreign domestic helpers	4 841	37.1	13 246	60.8	15 622	56.1	12 183	61.7	5 769	49.6	1 261	12.0	52 922	50.6
Whole population	170 138	43.7	517 007	82.5	511 666	75.4	464 598	68.6	243 145	42.9	31 371	5.1	1 937 925	54.5

(cont'd) : Labour force and labour force participation rates⁽¹⁾ of ethnic minorities by sex, ethnicity and age group, 2016

Sex/Ethnicity	Age group												Overall	
	15 – 24		25 – 34		35 – 44		45 – 54		55 – 64		65+			
	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)	Number	Rate (%)
Both sexes														
Asian (other than Chinese)	15 545	63.8	144 586	94.8	151 446	94.1	61 332	91.2	14 680	78.2	2 881	27.1	390 470	89.9
Filipino	2 498	65.0	58 838	98.8	66 455	98.8	38 245	97.1	8 515	92.7	884	47.9	175 435	96.9
Indonesian	7 148	98.3	68 329	99.0	63 329	98.0	9 188	94.8	634	68.8	127	8.8	148 755	97.2
Thai	162	57.9	592	70.4	1 510	73.2	2 404	76.3	1 440	59.5	140	13.4	6 248	63.7
Japanese	50	12.3	1 102	71.6	1 679	69.3	1 693	74.5	860	81.4	264	40.4	5 648	67.6
Korean	135	24.5	986	74.3	1 389	78.2	807	79.8	370	68.5	140	57.9	3 827	70.3
South Asian	5 297	46.0	13 355	73.1	15 778	76.8	8 029	78.1	2 307	61.8	1 233	26.9	45 999	66.7
Indian	1 349	35.9	6 869	75.7	6 994	80.9	3 588	82.6	1 082	62.7	741	25.9	20 623	67.8
Nepalese	2 646	66.4	3 919	77.7	5 279	79.5	3 241	82.6	605	56.1	220	30.9	15 910	74.4
Pakistani	1 142	32.8	1 562	57.9	2 237	58.1	818	53.2	291	51.9	145	22.9	6 195	48.5
Other South Asian ⁽²⁾	160	57.3	1 005	69.2	1 268	89.7	382	81.8	329	89.2	127	33.2	3 271	75.0
Other Asian	255	51.2	1 384	71.9	1 306	58.7	966	67.1	554	60.5	93	11.4	4 558	58.3
White	1 023	27.1	9 257	85.3	10 704	81.7	9 368	85.1	4 995	76.7	1 683	43.0	37 030	75.3
Mixed	3 104	36.1	6 877	87.2	7 951	80.5	5 481	76.6	2 873	57.1	806	12.9	27 092	60.5
With Chinese parent	2 640	35.9	4 700	83.4	5 569	75.7	4 514	74.2	2 614	55.4	801	13.2	20 838	56.0
Other Mixed	464	36.8	2 177	96.6	2 382	94.2	967	90.1	259	83.0	5	3.7	6 254	82.7
Others ⁽³⁾	32	20.8	641	60.9	749	71.6	332	71.4	259	60.0	16	36.4	2 029	63.5
All ethnic minorities	19 704	53.4	161 361	93.7	170 850	92.4	76 513	89.1	22 807	74.2	5 386	25.9	456 621	85.9
All ethnic minorities, excluding foreign domestic helpers	10 457	37.8	33 027	75.2	41 384	74.6	30 964	76.8	15 299	65.8	4 700	23.4	135 831	64.5
Whole population	344 130	43.8	943 218	86.7	943 998	82.7	945 217	78.1	647 633	57.9	130 602	11.2	3954 798	60.8

Notes:

- Nil

(1) The proportion of labour force in the total population aged 15 and over.

(2) "Other South Asian" include "Bangladeshi" and "Sri-Lankan".

(3) Figures include "Black", "Latin American", etc.

Annex C

**Nationality breakdown of claimants
(from 3 March 2014 to end June 2018)**

Nationality	Amongst the 15 992 claims received under USM
Vietnamese	4 004
Indian	3 201
Pakistani	2 148
Indonesian	1 928
Bangladeshi	1 419
Filipino	1 030
Others	2 262
TOTAL:	15 992

Enforcement and Prosecution Figures of Trafficking in Persons (TIP)**TIP for purpose of prostitution**

The Police have continued with their efforts to combat sex trafficking. A total of 247 anti-vice operations have been conducted (**12.8% increase** from 2016). Out of the above 247 operations, 36 persons were arrested for various TIP-related offences, including TIP to or from Hong Kong (section 129 of the Crimes Ordinance, Cap. 200); control over persons for purpose of prostitution (section 130); causing prostitution (section 131); and living on earnings of prostitution of others (section 137) (a **89% increase** from 19 persons arrested in 2016). Details as below:

	2015	2016	2017	2018 (Jan - Apr)
(i) Trafficking in Persons to or from Hong Kong (section 129)	3	1	2	0
(ii) Control over persons for purpose of prostitution (section 130)	9	5	4	2
(iii) Causing prostitution (section 131)	10	0	0	0
(iv) Living on earnings of prostitution of others (section 137)	26	13	30	4

Prosecution figures of TIP related offences :

	2014 ¹	2015 ¹	2016 ¹	2017 ¹
Trafficking in Persons to or from Hong Kong (Section 129)				
- Prosecution	3	0	3	0
- Conviction :				
- Immediate custodial	3	0	1	0
- Others	0	0	0	0
Control over persons for purpose of prostitution (Section 130)	12	5	5	0
- Prosecution				
- Conviction :	7	2	1	0
- Immediate custodial	0	0	1	0
- Others ²				
Causing prostitution (Section 131)				
- Prosecution	7	7	9	1
- Conviction :				
- Immediate custodial	4	6	4	0
- Others ²	2	1	4	1
Living on earnings of prostitution of others (Section 137)				
- Prosecution	16	14	21	13
- Conviction :				
- Immediate custodial	13	12	12	10
- Others	1	2	5	1

¹ Represents the year in which the case is concluded, and the year of prosecution may differ from the year in which the case is concluded.

² Suspended sentence

Other legislation related to TIP

Arrest and Prosecution (Conviction) Figures (Not all related to TIP)

1. Crimes Ordinance, Cap.200.

Section	Offence	Arrest			Prosecution (Conviction)		
		2015	2016	2017	2015	2016	2017
129	Trafficking in persons to or from Hong Kong	3	1	2	0 (0)	3 (1)	0 (0)
130	Control over persons for purpose of unlawful sexual intercourse or prostitution	9	5	4	5 (2)	5 (2)	0 (0)
131	Causing prostitution	10	0	0	7 (7)	9 (8)	1 (1)
137	Living on earnings of prostitution or others	26	13	29	14 (14)	21 (17)	13 (11)
139	Keeping, managing or assisting in the management of a vice establishment	163	266	217	108 (104)	208 (174)	101 (87)
153P	Extra-territorial effect of sexual offence provisions listed in Schedule 2 ¹	1	4	3	0 (0)	0 (0)	1 (0)
153Q	Arrangement or advertisement relating to commission against a child of act outside Hong Kong that offends Schedule 2 provision	0	0	0	0 (0)	0 (0)	0 (0)

Schedule 2 Offences

Section	Description of Offence
118	Rape
118A	Non-consensual buggery
118B	Assault with intent to commit buggery
118C	Homosexual buggery with or by man under 16 (Amended 18 of 2014 s. 8)
118D	Buggery with girl under 21
118F	(Repealed 18 of 2014 s. 8)
118G	Procuring others to commit homosexual buggery
118H	Gross indecency with or by man under 16 (Amended 18 of 2014 s. 8)
118J	Gross indecency by man with man otherwise than in private
118K	Procuring gross indecency by man with man
119	Procurement by threats
120	Procurement by false pretences
121	Administering drugs to obtain or facilitate unlawful sexual act
122	Indecent assault
123	Intercourse with girl under 13
124	Intercourse with girl under 16
126	Abduction of unmarried girl under 16
130	Control over persons for purpose of unlawful sexual intercourse or prostitution
132	Procurement of girl under 21
134	Detention for intercourse or in vice establishment
135	Causing or encouraging prostitution of, intercourse with, or indecent assault on, girl or boy under 16
140	Permitting girl or boy under 13 to resort to or be on premises or vessel for intercourse
141	Permitting young person to resort to or be on premises or vessel for intercourse, prostitution, buggery or homosexual act
146	Indecent conduct towards child under 16

2. Immigration Ordinance, Cap.115

Section	Offence	Arrest			Prosecution (Conviction)		
		2015	2016	2017	2015	2016	2017
17I, 17J, 41, 38A(2), 38A(4)	Offences related to employing persons not lawfully employable	680	708	572	196(129)	240(131)	275(202)
37C	Offence by crew etc., of ship carrying unauthorized entrants	4	36	7	0	0	0
37D	Arranging/assisting passage to or within Hong Kong of unauthorized entrants				14 (12)	11 (10)	13 (9)
37DA	Assisting unauthorized entrant to remain	50	37	21	0 (0)	1 (0)	2 (0)
42	Foreign domestic helper - Making false statements, forgery of documents and using and in possession of forged, false or unlawfully obtained or altered travel document	23	8	7	0 (0)	0 (0)	0 (0)
41	Employer illegally deploys FDHs performing non-domestic duties	125	118	78	63 (47)	65 (43)	46 (35)
42	Employer aid or abet FDH making false statements, forgery of documents and using and in possession of forged, false or unlawfully obtained or altered travel document	10	1	2	0 (0)	0 (0)	0 (0)

3. Employment Ordinance, Cap.57

Section	Offence		Arrest			Prosecution (Conviction)^		
			2015	2016	2017	2015	2016	2017
63C	Offences relating to time and payment of wages	Total	Not applicable*			696 (521)	713 (503)	842 (766)
		FDH related				9 (9)	7 (2)	19 (18)
63	Failure to grant any rest day	Total				1 (1)	-	-
		FDH related				1 (1)	-	-
57(a)	Employment Agency overcharge commission	Total				12(12)	19(12)	9(6)
		FDH related				12(12)	19(12)	9(6)

Remarks

* Labour Department officers do not have arresting power

^ Represent number of summons issued but not number of employers

4. Offences Against the Person Ordinance, Cap.212

Section	Offence	Arrest			Prosecution (Conviction)		
		2015	2016	2017	2015	2016	2017
19	Wounding or inflicting grievous bodily harm	800	688	593	410 (285)	351 (229)	323 (229)
39	Assault occasioning actual bodily harm	2 966	2 753	2 559	1 509 (882)	1 340 (816)	1 170 (719)

5. Prevention of Child Pornography Ordinance, Cap.579

Section	Offence	Arrest			Prosecution (Conviction)		
		2015	2016	2017	2015	2016	2017
3(1)	Any person who prints, makes, produces, reproduces, copies, imports or exports any child pornography	9	2	0	5 (3)	3 (1)	6 (6)
3(2)	Any person who publishes any child pornography	5	4	4	2 (1)	5 (3)	0 (0)
3(3)	Any person who has in his possession any child pornography	41	37	21	16 (15)	32 (29)	16 (16)

6. Human Organ Transplant Ordinance, Cap.465

Section	Offence	Arrest			Prosecution (Conviction)		
		2015	2016	2017	2015	2016	2017
4	Prohibition of commercial dealings in human organs	N/A	N/A	N/A	0 (0)	0 (0)	0 (0)

7. Organised and Serious Crimes Ordinance, Cap.455

Section	Offence	Arrest			Prosecution (Conviction)		
		2015	2016	2017	2015	2016	2017
25	Dealing with property known or believed to represent proceeds of indictable offence	427	400	382	166 (135)	139 (105)	122 (97)

Statistics of Victim Identification Mechanism

- In 2016, 2017 and 2018 (January – April), 6, 9 and 3 persons were respectively identified as victims under the victim identification mechanism. The breakdown as follows:

	2016			2017				2018 (Jan-Apr)			
	Police ¹	ImmD ¹	Total	Police ¹	ImmD ¹	C & E D ¹	Total	Police ¹	ImmD ¹	C & ED 1	Total
(i) Sex worker	328	13	341	2 024	25	-	2 049	847	3	-	850
(ii) Illegal worker	51	1859	1910	196	1 843	-	2 039	71	368	-	439
(iii) Illegal immigrant	9	0	9	33	-	-	33	11	-	-	11
(iv) Holders of forged document	240	15	15	-	6	-	6	-	0	-	0
(v) Others (Foreign domestic helpers (FDHs), Recognizance form holders)	628	0	240	536	-	47	583	140 [FDH: 62 Recognizance :78]	157 [FDH: 70 Recognizance : 35 Others: 52]	15	312
(vi) Total	628	1887	2515	2 789	1 874	47	4 710	1069	528	15	1612
(vii) Pass initial screening ²	1	6	7	11	11	1	23	3	3	0	6
(viii) Pass full debriefing, identified as victim ²	0	6	6	1	8	0	9	0	3	0	3

¹The victim screening mechanism was implemented by the Hong Kong Police Force in 3 Police districts in 2016. Police extended the mechanism to cover 12 Police districts on 1 April 2017. Immigration Department introduced similar mechanism in October 2015. Customs and Excise Department put the mechanism on trial run starting from 1 March 2017.

²Only include victim identified under the victim identification mechanism

Offences Relating to Trafficking in Persons, Forced Labour and Slavery

Legislation	Section	Offence	Maximum Penalty
Employment Ordinance (Cap. 57)	60(6)	Unlicensed operation of employment agency	A fine of \$350,000 and imprisonment for 3 years
	60(7)	Overcharging by employment agency	A fine of \$350,000 and imprisonment for 3 years
	63	Failure to grant any rest day	A fine at level 5
	63C	Offences relating to time and payment of wages	A fine of \$350,000 and imprisonment for 3 years
Employment of Children Regulations Cap. 57B	4	General prohibition of employment of children	A fine at level 5
Stowaways Ordinance Cap. 83	3(a)	Being on board any ship in the waters of Hong Kong with intent to obtain in passage therein without the consent of the owner	A fine of HK\$ 1,000 and Imprisonment for 9 months
	3(b)	Arriving in the waters of Hong Kong on board any ship, having obtained a passage therein to Hong Kong without the consent of the owner	
Immigration Ordinance Cap. 115	17I	Employing person not lawfully employable	A fine of HK\$ 350,000 and imprisonment for 3 years
	17J	Offence of employers failing to inspect documents of new employee	A fine of HK\$ 150,000 and imprisonment for 1 year
	17K, 17LA	Offence of employers failing to keep or produce for inspection a record or list of employees	A fine at level 5
	37C	Offence by crew etc., of ship carrying unauthorized entrants	A fine of HK\$ 5,000,000 and imprisonment for 14 years
	37D	Arranging/assisting passage to or within Hong Kong of unauthorized entrants	A fine of HK\$ 5,000,000 and imprisonment for 14 years
	37DA	Assisting unauthorized entrant to remain	A fine of HK\$ 500,000 and imprisonment for 10 years

Legislation	Section	Offence	Maximum Penalty
	38(1)(b) ¹	Remaining in Hong Kong without the authority of the Director of Immigration after having landed unlawfully	A fine at level 4 and imprisonment for 3 years
	39	Liability of captain of ship carrying persons seeking to land unlawfully	A fine of HK\$ 600,000 and imprisonment for 7 years
	41 ¹	Breach of conditions of stay	A fine at level 5 and imprisonment for 2 years
	42 ¹	Making false statements, forgery of documents and using and in possession of forged, false or unlawfully obtained or altered travel document	A fine of HK\$ 150,000 and imprisonment for 14 years
Crimes Ordinance Cap. 200	24	Criminal intimidation	Imprisonment for 5 years
	25	Assaults with intent to cause certain acts to be done or omitted	Imprisonment for 5 years
	71-74	Making or copying or using a false instrument or copy of a false instrument	Imprisonment for 14 years
	129	Trafficking in persons to or from Hong Kong for the purpose of prostitution	Imprisonment for 10 years
	130	Control over persons for purpose of unlawful sexual intercourse or prostitution	Imprisonment for 14 years
	131	Causing prostitution	Imprisonment for 10 years
	137	Living on earnings of prostitution or others	Imprisonment for 10 years
Offences Against the Person Ordinance Cap. 212	17	Shooting or attempting to shoot, or wounding or striking with intent to do grievous bodily harm	Imprisonment for life
	19	Wounding or inflicting grievous bodily harm	Imprisonment for 3 years
	39	Assault occasioning actual bodily harm	Imprisonment for 3 years

¹ The arranger may be charged (subject to evidence) with section 89 of Criminal Procedure Ordinance (Cap. 221) "aiding, abetting, counseling or procuring" to the substantive offence.

Legislation	Section	Offence	Maximum Penalty
	40	Common assault	Imprisonment for 1 years
	42	Taking away or detaining by force or fraud any person against his will with intent to sell him	Imprisonment for life
	44	Unlawful transfers of possession, custody or control of other persons for valuable consideration.	Imprisonment for 2 years
Protection of Children and Juveniles Ordinance Cap. 213	26	Abduction of child or juvenile	Imprisonment for 2 years
Common Law	-	False imprisonment punishable under s. 101I of the Criminal Procedure Ordinance (Cap. 221)	A fine and imprisonment for 7 years

Offences Relating to Sexual Exploitation / Child Sex Tourism

Legislation	Section	Offence	Maximum
Crimes Ordinance Cap. 200	126	Abduction of unmarried girl under 16	Imprisonment for 10 years
	127	Abduction of unmarried girl under 18 for sexual intercourse	Imprisonment for 7 years
	129	Trafficking in persons to or from Hong Kong	Imprisonment for 10 years
	130	Control over persons for purpose of unlawful sexual intercourse or prostitution	Imprisonment for 14 years
	131	Causing prostitution	Imprisonment for 10 years
	132	Procurement of girl under 21	Imprisonment for 5 years
	133	Procurement of mentally incapacitated person	Imprisonment for 10 years
	134	Detention for intercourse or in vice establishment	Imprisonment for 14 years
	135	Causing or encouraging prostitution of, intercourse with, or indecent assault on, girl or boy under 16	Imprisonment for 10 years
	136	Causing or encouraging prostitution of mentally incapacitated person	Imprisonment for 10 years
	137	Living on earnings of prostitution or others	Imprisonment for 10 years
	139	Keeping, managing or assisting in the management of a vice establishment	Imprisonment for 10 years
Prevention of Child Pornography Ordinance Cap. 579	3(1)	Any person who prints, makes, produces, reproduces, copies, imports or exports any child pornography	A fine of HK\$ 2,000,000 and imprisonment for 8 years
	3(2)	Any person who publishes any child pornography	A fine of HK\$ 2,000,000 and imprisonment for 8 years
	3(3)	Any person who has in his possession any child pornography	A fine of HK\$ 1,000,000 and imprisonment for 5 years
	3(4)	Any person who publishes or causes to be published any advertisement that conveys or is likely to be understood as conveying the message that any	A fine of HK\$ 2,000,000 and imprisonment for 8 years

Legislation	Section	Offence	Maximum
		person has published, publishes or intends to publish any child pornography	

Offences Relating to Trafficking in Human Organs

Legislation	Section	Offence	Maximum Penalty
Human Organ Transplant Ordinance Cap. 465	4	Prohibition of commercial dealings in human organs	A fine at level 5 and imprisonment for 3 months
	5	Restriction on transplants between living persons	On a first conviction, to a fine at level 5 and to imprisonment for 3 months; and On a subsequent conviction, to a fine at level 6 and to imprisonment for 1 year.

Other Offences

- s. 153P of the Crimes Ordinance, Cap. 200: the extra-territorial effect of sexual offence provisions listed in Schedule 2
- s. 153Q of the Crimes Ordinance, Cap. 200: the arrangement or advertisement relating to commission against a child of act outside Hong Kong that offends Schedule 2 provision

Crimes Ordinance

Schedule: 2

**Heading:
SEXUAL OFFENCE
PROVISIONS THAT HAVE
EXTRA-TERRITORIAL EFFECT**

Section	Description of offence
118	Rape
118A	Non-consensual buggery
118B	Assault with intent to commit buggery
118C	Homosexual buggery with or by man under 21
118D	Buggery with girl under 21
118F	<i>(Repealed 18 of 2014 s. 8)</i>
118G	Procuring others to commit homosexual buggery
118H	Gross indecency with or by man under 16
118J	Gross indecency by man with man otherwise than in private
118K	Procuring gross indecency by man with man
119	Procurement by threats
120	Procurement by false pretences
121	Administering drugs to obtain or facilitate unlawful sexual act
122	Indecent assault
123	Intercourse with girl under 13
124	Intercourse with girl under 16
126	Abduction of unmarried girl under 16
130	Control over persons for purpose of unlawful sexual intercourse or prostitution
132	Procurement of girl under 21
134	Detention for intercourse or in vice establishment
135	Causing or encouraging prostitution of, intercourse with, or indecent assault on, girl or boy under 16
140	Permitting girl or boy under 13 to resort to or be on premises or vessel for Intercourse
141	Permitting young person to resort to or be on premises or vessel for intercourse, prostitution, buggery or homosexual act
146	Indecent conduct towards child under 16

Offences Indirectly Relating to Trafficking in Persons, Forced Labour and Slavery

Legislation	Section	Offence	Maximum Penalty
Immigration Ordinance Cap. 115	38AA	Prohibition of taking employment and establishing business	A fine at level 5 and imprisonment for 3 years.
Crimes Ordinance Cap. 200	75	Possessing a false instrument	Imprisonment for 3 years or Imprisonment for 14 years (with the intention to use it to induce somebody to accept it as genuine)
	118	Rape	Imprisonment for life
	119	Procurement by threats	Imprisonment for 14 years
	120	Procurement by false pretences	Imprisonment for 5 years
	121	Administering drugs to obtain or facilitate unlawful sexual act	Imprisonment for 14 years
	122	Indecent assault	Imprisonment for 10 years
	123	Intercourse with girl under 13	Imprisonment for life
	124	Intercourse with girl under 16	Imprisonment for 5 years
	125	Intercourse with mentally incapacitated person	Imprisonment for 10 years
	128	Abduction of mentally incapacitated person from parent or guardian for sexual act	Imprisonment for 10 years
	138A	Use, procurement or offer of persons under 18 for making pornography or for live pornographic performances	If the offence is committed in relation to a person under the age of 16, to a fine of \$3,000,000 and to imprisonment for 10 years; If the offence is committed in relation to a person of the age of 16 or above but under 18, to a fine of \$1,000,000 and to imprisonment for 5 years.
	140	Permitting girl or boy under 13 to resort to or be on premises or vessel for intercourse	Imprisonment for life
	141	Permitting young person to resort to or be on premises or vessel for intercourse, prostitution, buggery or homosexual act	Imprisonment for 14 years

Legislation	Section	Offence	Maximum Penalty
	142	Permitting mentally incapacitated person to resort to or be on premises or vessel for intercourse, prostitution or homosexual act	Imprisonment for 10 years
	143	Letting premises for use as a vice establishment	Imprisonment for 7 years
	144	Tenant etc. permitting premises or vessel to be kept as a vice establishment	Imprisonment for 7 years
	145	Tenant etc. permitting premises or vessel to be used for prostitution	Imprisonment for 7 years
	159A&159C	The offence of conspiracy	Imprisonment for a term not exceeding the maximum term provided for the relevant offence
Theft Ordinance Cap. 210	9	Theft	Imprisonment for 10 years.
	16A	Fraud	Imprisonment for 14 years.
Offences Against the Person Ordinance Cap. 212	43	Stealing child under 14 years	Imprisonment for 7 years
Criminal Procedure Ordinance Cap 221	89	Aiders, abettors and accessories	Imprisonment for a term not exceeding the maximum term provided for the relevant offence

**EOC's publicity and educational measures
for promotion of equal opportunities for ethnic minorities**

- For the past three years, the EM Unit has developed a total of 3 guidance materials for the banking and education sectors. For the banking sector, the EM Unit distributed to all banking corporations through the Hong Kong Association of Banks a list of suggested good practices on serving EM customers in 2015. For the education sector, the EM Unit published and sent to all schools in the territory a guidance booklet entitled Promotion of Racial Integration & Prevention of Racial Discrimination in Schools in 2016. In 2017, in view of the fact that the Education Bureau has implemented the Free Quality Kindergarten Policy, an Easy Guide on Fair Kindergarten Admission was issued to advise kindergartens on upholding non-discriminatory admission policies and measures.
- Regarding community outreach, apart from participation in 324 network meetings and 242 community events since April 2015, the EM Unit has also tried to expand its scope of outreach through social media and corporate connections under the “EMBRACE” Campaign launched in March 2017. Riding on these efforts, 5 leadership groups, including a Nepalese Community group, a Pakistani women’s group, a Sikh women’s group, a Filipino and an Indonesian foreign domestic helpers’ group, have been formed within these specific communities with the objective of creating a team of ambassadors who can raise awareness and provide information to community members as well as channel feedback to the EOC on their concerns which include sexual harassment, domestic violence, support for EM children with special educational needs, workplace discrimination and housing issues.
- Recently, the EM Unit has also formed a Youth Consultative Group on Racial Equality and Integration and selected 29 Youth Members, including 9 Chinese and 20 non-Chinese, through nomination from schools and universities. Through their participation, the EOC could incorporate youth’s perspective into policy recommendations and public education; in the meantime, these youth members would also be empowered and encouraged to express their views and participate in discussions on race-related issues in the public fora.

- In 2018-19, the EOC will work to advocate the rights of EMs to education and employment opportunities and access to services through the following activities and programmes:
 - (a) on education, the EOC has set up the Working Group on Education for EMs to conduct a systematic study on the current position of Chinese language learning by EM students, and to collate the opinions of the major stakeholders with a view to submitting comprehensive recommendations to the Government. To promote fair admission policies and an inclusive learning environment, the EOC will also publish easy guides and organise training programmes for teaching staff, parents and students in schools;
 - (b) on employment, the EOC has set up a working group on “Mainstreaming Employment Opportunities in Residential Care and Healthcare Industries for EMs” to explore the feasibility of introducing a set of entry and registration requirements on Chinese proficiency having regard to the job requirement for registration and training of healthcare workers. In addition, the EOC has rolled out two programmes, namely the Charter for Racially Inclusive Workplace and Racially Inclusive Employer Award, with a view to encouraging employers to learn from those exemplary enterprises by adopting good practices in the employment of EMs; and
 - (c) on the provision of goods, services and facilities, the EOC has been providing training concerning the RDO and cultural sensitivity to service providers in both public and private sectors such as Government departments, public bodies (including the Hospital Authority and the Estate Agents Authority) and industry associations (including the Hong Kong Association of Banks and the Hong Kong Institute of Bankers). Furthermore, the EOC will collaborate with a local university to explore the possibility of introducing accreditation for interpreters in order to enhance the professionalism of community interpretation service.



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China)*

1. The Committee considered the combined fourteenth to seventeenth periodic reports of China (CERD/C/CHN/14-17), including Hong Kong, China (CERD/C/CHN-HKG/14-17), and Macao, China (CERD/C/CHN-MAC/14-17), at its 2654th and 2655th meetings (see CERD/C/SR.2654 and 2655), held on 10 and 13 August 2018. At its 2672nd, 2673rd, 2674th and 2675th meetings, held on 24, 27 and 28 August 2018, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fourteenth to seventeenth periodic reports of the State party, while regretting the delay in their submission. The Committee expresses its appreciation for the open and constructive dialogue with the State party's large delegation. It also wishes to thank the delegation for the additional oral and written information provided during the consideration of the report.

B. Positive aspects

3. The Committee welcomes the State party's efforts to amend its legislation, policies, programmes and administrative measures to ensure further the protection of human rights and the implementation of the Convention, including:

(a) The second and third National Human Rights Action Plans (2011–2015, 2016–2020);

(b) The plan for supporting the development of small population ethnic groups (2011–2015);

(c) The repeal of legislation on re-education through labour in 2013;

(d) The plan for rural poverty alleviation and development (2011–2020).

4. The Committee also welcomes the State party's remarkable achievement in significantly reducing poverty both overall and in the eight multi-ethnic provinces and regions.

5. Concerning Hong Kong, China, the Committee welcomes the community outreach programmes aimed at ethnic minorities, and the implementation of the Chinese Language

* Adopted by the Committee at its ninety-sixth session (6–30 August 2018).



Curriculum Second Language Learning Framework (“Learning Framework”) in primary and secondary schools (2014).

6. Concerning Macao, China, the Committee welcomes the adoption of Law 13/2012, the Legal Aid General Regime (2013), extending eligibility for need-based legal aid to, inter alia, those with non-resident worker status. It also welcomes the introduction of article 153-A of the Criminal Code, strengthening protection against trafficking in persons.

C. Concerns and recommendations

Definition and criminalization of racial discrimination

7. The Committee again reiterates its concern that the domestic legislation of the State party does not contain a definition of racial discrimination in full conformity with article 1 of the Convention. It also reiterates its concern that the State party has not adopted a comprehensive anti-discrimination law. The Committee is concerned that in Hong Kong, China, law enforcement activity does not necessarily fall within the scope of the prohibition on racial discrimination contained in the Race Discrimination Ordinance. The Committee is also concerned that Macao, China does not have a domestic law specifically defining and criminalizing racial discrimination that is fully in line with article 1 of the Convention (arts. 1, 2 and 5) (see A/56/18, paras. 241–242 and CERD/C/CHN/CO/10-13, paras. 10–11).

8. The Committee urges the State party, including Hong Kong, China, and Macao, China, to amend its domestic laws to expressly define and criminalize all forms of racial discrimination in full conformity with article 1 of the Convention, and expressly prohibit both direct and indirect racial discrimination in all fields of public life, including law enforcement and other government powers.

National human rights institutions

9. The Committee is concerned by the absence of formal national human rights institutions in China, including Macao, China, despite the functions fulfilled by the Commission against Corruption in Macao, China. While noting the relevant information provided by the Equal Opportunities Commission and the delegation of Hong Kong, China, the Committee is nevertheless concerned by reports that the Commission, which was assigned a C rating by the Global Alliance of National Human Rights Institutions, is not fully independent and accessible to victims (art. 2).

10. The Committee recommends that the State party, including Macao, China, establish independent national human rights institutions in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). To ensure their effective functioning, the Committee also recommends that the State party, including Hong Kong, China, and Macao, China, provide them with sufficient structural independence and financial and human resources.

Declaration

11. The Committee is concerned by the interpretative declaration applying to Hong Kong, China concerning article 6 of the Convention (arts. 2 and 4).

12. The Committee recommends the withdrawal of the declaration applying to Hong Kong, China concerning article 6 of the Convention.

Administrative and civil complaints on racial discrimination

13. The Committee is concerned by the lack of comprehensive statistics, surveys, administrative records and registers provided by the State party on acts of racial discrimination and related administrative and civil complaints, investigations, procedures and sanctions. In the light of reports of acts of racial discrimination committed in various sectors of public and private life in Hong Kong, China, the Committee expresses its concern at the statement of Hong Kong, China that racial discrimination is not a prevalent

or serious problem there. The Committee also notes with concern that the courts in Macao, China did not receive any cases relating to racial discrimination during the reporting period (arts. 2, 5, 6 and 7).

14. The Committee recommends that the State party, including Hong Kong, China and Macao, China, conduct training programmes for government officials and civil servants, including law enforcement officials, on anti-racial discrimination laws and related administrative and civil complaint mechanisms, to ensure that victims are aware of their rights. The Committee requests that it provide in its next periodic reports surveys, administrative records or registers and statistics, disaggregated by ethnic and national origin of the complainant, indicating the number, type and outcome of civil and administrative complaints relating to acts of racial discrimination and submitted to national human rights institutions, courts and other relevant bodies.

Racist hate speech and hate crimes

15. The Committee:

(a) Notes the two court cases cited by the State party imposing sanctions for inciting ethnic hatred, and that, between 2015 and June 2018, no criminal complaints were received and no criminal investigations were conducted relating to racial discrimination in Macao, China;

(b) Recalls that an absence or a small number of complaints does not signify the absence of racial discrimination or expressions of racial hatred, but may rather indicate that there are barriers to the invoking of the rights in the Convention, including a lack of public awareness of the rights under the Convention; a lack of access to, availability of or confidence in methods for seeking judicial recourse; fear of reprisals; and limited access to the police including due to language barriers or a lack of attention to or sensitivity to cases of racial discrimination;

(c) Is concerned by the lack of information on tools made available to assist victims in reporting hate crimes;

(d) Is also concerned by reports from Hong Kong, China of negative portrayals and hostile statements in traditional and social media targeting ethnic minorities, in particular South Asians, by inflammatory public statements made against them, and by reports that commensurate action is not consistently taken by the authorities in Hong Kong, China in response to acts of hate speech. In this regard, the Committee notes the absence of statistics provided by Hong Kong, China on sanctions imposed for acts of racist hate speech (arts. 2 and 4).

16. Recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention and No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party, including Hong Kong, China and Macao, China:

(a) **Conduct training programmes on racist hate crimes for police, prosecutors, members of the judiciary and other law enforcement officers, including on the difficulties faced by victims in reporting such crimes;**

(b) **Ensure that law enforcement officials consistently monitor, record, investigate, prosecute and sanction racist hate crimes;**

(c) **Establish specialized prosecutors on hate crimes, and encourage them to initiate proceedings ex officio in cases of racist hate crimes and racist hate speech, as proposed in the Committee's general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system;**

(d) **Ensure that victims of racist hate crimes and hate speech receive support to facilitate reporting and are provided with appropriate remedies;**

(e) **Ensure that politicians publicly condemn racist hate speech and hate crimes.**

17. **The Committee requests that the State party, including Hong Kong, China and Macao, China, provide in its next periodic report statistics or administrative records, disaggregated by ethnic origin and national origin of the victims, on investigations, prosecutions, convictions, sentences, sanctions and remedies for racist hate crimes.**

Development and poverty reduction

18. The Committee welcomes the State party's commitment, in its National Human Rights Action Plan (2016–2020), to a “people-centred development approach”. The Committee is however concerned by the information provided by the State party according to which poverty remains broad and deep throughout ethnic autonomous areas. The Committee is concerned by poverty-related inequality and by the lack of specific indicators of progress in the assessment report of June 2016 on the National Human Rights Action Plan (2012–2015). It is also concerned by the information provided by the State party according to which poverty statistics disaggregated by ethnicity are not collected. The Committee is further concerned at reports that, in Hong Kong, China, the percentage of ethnic minorities living in poverty has risen in recent years, and that the poverty rates of South Asians overall and Pakistanis specifically are disproportionately high. It is also concerned by reports according to which in Macao, China, where large numbers of foreign migrant workers reside, the actual incidence of poverty is much higher than the official rate when the high cost of living is taken into account (arts. 2 and 5).

19. **The Committee encourages the State party to continue its poverty reduction programmes and to ensure the inclusion of human rights in its people-centred approach to development, leaving no one behind. It recommends that the State party, including Hong Kong, China and Macao, China, take further steps to eliminate ethnic economic disparities by, inter alia:**

(a) **Enhancing meaningful consultation with ethnic minority groups prior to and during poverty alleviation projects;**

(b) **Expanding special measures to reduce high levels of poverty and related inequality among affected ethnic minorities;**

(c) **Further strengthening basic infrastructure and public services in predominantly ethnic areas, including rural areas.**

20. **The Committee requests the State party, including Hong Kong, China and Macao, China, to provide in its next periodic report updated poverty rate statistics and other indicators, disaggregated by ethnic and national origin, revealing the enjoyment of economic, social and cultural rights and the effectiveness of measures taken, including under the National Human Rights Action Plan (2016–2020).**

Unrecognized ethnic groups

21. The Committee notes that, according to the data provided by the State party, in 2010, there were over 640,000 people who did not belong to one of the 56 recognized ethnic groups. While acknowledging the statement delivered by the State party delegation that these people fully enjoy equal rights, the Committee is concerned by reports that they might encounter difficulties in obtaining political representation and special measures as minorities (arts. 2 and 5).

22. **The Committee recommends that the State party ensure the official recognition of all ethnic groups in its territory and the political representation of persons belonging to these groups.**

Education

23. While welcoming the State party's education initiatives, some of which have led to a decline in illiteracy among both the general population and ethnic minorities from 2000 to 2010, the Committee remains concerned by reports that ethnic minority children living in rural areas have unequal access to quality education owing to various factors, including long distances from homes to schools. The Committee is further concerned by reports that, despite the abolition of English-medium “designated schools” in Hong Kong, China, many

ethnic minority children continue to attend a few of these former “designated schools” that are not fully resourced to provide quality education, and that, despite the Chinese Language Curriculum Second Language Learning Framework, Chinese language instruction for non-Chinese speaking students in such schools is insufficient (arts. 2 and 5).

24. The Committee recommends that the State party:

(a) Strengthen special measures to ensure equal access to and the availability and quality of primary and secondary education for all ethnic groups;

(b) Increase human, technical and financial resources to day schools and boarding schools in disadvantaged ethnic minority areas;

(c) Facilitate the smooth integration of non-Chinese speaking students in Hong Kong, China into the education system, and ensure that children of all ethnicities enjoy their right to inclusive and Chinese-language education.

25. In addition, the Committee, with a view to ascertaining the treatment of ethnic minorities in educational curricula, requests the State party, including Hong Kong, China and Macao, China, to describe in its next periodic report information contained in school textbooks on the historical presence and contributions of ethnic minorities in their territories.

Resettlement and land expropriation

26. The Committee is concerned by reports that large numbers of farmers and nomadic herders, including from ethnic autonomous areas, have lost their traditional lands and livelihoods owing to poverty alleviation and ecological restoration resettlement measures that could be seen as aggressive development models. While noting the statements delivered by the State party delegation concerning assistance and compensation provided to individuals who have been resettled through these measures, the Committee is nevertheless concerned by reports that compensation for expropriated property is often insufficient to maintain an adequate standard of living; the Committee is concerned, for example, by reports that many resettled ethnic Mongolians have not received sufficient compensation for the loss of their traditional livelihoods as herders owing to a ban on livestock grazing. It is also concerned by reports that, despite an official policy of voluntary resettlement, in practice informed consent is not consistently obtained (arts. 2 and 5).

27. The Committee recommends that the State party fully implement the recommendations contained in paragraphs 30 and 31 of the concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/CHN/CO/2). It also recommends that, in cases of resettlement in ethnic minority areas, the authorities work closely and effectively with ethnic minority government officials and communities and provide financial allowances that ensure an adequate standard of living, as well as livelihood restoration measures and, where needed, linguistic and cultural integration assistance.

Health

28. The Committee welcomes the significant improvements made in recent years with regard to life expectancy and access to health care in ethnic minority areas, as stated by the State party in the information provided. The Committee is however concerned by reports that, despite the increase in health-care funding and service provision in these areas, certain ethnic minority groups in the State party have poorer access to health care, including prenatal care (arts. 2 and 5).

29. While recognizing the progress already made, the Committee recommends that the State party strengthen its efforts to address disparities in health affecting certain minority ethnic groups, including by addressing the obstacles that hinder their access to affordable and adequate health care, taking into consideration the difficulties posed by their geographical location. The Committee also recommends that the State party gather and provide to the Committee in its next periodic report statistics, disaggregated by ethnic and national origin, on a wide range of health indicators, including on life expectancy.

Foreign domestic workers

30. The Committee notes the labour law protections afforded to foreign domestic workers in Hong Kong, China, and notes the delegation's position on the rationale of the live-in requirement. The Committee is, however, concerned that the live-in requirement renders workers vulnerable to abuse, and that the rule requiring workers to leave the territory within two weeks of termination of contract hinders their ability to obtain redress for labour violations. It is also concerned by reports that many foreign migrant workers are subjected to physical abuse and have their passports confiscated by their employers. The Committee notes that, in Macao, China, between January 2015 and June 2018, only 11 complaints from non-resident workers about employment agencies were found to be substantiated (arts. 2 and 5).

31. The Committee reiterates its recommendation that effective measures be taken to ensure non-discrimination against domestic migrant workers, and again calls for the repeal of the “two weeks rule” and the live-in requirement (see CERD/C/CHN/CO/10-13, para. 30). It also recommends that Hong Kong, China and Macao, China further strengthen monitoring of the employment and living conditions of domestic migrant workers, and their access to education and affordable health care. It requests that the State party provide in its next periodic report statistics on complaints, self-initiated and other investigations, prosecutions, sanctions and remedies to protect domestic migrant workers.

Civil society

32. The Committee is concerned by reports that, under the Law on the Administration of Activities of Overseas Non-governmental Organizations in the Mainland of China and the Charity Law, many civil society organizations and charitable organizations have been unable to register or re-register as required in order to be able to operate in mainland China. The Committee is also concerned by reports that the number of non-governmental organizations in China has decreased tremendously in the past few years, and that no organizations working to combat racial discrimination are registered there (arts. 2 and 5).

33. Recalling that civil society can play an important role in meeting the challenges of implementing the Convention, the Committee:

(a) **Recommends that the State party ensure that its laws and regulations, including the Law on the Administration of Activities of Overseas Non-governmental Organizations in the Mainland of China and the Charity Law, provide an open space for civil society, and specifically for non-governmental organizations working to combat racial discrimination, improving transparency of registration procedures;**

(b) **Requests the State party to provide in its follow-up report the number of non-governmental organizations that are working on issues relating to the Convention and are officially registered in China.**

Hukou system

34. The Committee welcomes the State party's information that, by 2020, it will eliminate the distinction between agricultural and non-agricultural residence registration. The Committee is, however, concerned by reports that recent efforts to reform the *hukou* system have not made substantial positive changes for many rural migrants, including ethnic minorities (arts. 2 and 5).

35. The Committee refers to its previous recommendation (see CERD/C/CHN/CO/10-13, para. 14), and recommends that the State party ensure that reforms to the *hukou* system allow internal migrants, in particular members of ethnic minorities, enjoy the same work and social security, health and education benefits as long-time urban residents.

Broad definitions of terrorism and separatism

36. The Committee is concerned by reports that the broad definition of terrorism, the vague references to extremism and the unclear definition of separatism in Chinese laws

could potentially lead to the criminalization of peaceful civic and religious expression and facilitate the criminal profiling of ethnic and ethno-religious minorities, including Muslim Uighurs, Buddhist Tibetans and Mongolians.

37. The Committee recommends that the State party review its existing relevant laws, regulations and practices in order to ensure that they are narrowly tailored, that there are effective monitoring mechanisms and sufficient safeguards against abuse, and that they are implemented in a manner that does not constitute profiling or discrimination on the grounds of race, colour, descent, nationality, ethnicity or ethno-religious identity. The Committee requests the State party to provide in its next periodic report statistics, disaggregated by ethnicity, on prosecutions, convictions, sentences and other sanctions for crimes relating to terrorism, separatism and extremism.

Torture and ill-treatment

38. The Committee, while noting that, according to the State party, the reports are false, is concerned by reports according to which certain Tibetans, Uighurs and other ethnic minorities, peaceful political protestors and human rights defenders have been tortured or otherwise subjected to ill-treatment. It is also concerned by reports that certain Uighur detainees have been held incommunicado for prolonged periods, which puts them at risk of torture and other ill-treatment.

39. The Committee recommends that the State party:

(a) Strengthen measures to prevent acts of torture and ill-treatment committed against members of ethnic minorities, including by improving their access to lawyers;

(b) Ensure that all custodial deaths, allegations of torture and ill-treatment, harassment and reported use of excessive force against members of ethnic minorities are promptly, impartially and effectively investigated by an independent mechanism, and that perpetrators are brought to justice;

(c) Allow independent experts to conduct an investigation into the deaths of members of ethnic minorities in custody;

(d) Fully implement the recommendations contained in paragraph 41 of the concluding observations adopted in 2015 by the Committee against Torture (CAT/C/CHN/CO/5);

(e) Take all necessary measures to provide a safe environment for those working to protect and promote human rights.

Xinjiang Uighur Autonomous Region

40. The Committee notes the statements delivered by the State party delegation concerning the non-discriminatory enjoyment of freedoms and rights in the Xinjiang Uighur Autonomous Region. The Committee is, however, alarmed by:

(a) Numerous reports of the detention of large numbers of ethnic Uighurs and other Muslim minorities, held incommunicado and often for long periods, without being charged or tried, under the pretext of countering religious extremism. The Committee regrets the lack of official data on how many people are in long-term detention or who have been forced to spend varying periods in political “re-education camps” for even non-threatening expressions of Muslim ethno-religious culture, such as a daily greeting. Estimates of the number of people detained range from tens of thousands to over a million. The Committee also notes that the delegation stated that vocational training centres exist for people who have committed minor offences without qualifying what that means;

(b) Reports of mass surveillance disproportionately targeting ethnic Uighurs, such as frequent baseless police stops and the scanning of mobile phones at police checkpoint stations; additional reports have been received of the mandatory collection of extensive biometric data in the Xinjiang Uighur Autonomous Region, including DNA samples and iris scans, of large groups of Uighur residents;

(c) Reports that all residents of the Xinjiang Uighur Autonomous Region are required to hand over their travel documents to police and apply for permission to leave the country, and that permission may not come for years. This restriction particularly affects those who wish to travel for religious purposes;

(d) Reports that many Uighurs who had left China have allegedly been returned to the country against their will. There are fears for the current safety of those returned to China against their will.

41. While acknowledging the State party's denials, the Committee takes note of reports that Uighur language education has been banned in schools in the Hotan (Hetian) prefecture in the Xinjiang Uighur Autonomous Region (arts. 2 and 5).

42. **The Committee recommends that the State party:**

(a) **Halt the practice of detaining individuals who have not been lawfully charged, tried and convicted for a criminal offence in any extralegal detention facility;**

(b) **Immediately release individuals currently detained under these circumstances, and allow those wrongfully held to seek redress;**

(c) **Undertake prompt, thorough and impartial investigations into all allegations of racial, ethnic and ethno-religious profiling, holding those responsible accountable and providing effective remedies, including compensation and guarantees of non-repetition;**

(d) **Implement mandatory collection and analysis of data on the ethnicity of all individuals stopped by law enforcement, the reasons for and outcome of those stops, report publicly on the information collected at regular intervals and include it in its follow-up report;**

(e) **Ensure that all collection, retention and use of biometric data is regulated in law and in practice, is narrow in scope, transparent, necessary and proportionate to meeting a legitimate security goal, and is not based on any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin;**

(f) **Eliminate travel restrictions that disproportionately affect members of ethnic minorities;**

(g) **Disclose the current location and status of Uighur students, refugees and asylum seekers who returned to China pursuant to a demand made by the State party in the past five years;**

(h) **Provide the number of persons held against their will in all extralegal detention facilities in the Xinjiang Uighur Autonomous Region in the past five years, together with the duration of their detention, the grounds for detention, the humanitarian conditions in the centres, the content of any training or political curriculum and activities, the rights that detainees have to challenge the illegality of their detention or appeal the detention, and any measures taken to ensure that their families are promptly notified of their detention.**

Tibetans

43. The Committee is concerned by reports that Tibetans are subjected to significant restrictions on movement within and beyond Tibet Autonomous Region, and that the issuance of passports for foreign travel is almost entirely banned in the region. It is also concerned by reports that Tibetan language teaching in schools in the Tibet Autonomous Region has not been placed on an equal footing in law, policy and practice with Chinese, and that it has been significantly restricted; that Tibetan language advocacy has been punished; and that Tibetans do not have access to Tibetan language translations during court proceedings, which are held in Mandarin (arts. 2 and 5).

44. **The Committee recommends that the State party:**

(a) **Revise its regulations and practices to ensure non-discriminatory determinations on passport applications and freedom of movement for Tibetans who would like to travel within and beyond the Tibet Autonomous Region and abroad;**

(b) **Preserve the Tibetan language in the Tibet Autonomous Region by, inter alia, encouraging and promoting its use in the fields of education, the judicial system and the media;**

(c) **Provide the Committee with information regarding the promotion of, and any restrictions on the use of, ethnic minority languages.**

Ethnic Mongolians

45. The Committee is concerned by reports of abuses by State authorities against ethnic Mongolians peacefully protesting against the confiscation of land and development activities that have resulted in environmental harm. The Committee is also concerned by reports of a significant reduction in the availability of Mongolian-language public schooling (arts. 2 and 5).

46. **The Committee recommends that the State party ensure the ability of ethnic minorities to safely conduct peaceful protests, and investigate and sanction any allegations of abuse or harassment during such incidents, whether inflicted by private or State agents. The Committee also recommends that the State party ensure the availability of Mongolian-language public education for ethnic Mongolians, including those residing outside of the Inner Mongolia Autonomous Region.**

Employment

47. The Committee welcomes the information provided by the State party, including Hong Kong, China, on the measures they have taken to promote the employment of ethnic minorities. While noting the State party's regional unemployment rate statistics, the Committee observes with concern, however, that they are not disaggregated by ethnicity. The Committee is also concerned by the lack of information from the State party about labour inspections and investigations relating to racially discriminatory practices in employment. It notes with concern that most of the 51 employment-related racial discrimination complaints handled by the Equal Opportunities Commission in Hong Kong, China between April 2013 and March 2018 were discontinued owing to a lack of substance. The Committee is also concerned by reports that ethnic Uighurs, Mongolians and Tibetans, together with certain other ethnic minorities in China, including Hong Kong, China, often face discrimination in job advertisements and recruitment processes. The Committee is further concerned that, from 2015 to 2017, the Labour Affairs Bureau in Macao, China did not open any cases relating to racial discrimination (arts. 2, 5 and 6).

48. **The Committee:**

(a) **Recommends that the State party, including Hong Kong, China, strengthen measures to prevent, detect and where appropriate sanction racial discrimination in public and private sector labour conditions, including recruitment and promotion, and ensure that any company or institution placing discriminatory job advertisements is held legally accountable;**

(b) **Encourages employers to lower the Chinese-language proficiency requirements in Hong Kong, China;**

(c) **Requests the State party, including Hong Kong, China, to describe the above measures together with goals, targets and results achieved in ensuring equal opportunity and treatment in employment without distinction as to race, colour, descent or national or ethnic origin;**

(d) **Requests China, including Hong Kong, China and Macao, China, to provide in its next periodic report statistics, disaggregated by ethnicity, on activity rates and employment and unemployment rates and on political and civil service employment, including at the managerial level, including in the judiciary, the police force and the prosecutor's office. It also requests data on labour inspection visits**

conducted with a view to detecting discriminatory practices against ethnic minorities, as well as statistics on violations detected, sanctions imposed and compensation provided to victims.

Trafficking in persons

49. The Committee welcomes the State party's National Plan of Action on Combating Human Trafficking (2013–2020), and notes the measures taken by Hong Kong, China to improve victim identification and protection. The Committee is, however, concerned that China, including Hong Kong, China, does not have a comprehensive law criminalizing all forms of human trafficking. It is also concerned by the absence of statistics from the State party on investigations, prosecutions and sanctions for criminal offences involving human trafficking. The Committee is further concerned by the low number of prosecutions and convictions for trafficking in persons to or from Hong Kong, China. While welcoming the information provided by Macao, China on anti-trafficking laws and measures and on services available to victims, the Committee is nevertheless concerned that, from 2015 through June 2018, there were only two prosecutions and zero convictions for trafficking in persons (arts. 2, 5 and 6).

50. **The Committee recommends that the State party, including Hong Kong, China, adopt comprehensive anti-human trafficking laws that prohibit all forms of human trafficking. It also recommends that the State party, including Hong Kong, China and Macao, China:**

- (a) **Intensify efforts to prevent, detect and combat trafficking in persons;**
- (b) **Consistently apply standard operating procedures for proactively identifying, assisting and rehabilitating victims of trafficking;**
- (c) **Provide in its next periodic report data, disaggregated by the nationality or ethnicity of the victims, on the number of acts of trafficking and enslavement identified, investigated, prosecuted and sanctioned, and on remedies and assistance provided to victims.**

Refugees and asylum seekers

51. The Committee is concerned that the State party, which is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, has not adopted a comprehensive refugee law. While noting the statements made by the State party delegation concerning the screening of non-refoulement claims by Hong Kong, China, the Committee is concerned that it does not grant asylum to or determine the refugee status of asylum seekers. The Committee again reiterates its concern at reports that asylum seekers from the Democratic People's Republic of Korea continue to be forcibly returned despite credible claims for non-refoulement protection (see A/56/18, para. 246 and CERD/C/CHN/CO/10-13, para. 16). The Committee is also concerned by reports that many of their Chinese-born children are stateless and do not enjoy public education or other services because their parents fear facing refoulement upon registration of the births (arts. 2, 5 and 6).

52. **The Committee reiterates its recommendations (see CERD/C/CHN/CO/10-13, paras. 16 and 29), that:**

- (a) **The State party, including Hong Kong, China, adopt comprehensive laws on refugee status in conformity with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol;**
- (b) **The State party take all necessary legal and policy measures to ensure that all asylum seekers have the merits of their individual cases considered by an independent and impartial authority.**

53. **The Committee recommends that the State party ensure that all children born in the State party are issued with a birth certificate, irrespective of the legal status of the parents or the ability to present residence registration papers, and that it intensify efforts to identify stateless persons. It also recommends that the State party implement**

the recommendations contained in paragraphs 47 and 48 of the concluding observations of the Committee against Torture (CAT/C/CHN/CO/5).

54. The Committee requests the State party, including Hong Kong, China and Macao, China, to provide in its next periodic report information on asylum procedures and statistics, disaggregated by nationality, and on applications for asylum or other non-refoulement protections filed, granted and denied.

D. Other recommendations

Ratification of other instruments

55. Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights instruments that it has not yet ratified, including the International Covenant on Civil and Political Rights, the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and International Labour Organization conventions No. 81, on labour inspections, No. 143, on migrant workers, No. 169, on indigenous peoples, and No. 189, on domestic workers.

Follow-up to the Durban Declaration and Programme of Action

56. The Committee takes note of the information the State party provided concerning the measures it has taken to give effect to the Durban Declaration and Programme of Action, adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in September 2001, and encourages it to continue these efforts and to report accordingly.

International Decade for People of African Descent

57. In the light of General Assembly resolution 68/237, the Committee requests the State party to include in its next periodic report precise information on the concrete measures adopted in the framework of the International Decade for People of African Descent, taking into account the Committee's general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

58. The Committee recommends that the State party, including Hong Kong, China and Macao, China, increase its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Declaration under article 14 of the Convention

59. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the Committee's competence to receive and consider individual communications.

Common core document

60. Noting that the State party submitted its common core document (HRI/CORE/CHN/2010) in 2010 and is currently in the process of updating it, the Committee encourages the State party to ensure that the updated document is in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN.2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

61. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 33 (b), 42 (a)–(d), 42 (f)–(h) and 44 (c) above.

Paragraphs of particular importance

62. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 8, 33 (a), 37 and 39 above, and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Dissemination of information

63. The Committee recommends that the State party's reports be made readily available to and accessible by the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.

Preparation of the next periodic report

64. The Committee recommends that the State party submit its combined eighteenth to twentieth periodic reports, as a single document, by 28 January 2023, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

Government gives an initial response to concluding observations of UN Committee on the Elimination of Racial Discrimination on Hong Kong's Report

A spokesperson for the Constitutional and Mainland Affairs Bureau (CMAB) said today (August 31) that the United Nations Committee on the Elimination of Racial Discrimination (the Committee) had issued its concluding observations on the third report of the Hong Kong Special Administrative Region (HKSAR) under the International Convention on the Elimination of All Forms of Racial Discrimination (the Convention).

"We note that the Committee expresses its appreciation for the open and constructive dialogue, and also thanks the delegation for the additional oral and written information provided during the consideration of the report.

"In the concluding observations, the Committee welcomes community outreach programmes aimed at ethnic minorities (EMs) and the implementation of the 'Chinese Language Curriculum Second Language Learning Framework' (Learning Framework) in primary and secondary schools.

"We also note that the Committee has raised concerns and made recommendations in a number of areas. We respect the Committee's views and will examine them carefully. Meanwhile, we would like to set out our initial responses to them," the spokesperson said.

National Human Rights Institutions

The Committee recommends that sufficient structural independence and financial and human resources should be provided to national human rights institutions. We would like to point out that human rights are fully protected by law in the HKSAR, and are enshrined in the Basic Law, the Hong Kong Bill of Rights Ordinance (HKBORO) and other relevant legislation such as anti-discrimination legislation. These are buttressed by the rule of law and an independent judiciary. There is also an existing institutional framework of statutory organisations which help promote and safeguard human rights and eliminate discrimination, including the Ombudsman, the Privacy Commissioner for Personal Data and the Equal Opportunities Commission (EOC). The HKSAR Government's performance in promoting and safeguarding human rights is open to

public scrutiny through periodic reports submitted to the United Nations treaty-monitoring bodies and their hearing procedures. The Government's efforts in protecting human rights are also subject to the supervision of the Legislative Council of the HKSAR, the free and vibrant press, and various non-governmental organisations (NGOs).

We would also like to point out that the EOC is an independent statutory body. Its powers, functions and autonomy in internal governance are protected by law. Members of the EOC comprise representatives with different expertise and from various sectors. To step up the efforts on publicity and education on the Race Discrimination Ordinance (RDO), the CMAB has been providing a recurrent funding of \$4.69 million to the EOC starting from 2014-15 for setting up a dedicated Ethnic Minorities Unit to enhance the EOC's work on promoting equal opportunities and racial integration. In 2014-15 and 2017-18, the CMAB also provided additional funding of \$2 million and \$3 million respectively to the EOC.

Race Discrimination Ordinance and related matters

The Committee recommends that all Government functions and powers should be brought within the scope of the RDO. We would like to point out that the RDO binds the Government (section 3 of the Ordinance) and therefore prohibits discriminatory acts of the Government in all the areas specified in the RDO, such as employment, education, the provision of goods, facilities or services, and the disposal or management of premises. In particular, section 27 of the RDO renders it unlawful for the Government to discriminate against a person in the provision of the services of any department of the Government or any undertaking by or of the Government.

Under the HKSAR's legal framework, public bodies are prohibited from practising racial discrimination. The HKBORO prohibits the Government and public authorities from engaging in acts that would entail any form of discrimination on any of the enumerated grounds, including race, colour and language. Discriminatory acts of the Government, including racial discrimination, are subject to the Court's supervisory jurisdiction. Avenues are also available to address complaints against public authorities through the Ombudsman, complaint channels in bureaux/departments (B/Ds), the Legislative Council and others.

Following a comprehensive review of the four anti-discrimination

ordinances (including the RDO) in 2016, the EOC made 73 recommendations for the Government's consideration, of which 27 were considered by the EOC as priority items. The HKSAR Government has consulted the Legislative Council Panel on Constitutional Affairs and has decided to take forward eight recommendations of priority. Among them, six are related to the RDO. The legislative proposals will be introduced into the Legislative Council by end-2018. The Government will continue to carefully study the EOC's submissions and consider how to follow up on the other recommendations (including the recommendation of bringing all Government functions and powers within the scope of the RDO) at a later stage while maintaining communication with the EOC.

Meanwhile, it should be noted that the HKSAR Government issued in 2010 the Administrative Guidelines on Promotion of Racial Equality (the Guidelines) to provide general guidance to relevant Government B/Ds and public authorities to promote racial equality and ensure equal access by EMs to public services in key areas concerned, and to take the Guidelines into account in their formulation, implementation and review of relevant policies and measures. Over the years, the scope of application of the Guidelines has been extended from 14 to 23 relevant authorities. The HKSAR Government will continue to review the public service areas and departments covered by the Guidelines.

Training on RDO

In response to the Committee's recommendation that training programmes related to the issue of non-discrimination on the ground of race should be conducted for government officials and civil servants, including law enforcement officials, we would like to point out that the HKSAR Government attaches great importance to human rights training as an effective means to foster understanding and to cultivate respect for racial differences. The Government will continue to provide regular training (including e-learning resources) for government officers at different ranks to enhance their understanding of racial equality and cultural sensitivity. Relevant training on human rights has been organised by the disciplined services as well.

Racist hate speech and hate crimes

The Committee is concerned about the negative portrayals and hostile statements in traditional and social media targeting EMs, in particular

South Asians. We would like to point out that the HKSAR Government does not tolerate racist views of extremist or racist organisations. While we firmly uphold freedom of opinion and expression, the laws of the HKSAR also contain adequate safeguards and provisions to effectively punish or suppress any racist acts of violence.

For example, section 46 of the RDO makes it a criminal offence for a person, by any activity in public, to intentionally incite hatred towards, serious contempt for, or severe ridicule of, another person or members of a class of persons on the ground of race, and which involves threatening physical harm or inciting others to threaten physical harm towards another person, or the property or premises of that other person, and is punishable by a fine of \$100,000 and imprisonment for two years. It should be noted that from April 2013 to March 2018, the EOC has handled 401 complaint cases (including self-initiated investigations) and received 1 814 enquiries in relation to race discrimination under the RDO. None of the 401 cases include any complaints of serious vilification.

In view of the growing incidence and reports of online hate messages, the EOC has held meetings with a major social media service provider, which in turn has brought together NGOs that work with EMs, the abovementioned social media service provider and the EOC in roundtable discussions to discuss ways to combat this growing problem. The EOC is also working with NGOs to ascertain the extent of the issue and consider whether any action can be taken against the perpetrators.

Poverty alleviation and support for EMs

The Committee is concerned that the percentage of EMs living in poverty has risen in recent years, and that the poverty rates of South Asians overall and Pakistanis specifically were higher than that of the overall population. We would like to point out that the HKSAR Government is keenly aware of the poverty situation of EMs, and has been taking multi-pronged supporting measures to improve their livelihood and facilitate their integration into our community. After policy intervention through different assistance schemes, various poverty indicators fared better than those before policy intervention, which reflected that such measures were effective in helping poor EM families.

The HKSAR Government will continue to strengthen its support for

EMs in need to facilitate social integration. To this end, the Chief Secretary for Administration is leading a cross-bureau steering committee to enhance collaboration within the HKSAR Government on support for EMs. The HKSAR Government has also earmarked \$500 million in the 2018-19 Budget for such purpose.

Education

The Committee recommends that the smooth integration of non-Chinese speaking (NCS) students in the HKSAR into the education system should be facilitated and the right of children of all ethnicities to inclusive and Chinese-language education should be ensured. We would like to emphasise that the HKSAR Government is committed to encouraging and supporting the early integration of NCS students (notably EM students) into the community. Parents of NCS students are encouraged to arrange for their children to study in schools with an immersed Chinese language environment as early as possible to facilitate their mastery of the Chinese language.

All eligible children, irrespective of their race or place of birth, enjoy equal opportunities in admission to Primary One and Secondary One of public sector schools under the respective school places allocation systems, which are fair and transparent with priority consideration given to parents' preference. Both systems comprise a discretionary places stage in which parents are free to apply to schools they prefer and a central allocation stage for students not yet admitted to any school at the discretionary places stage. Ethnicity of students is not a factor in the operation of the school places allocation systems.

While some schools may still have relatively more NCS students compared with schools in other districts, due to various reasons including their location in districts where relatively more NCS people reside and parents' tendency to arrange for their younger children to study in the same school with their older siblings, it is noteworthy that the number of public sector and Direct Subsidy Scheme schools admitting NCS students has increased from about 590 in the 2013/14 school year, when the so-called "designated schools" system was abolished, to about 620 in the 2017/18 school year, which covers about two-thirds of the schools in total. The Education Bureau has been actively encouraging schools with a relatively high concentration of NCS students to form learning circles with schools admitting a larger number of Chinese speaking students with a view to exposing NCS students more to Chinese through learning

activities outside school and interaction with their Chinese speaking peers.

The Committee also requests that the HKSAR describes in its next periodic report information contained in school textbooks on the historical presence and contributions of EMs in the territory with a view to ascertaining the treatment of EMs in educational curricula. We would like to point out that the historical presence and contributions of ethnic minorities in the HKSAR is already covered in the existing school curriculum of the HKSAR. An example is the Core Module (9) "One World One Family" of the Life and Society Curriculum at the junior secondary level, which teaches students about social inclusion and building a harmonious, caring and inclusive society. In our revised junior secondary History curriculum, the "contributions of Europeans, Americans and other ethnic minorities to Hong Kong" topic will be added. School textbooks are produced by publishers in the market in accordance with the curriculum promulgated by the Government. The relevant textbooks drafted by publishers will cover these topics.

Refugee Convention and Non-refoulement Claims

The Committee recommends that Hong Kong should adopt comprehensive laws on refugee status in conformity with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (the Refugee Convention). We would like to point out that the Refugee Convention has never been applicable to Hong Kong. We maintain a firm and long-established policy of not determining refugee status and not granting asylum under the Refugee Convention. The situation of Hong Kong is unique compared to many other places in the world. Being a compact city (with a size of about 1 100 sq km) with population density amongst the highest in the world, a long coastline, a liberal visa regime, a very large number of visitors, and a well-developed transportation network connecting to all parts of the world, Hong Kong is particularly vulnerable to the ill effects of illegal immigration. We do not see any change to the circumstances of Hong Kong that justify a departure from our position of not applying the Refugee Convention to Hong Kong.

That said, the Government will continue to screen non-refoulement claims under the unified screening mechanism, which observes the high standards of fairness required by our courts to ensure that no claimants will be removed to another country where he/she would face a genuine and substantial risk of being subjected to such harms as torture or cruelty, inhuman or degrading treatment or punishment, etc. We will also

continue with the comprehensive review of the strategy of handling non-refoulement claims, with a view to improving screening procedures through legislative amendments and removing rejected claimants from Hong Kong as soon as possible.

Trafficking in Persons (TIP)

The Committee also recommends that Hong Kong adopt comprehensive laws that prohibit all forms of TIP. We would like to point out that Hong Kong combats TIP through various pieces of local legislation, encompassing over 50 offences such as physical abuse, false imprisonment, criminal intimidation, unlawful custody of personal valuables, child abduction, child pornography and exploitation of children, illegal employment, etc. Our comprehensive package of safeguards against TIP is comparable to a composite human trafficking law found in other jurisdictions. Since March 2018, we have begun implementing an Action Plan to tackle TIP and to Enhance Protection of Foreign Domestic Helpers in Hong Kong, which contains over 30 measures in areas of victim identification, investigation, enforcement, prosecution, victim protection and support, prevention, and partnership with different stakeholders. A Steering Committee chaired by the Chief Secretary for Administration was established in March 2018 to ensure full and timely implementation of the Action Plan with sufficient resources.

In 2017, following continued expansion of the victim screening mechanism to more police districts, and further to the Customs and Excise Department, the number of vulnerable persons screened under the mechanism has increased by 87 per cent, from 2 515 in 2016 to 4 710 in 2017. Among them, only nine persons were identified as TIP victims, i.e. less than 0.2 per cent of the screenings conducted. This is consistent with the fact that TIP is not prevalent in Hong Kong. Making any judgment that Hong Kong has not been taking the initiative to identify and protect TIP victims because of the low number of victims identified does not correctly reflect the true and actual situation of Hong Kong.

Foreign domestic helpers (FDHs)

In response to the Committee's concern on the protection for FDHs, we would like to stress that the HKSAR Government has been fully committed to protecting the rights and interests of FDHs in Hong Kong. Apart from the various measures introduced to promote the rights

of FDHs, the above-mentioned Action Plan has further strengthened our efforts to enhance the protection for FDHs. We do not tolerate any abuse of FDHs and will investigate promptly any complaints received. Regarding the live-in requirement for FDHs, this policy has been the cornerstone of the HKSAR Government's labour policy of according priority to local workers in employment. Foreign workers are only admitted if there is a confirmed shortage of local workers in a particular sector. Importation of live-in FDHs has been allowed in order to meet the shortage of local full time live-in domestic helpers. To safeguard the rights of FDHs, the HKSAR Government has required employers to provide their FDHs with free, suitable and furnished accommodation with reasonable privacy. Employers' applications for employing FDHs may be refused if the requirement cannot be met. As for the "two-week rule", it is necessary for maintaining effective immigration control and helps to prevent FDHs from job-hopping frequently and working illegally in Hong Kong after premature contract termination. Appropriate flexibility is also allowed to cater for special circumstances.

Response to the Committee

The HKSAR's next report under the Convention is due in 2023. It will contain the Government's detailed response to the Committee's recommendations.

Background

The hearing of the Committee on China's report was held on August 10 and 13. The HKSAR Government team attended it as part of China's delegation.

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