



Hong Kong Unison Submission to the Panel on Constitutional Affairs on Work Progress and Key Focuses of the Equal Opportunities Commission

1. Hong Kong Unison ('Unison') is a human rights-based non-governmental organization that focuses on racial equality. This paper provides a brief account of the concerns of Hong Kong Unison on the work of the EOC.

The misinterpretation of the "Victim-centric" Approach by the EOC

2. The EOC claimed that it has taken a "victim-centric" approach that "seeks to recognise and pay special attention to the needs of victims at all stages of complaint-handling". However, the burden of proof currently is on the complainants and they often face difficulties in obtaining evidence of discrimination. Hence such approach is not "victim-centric" and the EOC should urge the Government to adopt its recommendation in the 2016 Discrimination Law Review Report, to include provisions on the standard and burden of proof in the Racial Discrimination Ordinance ('RDO') so that once the complainant has established facts from which discrimination can be inferred, the burden of proof will be shifted to the defendant to show there is no discrimination.
3. When the anti-discrimination ordinances were passed in Hong Kong, reference was made to the British system to introduce a statutory discrimination questionnaire to obtain information about suspected discrimination and whether or not there are sufficient grounds to bring a discrimination claim; but the EOC never used the questionnaire. The Legal Service Division should make good use of the statutory questionnaire system granted by the law and reduce the burden and stress on the victim to collect evidence.

Outcomes of trainings provided by the EOC

4. The EOC should disclose the findings and evaluation outcomes of its workshops, training courses and seminars conducted for public authorities. The EOC should also upload the training materials online to increase transparency and reach rates.



Discrimination Law Review

5. As a statutory and independent commission, the EOC should proactively push the Government to adopt the remaining 19 out of the 27 prioritized recommendations in its 2016 Discrimination Law Review Report. Three recommendations relevant to ethnic minorities should be considered with utmost urgency: (i) amending the RDO to prohibit racial discrimination in relation to the exercise of Government functions and powers; (ii) amending the RDO to prohibit discrimination on grounds of nationality, citizenship and residency status, and (iii) repealing Section 26(2) of the RDO the provision regarding vocational training in relation to modifying or making different arrangements for medium of instruction.

Equitable education opportunities of ethnic minority students

6. The EOC should pursue the Education Bureau intently following their meeting in October 2020 to ensure equitable education opportunities for ethnic minority students. EOC's research findings in recent years show ethnic minority children are disadvantaged under the prevailing education policies. It's time the EOC takes the initiative to investigate whether the EDB's education policies are discriminatory against ethnic minority children.

Take initiatives to investigate discrimination cases under COVID-19

7. Hong Kong Unison observed that the discrimination against local ethnic minorities has worsened since the 4th wave of COVID-19 pandemic. Ethnic minorities do not only face daily racism, but rampant racial discrimination which affects their livelihoods. For example, customers refuse food delivery service by South Asian staff and South Asian construction workers are not allowed work despite negative COVID test results. We urge the EOC to take the initiative to investigate into such cases and they should urge victims to come forth to access justice.